



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, MONDAY, MAY 12, 1997

No. 61

## Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we thank You for politics and the political process. We live in a time in which there are suspicion and cynicism about politics and politicians. Today, we claim the primary etymology of politics as the science of government and not the denigrated definition of manipulated maneuvering. We praise You for the women and men of this Senate who have accepted politics as a high calling from You and use political process as a way to solve the perplexities of our time and ensure the full potential of Your plan for our beloved Nation. Help them to envision and enable Your very best for the spiritual and moral character of the United States. We believe that character does count. May the Nation be able to turn to this Senate for an example of God-centered character. With the same intentionality help the Senators to confront the soul-sized issues that hold progress at bay. Grant them courage and power for the facing of this hour. May they lead a movement and not just preserve a bureaucracy. We turn to You for Your wisdom to tackle perplexities great and small. Help us to do that with a sense of mission and conviction that politics is a ministry ordained by You. In the name of our Lord and Saviour. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator ENZI, is recognized.

Mr. ENZI. Thank you, Mr. President.

### SCHEDULE

Mr. ENZI. Mr. President, for the information of all Senators, today there

will be a period for morning business to allow a number of Senators to speak until 11 a.m. It is hoped that following morning business, the Senate will be able to begin consideration of the IDEA legislation. As the majority leader previously announced, no rollcall votes will occur during today's session of the Senate. Any votes ordered with respect to the IDEA bill will be stacked to occur at a later date. As always, all Senators will be notified when any votes are ordered. It is also possible that the Senate could consider the CFE Treaty during today's session. Again, any votes ordered with respect to that treaty will be postponed to occur at a later date.

I thank my colleagues for their cooperation in both these matters.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to be able to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### FAMILY FRIENDLY WORKPLACE ACT

Mr. ASHCROFT. Mr. President, it is a delight to be able to come here on the day following Mother's Day to talk about the very best present for Mother's Day that the U.S. Senate could possibly give to the families of America.

I am talking about the need for families to be able to spend time together, and that need is reflected in the fact that families are composed differently than they used to be, that instead of having just one family member earning the living for the family, many family members work. As we have an increase in the number of family members that are in the work force, it becomes more and more important for us to have the capacity for those family members to adjust and arrange their schedules in ways that allow for the right kind of time that parents can spend with their children.

This is extremely important, because I think all of us know that the success of America depends far more on America's families and what happens there than depends on America's Government. The job of Government is to make it possible for families to do the job of families. And when people in families can do their jobs well, the jobs of those of us in Government will be much easier.

Who among us really does not think that the crime problem is in many respects a family problem? Who among us does not really understand that the welfare problem is really in many respects a family problem? Who among us does not understand that if we would really have and maximize and increase and enhance the capacity of families to work together as families that we would not elevate substantially the way in which we live in the United States?

That is why the Family Friendly Workplace Act, Senate bill 4, S. 4, is on the top of our agenda. That is why it is

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper containing 100% post consumer waste

S4291

one of our priority measures. That is why we debated the bill substantially in the last several weeks. That is why on Friday we spent time talking about S. 4. And that is why S. 4 will be the topic of our debate tomorrow morning when we return to the bill.

It is an understanding that we need strong families and that the workplace competes with the home place. We need to make sure that the laws of this country do not keep people from spending the kind of high-quality time they need to spend with each other and their children.

It is a really big problem for families, now that two breadwinners are in the average family. But think of how much more important flexible working arrangements are when there is only one adult in the family? To be able to trade an hour on Friday afternoon or work an extra hour on Friday so you can take an hour off on Monday to see your child get an award at the school or to watch your daughter play in a soccer game or your son play in a football game in the afternoon during working times normally is a tremendous asset if we could just give people that kind of flexibility. And, you know, so many more of our children's activities are now in the afternoons.

Arlyce Robinson, one of the individuals who testified before our committee, said she had four grandchildren and many of their activities are now scheduled, in the Washington, DC, area, in the afternoon because it is much safer to have activities during daylight hours. She cannot see them. She wants to see them. She wants to support them. She wants to reinforce their positive behavior. She needs to be able to have the flexible working arrangements to do it.

The family has changed. This chart shows just how things have almost totally flipped. Back in 1938, when we developed our labor laws—1938—only 2 out of every dozen—only 2 out of 12—women with school-aged children were working outside the home. Now only three such women are inside the home. So that instead of having two outside the home, we have nine outside the home. So we have had a real change. This has been a sea change. And the stresses that have come to families have really been substantial.

Let us take a look at how times have changed. Only 2 out of 12 women worked outside the home with school-aged children; today, 9 out of 12 women with school-aged children work outside the home.

Families are stressed. A recent poll taken in the week before Mother's Day: 91 percent of the mothers said flexible working arrangements would be very important to them. They understand, basically, on a close to 10-to-1 ratio, how important it would be.

Interestingly enough, Federal workers have flextime. Federal workers, the ratio of their response to a study conducted about flextime in the Federal Government, at a 10-to-1 rate, they

said this is a good thing. Federal workers have had this since 1978.

As a matter of fact, it is the hourly workers of America that do not have this. The guys in the walnut boardroom, you know, the guys who take time off to play golf on Friday afternoon, they have flexible working arrangements, believe me. They do not get their pay docked every time they need to do something or want to do something. Neither does the president, the CEO, the treasurer or the manager or the supervisor. They are salaried employees, and all salaried employees have flexibility in this country.

Of course, all of the Government workers, even the Government workers for the Federal Government who work by the hour, they have flextime and flexible working arrangements.

State government workers all have comptime, as was granted to them by the U.S. Congress, the ability to say instead of taking overtime pay, when we want to, we should have the option to take some time off.

We have left the hard-working, laboring people of the United States as a group of second-class citizens who do not have the capacity for flextime and comptime. They ought to have it. They are in a minority. They are the only ones left. And, frankly, it is not fair, because they have the responsibilities of being at home. Their families are stressed, just like other families are stressed. Federal workers already have it. It is time that the stressed families of hourly paid workers have it as well.

We enacted laws making it illegal to add an hour to one week in return for taking an hour off the next week in 1938. The Fair Labor Standards Act was a great step forward for protecting workers. However, that protection now has become a real hindrance. As a matter of fact, it has been more difficult in recent times for families to meet their own needs. They are endorsing the idea of flexibility in work schedules in overwhelming numbers.

Now, there are some things that we do in order to give people the ability to accommodate their families. We have, for most hourly workers, this ability to take what is called family and medical leave. That came from the Family and Medical Leave Act, referred to as FMLA. It is the ability to take time off for a sick child, but you have to do that without pay, so that when you take time off you have a pay cut.

Now, most people find that to be very discomforting. They are working and taking time away from their families because they need the money to support their families. They have a lot of tension financially which drives them into the work force. That elevates the tension socially. And yet in order to accommodate this social tension, when your family has a need, the current law says you have to take a pay cut. That means you help resolve one tension but you increase another tension. It is like jumping out of the proverbial frying pan into the fire.

What flextime, what the Family Friendly Workplace Act would do, basically it would say if you worked a few extra hours from time to time that you and your employer agreed on, you could put those in a bank, in an account of hours, so that if you needed to take time off you would not have to have your paycheck cut for taking time off. If your child gets sick, you can say, "OK, I have an hour in the savings bank," and instead of being stressed financially by helping your child, you can take the time off without taking a pay cut. I think when we have an opportunity to do that, we ought to make that available. Someone might say, well, that is pretty risky, tampering with the laws of the 1930's. The truth of the matter is we would not impose this on anyone. We would give people this opportunity to ask for this and to choose this.

Second, if you put the hours in the bank and later decided you wanted the money under the law, you could ask for the money and the employer would have to give you the money.

Third, Federal employees have had this for the last 19 years. We know how this system works. It works extremely well to meet the needs of families. When interviewed by the General Accounting Office—which is not a political arm of Government; it is a bunch of accountants—they said, "How do you like this?" At a rate of better than 10 to 1, the Federal employees said, "This is great, the best thing since sliced bread. This works." It is something that the boardroom folks have, the boss has, the managers have it, the supervisors have, all the Government workers in Federal Government have, all the State workers have comptime provisions in their legal framework, but it is against the law to give hourly working people that kind of benefit. That is a law that, really, is against the hourly working people, not for them. We need to make sure we have the right safeguards in the law to make sure employers do not abuse that. We have done that. We have doubled the penalties for normal overtime violations so that if there are coercive activities—either direct or indirect—as specified in the bill, then serious penalties are occasioned.

I believe this bill, which we will be back discussing and debating, will be the official agenda of the Senate. We will be on the bill tomorrow morning. It is a bill in favor of the American people. It is a bill that is in favor of the 59 million hourly wage people in the country. We have about 130 million employees in the country, and a majority of them, the vast majority of them, have the capacity for flextime. It is that hourly wage group that does not. It is time they had the same kind of flexibility. Their families are just as important to the future of America as the families of the boardroom folks are, as the families of the managers, the owners, as families of Government workers. It is time we allowed them to do that.

I believe we will provide a bill that the President will want to sign. The President of the United States campaigned on flextime. He understands this need. Mrs. Clinton has spoken clearly on the need for flextime and the importance of having time with children. The President mentioned it in his State of the Union Message, specifically calling for flextime, the ability to have flexible working arrangements and schedules. The President, when he found that there was a narrow niche, a narrow sliver, a small group of Federal employees that did not have it when he took the Office of President, he extended it by Executive order. So there is no question in my mind that he really knows the value, the Clinton family understands the need of other families in this situation. Although the President does know that the only organized opposition, really, the only opposition to this whole proposal, has been through labor leaders of organized labor. I do not say organized labor generally, because so many working people want this. If you talk to the working mothers, it is almost a 10 to 1 ratio in favor of this. I believe we will have an opportunity to send to the President of the United States a bill which he will want to sign.

My question is whether or not somehow his sense of indebtedness to the labor leaders in Washington, DC, organized labor leaders, will in some measure inhibit his capacity to sign something that would be good for the American people. I hope it will not. He should understand, and I think he does, there are 28.9 million hourly paid working women in America. They need the relief of flexible working arrangements so they can spend time with their families, as well as accommodate the demand of the workplace.

I close with this point. One of the reasons we have prosperity in America, the standard of living we enjoy, is so many women are working and doing such a great job. I do not think there is a culture anywhere in the world that can match the United States in terms of the contribution that working women make to the way we live and the way we want to live, the way we aspire to live. We need these women to be productive and contributors to the marketplace as we are competing against the rest of the world, but while we need them, we owe them, and we owe them the opportunity to spend time with their family. That could be achieved if we had a reasonable approach to directing work arrangements and allowing them to make choices.

Never in this bill is there an opportunity for an employer to impose upon a worker the requirement to work in return for time off, instead of working in return for pay. Whenever a person says, "I would like to work for comptime," that means they will be able to take time off and still get pay, and if they decide they want to take time off and still get pay and before they take the time off they change

their mind and they want the time-and-a-half pay, they get the time-and-a-half pay. This is a measure that is designed to give workers choice and to give them the opportunity to do what we need for them to do the most, which is to be the kind of parents they ought to be.

It is not like the Family and Medical Leave Act, which says when you take time off it is without pay. This is the capacity of Americans to be good parents and not take a pay cut. We should not, as a Government, say to people that in order to be a good parent you have to take a pay cut. We should develop a capacity for flexible working arrangements in this country which allows parents to be what they need to be and what we need them to be, and that is good parents, and to do so in the context of providing for their families.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to use the time allotted to me during morning business at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE MINING LAW OF 1872

Mr. BUMPERS. Mr. President, on this beautiful Monday morning when there is absolutely nothing going on in the Senate or in the entire Congress, it is an ideal time to remind the Members of Congress and the American people that 125 years ago this past Saturday, Ulysses Grant, who was President of the United States, signed a bill called the mining law of 1872. This is now my ninth year of trying to get this law repealed. It is probably the biggest single scam that continues in effect in America today.

In the past several years I have brought up numerous amendments to try to modify or repeal the mining law. Each time some of my colleagues, who do not have any hard-rock mining in their State, voted with western Senators to oppose my amendment. The western Senators always argue the reason they do not want to require the mining companies to pay a royalty for mining on public land and the reason they want the mining companies to buy this land for \$2.50 an acre is because it creates jobs. That is absurd Mr. President. We do not tolerate that in the private sector. We do not tolerate it anywhere else in the public sector. We should not tolerate it here.

Let me just refresh people's memory on how the mining law works. Under the law that Ulysses Grant signed,

which was designed primarily to encourage people to move west, anybody who wanted to could go out on Federal lands and drive four stakes in the ground and claim 20 acres for the purpose of extracting hard-rock minerals.

I never will forget when I described what an outrage this was to one of my former colleagues. I was trying to get him to cosponsor the bill with me. When I got through explaining it to him, I said, "Well, will you help me with this?" He said, "No, I am going out west and start staking claims. I didn't know you could do that."

If you drive four stakes in the ground you own 20 acres of minerals as long as you want to hold that claim. And you can file as many of them as you want. If at some point you find that there is gold, silver, platinum, palladium, copper—you name it, under that 20 acres, you go to the Department of the Interior, to the BLM.

Let's say you have 100 acres, five claims, and you want to mine it because you think it has gold under it. If you can convince BLM that, yes, indeed, there is gold under it, they are obligated by law, and have been for 125 years, to give you a deed to that 100 acres for \$250 or \$500. Some claims go for \$2.50 per acre and others go for \$5.00 an acre. I will come back to that in a moment.

The big mining companies usually approach these people that have staked claims and they say, "You know, we think this is a good claim. We will buy that claim from you and we will give you a royalty." So the farmer in Arizona or Wyoming or Idaho or Montana says, "Here, take it." The mining companies will usually pay him a substantial royalty. What do they pay the United States, who gave it to him for \$5 or for \$2.50 an acre? Absolutely nothing.

Nothing has changed since 1872. The United States has not collected one dime of royalty on the more than 3 million acres that it has deeded away for either \$2.50 an acre or \$5 an acre.

Mr. President, I cannot believe I am standing here for the ninth year trying to educate my colleagues on this. But I will say this. The news magazines, from "60 Minutes" to "Prime Time Live" to "20/20", they have all done it. And NBC just as recently as 2 months ago, did a segment on this.

Is it not strange that we have no compunction about cutting \$55 billion out of welfare, \$16 billion out of Medicaid for the poorest children's health care in America and \$115 billion from Medicare—you can say you are going to take it out of providers. If you take it out of providers, the beneficiaries are going to suffer. An assault, literally, on the most vulnerable people in America—the elderly, the poor, and the children—and allow the biggest mining companies on Earth to buy Federal land with billions of dollars worth of gold under it for \$2.50 an acre. The Mineral Policy Center estimates that over the past 125 years we have