



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE **105th** CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, WEDNESDAY, JUNE 4, 1997

No. 75

Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious Lord, our hearts are filled with an attitude of gratitude for the gifts of life, intellect, emotion, will, strength, fortitude, and courage. We are privileged to live in this free land. You have so richly blessed.

You have created each of us to know, love, and serve You. Thanksgiving is the memory of our hearts. You have shown us that gratitude is the parent of all other virtues. Without gratitude our lives miss the greatness You intended, and remain proud, self-centered, and limited. Thanksgiving is the thermostat of our souls opening us to the inflow of Your Spirit and the realization of even greater blessings.

But so often we need to thank You for the problems that make us more dependent on You for Your guidance and strength. When we have turned to You in the past, You have given us the leadership skills we needed. Thank You, Lord, for taking us where we are with all our human weaknesses, and using us for Your glory. May we always be distinguished by the immensity of our gratitude for the way You pour out Your wisdom and vision when with humility we call out to You for help. We are profoundly grateful, in the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. For the information of all Senators, today the Senate will immediately resume consideration of S. 4,

the Family Friendly Workplace Act. By previous consent, Senator KENNEDY or his designee will be recognized for 30 minutes of debate to be followed by Senator ASHCROFT for up to 30 minutes. At the expiration of that time, the Senate will proceed to a vote on cloture on the substitute amendment to S. 4. Senators can therefore expect that cloture vote at approximately 4 p.m. today. I guess it will probably be shortly after 4. Senators are also reminded that they have until 3:30 this afternoon in order to file second-degree amendments to the substitute to S. 4. It is my hope that cloture will be invoked and the Senate can then proceed to conclude action on this very important measure. If that is the case, Senators should be prepared to continue the debate and vote on amendments to S. 4.

In addition, as previously announced, it is my hope that we can conclude work on the budget conference report—and I understand the conferees have met today and should be able to complete the conference, if not this afternoon, sometime tomorrow—and the supplemental appropriations conference report as soon as those items are available for consideration.

Now, I understand that some of my colleagues are concerned about the supplemental appropriations conference report and are now talking about extensive debate. I do want to say that I have just been advised that the conferees have been working and they feel they have made real good progress and, as a matter of fact, they could conclude action on the conference report even within the hour now. Knowing how conferences work, sometimes when you get right to the end, that last 10 percent or 2 percent causes a problem and they may still encounter further delays. But the appropriators and the conferees are meeting, they are working, and I believe they are making progress. Hopefully, they will get to some conclusion this afternoon on the conference report that we could vote on.

I understand the frustration of Members on all sides. It is very important language here. The administration needs to understand that Pennsylvania Avenue is a two-way street. It doesn't just come from the Capitol down to the White House, where we send down billions of the taxpayers' dollars; we have to get a little cooperation. We feel very strongly about the importance of a law enforcement commission to take a look at the overall application of law enforcement in America. We feel very strongly about the census issue. How do we make sure that it's fair and thorough and complete and accurate? We may come to an agreement on how that can be done, either in terms of actual count or some modification, but not without consultation and not without the Congress being involved in a constitutional issue. We also remind people that the only way—the only way—the disaster funds will stop flowing from FEMA or SBA—and the money is flowing right now—is if we have some sort of fun and games at the end of the fiscal year with a Government shutdown.

I think we can work these matters out. We should. But everybody needs to understand these are important issues. This is not abnormal. I have been through supplemental bills probably 24 times or more in my career in Congress. I have been through disasters. There is nothing new here. There is nothing out of order here. We need to keep working together, and if we heighten the rhetoric and the partisanship, it doesn't help.

I tried my very best to make sure that the Senate in fact is a family friendly workplace. I say to the Senator from Massachusetts, we have flexibility in our schedules and we have tried not to work into the wee hours of the night. In fact, I think only one night this year have we gone beyond 8:30. I think that is wise, because over the years I have noticed that any time the Congress, House or Senate, stays in

- 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

S5277

after about 8 o'clock, they start making mistakes. And some of us still have wives that we like to see or spouses that we like to see or children that we enjoy being with. So the threat of staying up all night tonight to talk about a bill that in fact we hope we can come to agreement on shortly rings hollow to me. Let's just do our work and keep calm and we can get this thing solved.

MESSAGES FROM THE HOUSE

At 3:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 84) establishing the congressional budget for the United States Government for fiscal year 1998 and setting forth appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002, and agrees to the conferences asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. KASICH, Mr. HOBSON, and Mr. SPRATT as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 79. An act to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe.

H.R. 908. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

H.R. 1019. An act to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys.

H.R. 1020. An act to adjust the boundary of the White River National Forest in the State of Colorado to include all National Forest System lands within Summit County, Colorado, which are currently part of the Dillon Ranger District of the Arapaho National Forest.

H.R. 1420. An act to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

H.R. 1439. An act to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California.

H.J. Res. 75. Joint Resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 79. An act to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe; to the Committee on Indian Affairs.

H.R. 1019. An act to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the ef-

fects of earlier erroneous land surveys; to the Committee on Energy and Natural Resources.

H.R. 1020. An act to adjust the boundary of the White River National Forest in the State of Colorado to include all National Forest System lands within Summit County, Colorado, which are currently part of the Dillon Ranger District of the Arapaho National Forest; to the Committee on Energy and Natural Resources.

H.R. 1439. An act to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California; to the Committee on Energy and Natural Resources.

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope; to the Committee on Veterans' Affairs.

AMENDMENTS SUBMITTED

THE FAMILY FRIENDLY WORKPLACE ACT

KENNEDY AMENDMENT NO. 368

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 256 proposed by Mr. GRASSLEY to the bill (S. 4) to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; as follows:

Beginning on page 9, strike line 19 and all that follows through page 10, line 3 and insert the following:

“(9)(A) An employee shall be permitted by an employer to use any compensatory time off provided under paragraph (2)—

“(i) for any reason that qualifies for leave under—

“(I) section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)), irrespective of whether the employer is covered, or the employee is eligible, under such Act; or

“(II) an applicable State law that provides greater family or medical leave rights than does the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.);

“(ii) for any reason after providing notice to the employer not later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use off the compensatory time off will cause substantial and grievous injury to the operations of the employer; or

“(iii) for any reason after providing notice to the employer later than 2 weeks prior to the date on which the compensatory time off is to be used, except that an employee may not be permitted to use compensatory time off under this clause if the use of the compensatory time off will unduly disrupt the operations of the employer.

KENNEDY AMENDMENT NO. 369

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 265 proposed by Mr. GORTON to the bill, S. 4, *supra*; as follows:

On page 7, strike line 13 and insert the following:

“(B) It shall be an unlawful act of discrimination, within the meaning of section 15(a)(3), for an employer—

“(i) to discharge or in any other manner penalize, discriminate against, or interfere with, any employee because—

“(I) the employee may refuse or has refused to request or accept compensatory time off in lieu of monetary overtime compensation;

“(II) the employee may request to use or has used compensatory time off in lieu of monetary overtime compensation; or

“(III) the employee has requested the use of compensatory time off at a specific time of the employee's choice;

“(ii) to request, directly or indirectly, that an employee accept compensatory time off in lieu of monetary overtime compensation;

“(iii) to require an employee to request compensatory time off in lieu of monetary overtime compensation as a condition of employment or as a condition of employment rights or benefits;

“(iv) to qualify the availability of work for which monetary overtime compensation is required upon the request of an employee for, or acceptance of, compensatory time off in lieu of monetary overtime compensation; or

“(v) to deny an employee the right to use, or coerce an employee to use, earned compensatory time off in violation of this subsection.

“(C) An agreement or understanding that is entered”.

SPECTER AMENDMENT NO. 370

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 4, *supra*; as follows:

Beginning on page 6, strike line 20 and all that follows through page 8, line 23 and insert the following:

“(6)(A) An employer that provides compensatory time off under paragraph (2) to an employee shall not—

“(i) directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

“(I) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours;

“(II) interfering with the rights of the employee to use accrued compensatory time off in accordance with paragraph (9); or

“(III) requiring the employee to use the compensatory time off; or

“(ii)(I) request, directly or indirectly, that an employee accept compensatory time off in lieu of payment of monetary overtime compensation; or

“(II) discriminate by qualifying the availability of work for which overtime compensation is required on the request of an employee for, or the acceptance by an employee of, compensatory time off in lieu of payment of monetary overtime compensation.

“(B) An agreement or understanding that is entered into by an employee and employer under paragraph (3)(A)(ii) shall permit the employee to elect, for an applicable work-week—