

# EXTENSIONS OF REMARKS

## INTRODUCTION OF LEGISLATION TO REFORM THE FAIR LABOR STANDARDS ACT

### HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1999

Mr. BALLENGER. Mr. Speaker, today I am introducing two bills which reflect our continued efforts to make the Fair Labor Standards Act (FLSA) applicable to today's workforce. The FLSA is one of the most outdated workplace regulatory schemes faced by businesses and employees. As the primary statute governing the payment of wages and hours of work, the FLSA has changed little since it was enacted in 1938.

In today's business environment, employers and employees must find ways to compete and meet the challenges of an increasingly competitive and global economy. Government should be user-friendly, less confrontational, and less costly. The regulatory scheme must be designed to be flexible to accommodate different situations and future challenges. The demographics of the workforce and the characteristics of jobs have changed dramatically over the past 60 years. But, the FLSA has not kept pace with these changes and it now stands out as being rigid and inflexible for today's work styles and work arrangements.

The two bills that I am introducing today will update areas of the FLSA which regulate scheduling and compensation. Currently, the FLSA does not allow private sector employers to give their employees the choice of compensatory time off in lieu of overtime wages. The first bill, "The Working Families Flexibility Act of 1999," would give private sector employers and employees an option which Federal, State, and local governments have had for many years—the choice of "comp time" in lieu of overtime pay. The legislation is identical to that which the House passed during the 105th Congress.

The Working Families Flexibility Act answers the call of many workers for increased flexibility and choices in the workplace. Many employees are finding it increasingly difficult to find enough time for important family obligations or outside interests, which makes receiving comp time instead of cash overtime an attractive option.

Many employers who want to be family-friendly find that flexible scheduling can be extremely difficult for employees who are paid by the hour and covered by the overtime provisions in the FLSA. Suppose an employee has a terminally ill parent who lives several states away. Days off with pay can become precious for that employee when a 2-day weekend does not provide enough time to travel and spend time with that parent. When that employee works a few hours of overtime each week, he or she may prefer to be paid with time off rather than with cash wages. If the individual is employed in the public sector, then he or she would have the choice of receiving

paid time off in lieu of cash wages for overtime hours worked. However, under current Federal law, if the individual is employed in the private sector then he or she cannot choose paid time off, even if that form of compensation is preferred.

The Working Families Flexibility Act would allow employers to make comp time available as an option for employees. Employees would have the choice, through an agreement with the employer, to take overtime pay in the form of paid time off. As with overtime pay, comp time hours would accrue at a rate of one and one-half hours of comp time for each hour of overtime worked. In response to concerns about employees being coerced by employers into choosing comp time over cash wages, the legislation includes numerous protections to ensure that employees cannot be pressured into one choice or the other.

Employees could accrue up to 160 hours of comp time within a 12-month period. The legislation would require the employer to annually cash-out any unused comp time accrued by the employee. Employees may withdraw from a comp time agreement at any time and request a cash-out of any or all accrued, unused comp time. The employer would have 30 days in which to comply with the request. The legislation would also require an employer to provide the employee with at least 30 days notice prior to cashing out any accrued time in excess of 80 hours or prior to discontinuing a policy of offering comp time.

Employees would be able to use their accrued comp time at anytime, so long as its use did not unduly disrupt the operations of the business (the same standard used in the public sector and under the Family and Medical Leave Act.) Employers would be prohibited from requiring employees to take accrued time solely at the convenience of the employer.

I want to emphasize that this legislation does not eliminate or change the traditional 40-hour workweek. It simply provides employees with another option in the workplace—time off instead of overtime pay. This concept may be revolutionary to some, but to America's workers, who are increasingly frustrated about coping with the demands of work and family responsibilities, it is a long overdue change.

The second bill, "The Rewarding Performance in Compensation Act," would help workers to share, financially, when their efforts help produce gains for their company in productivity, sales, fewer injuries, or other important aspects of performance.

The pressures of worldwide competition and rapid technological change have forced most employees to seek continuous improvement in productivity, quality, and other aspects of company performance. Employers often seek to encourage and reward employee efforts to improve productivity, quality, etc. through what are called "gainsharing" plans—linking additional compensation to measurable improvements in company, team, or individual performance. Employees are assigned individual

or group productivity goals and the savings achieved from improved productivity, or the gains, are then shared between the company and the employees. The payouts are based directly on factors under an employee's control, such as productivity or costs, rather than on the company's profits. Thus, employees directly benefit from improvements that they help to produce by increasing their overall compensation.

Unfortunately, employers who choose to implement such programs can be burdened with unpredictable and complex requirements by the Fair Labor Standards Act, which clearly did not envision these types of "pay based upon performance" plans.

For example, if a bonus is based on production, performance or other factors, the payment must then be divided by the number of hours worked by the employee during the time period that the bonus is meant to cover, and added to the employee's regular hourly pay rate. This adjusted hourly rate must then be used to calculate the employee's overtime rate of pay. For other types of employees, such as executive, administrative, or professional employees who are exempt from minimum wage and overtime, an employer can easily give financial rewards without having to recalculate rates of pay.

The Rewarding Performance in Compensation Act would amend the FLSA to specify that an employee's regular rate of pay for the purposes of calculating overtime would not be affected by additional payments that reward or provide incentives for employees who meet productivity, quality, efficiency or sales goals. By eliminating disincentives in current law, this legislation will encourage employers to reward their employees and make it easier for employers to "share the wealth" with their employees.

I would urge my colleagues to support these two common sense reforms that will help to bring the FLSA, passed in 1938, a little closer to the needs of employees that the law is meant to benefit, as we enter the 21st century.

## CONCERNED WOMEN FOR AMERICA'S 20TH ANNIVERSARY

### HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1999

Mr. SCHAFFER. Mr. Speaker, I am honored to call attention to America's largest women's public policy organization, Concerned Women for America (CWA), on its 20th anniversary. CWA is the leading voice for women across the nation embracing and promoting traditional family values.

Twenty years ago, CWA's founder and chairman, Beverly LaHaye, realized a significant number of important voices were going unheard in the massive world of public policy. A hard-working parent and active citizen, she, along with a handful of other dedicated

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Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

women, recognized that merely standing against issues was inadequate. On this basis, this small group set out to promote positive change. CWA has grown from that handful of women to over half-a-million members nationwide. Now, according to CWA, those who would label themselves feminists can no longer claim to be the one and only voice for all American women.

CWA promotes values and public policies that strengthen women and promote families. The organization empowers its members to turn concern into action by working to preserve, protect, and promote biblical values through education, legislative programs and community involvement. Among other things, CWA staff and grassroots leaders have been called upon to testify before the United States Congress and various state legislatures regarding issues such as the sanctity of human life, education, pornography, religious freedom, national sovereignty and the traditional American family.

On the local level, CWA members are active in defending parental rights and involvement in education, promoting sexual abstinence among teens, and supporting crisis pregnancy centers. They also educate communities on the virtues of respecting all human life and traditional lifestyles.

In 1998, Mrs. Carmen Pate became president of CWA, where she serves as the primary media spokesman and liaison to federal and local elected officials.

Concerned Women for America's legislative department monitors federal legislation and provides a presence on Capitol Hill and internationally on behalf of concerned conservative women. CWA's field department coordinates the organization's grassroots chapters, providing leadership training, resources and issue updates. The broadcast and media department produces the syndicated daily radio talk show, "Beverly LaHaye Today," which is heard weekly by over one million listeners. CWA spokesmen are always available to local and national media to give the conservative woman's perspective on issues affecting the home and the nation. CWA's research and publications department produces a monthly magazine, *Family Voice*, and publishes an array of informative brochures, position papers and booklets.

Mr. Speaker, I am honored to commend Concerned Women for America for twenty outstanding years of dedicated service to the men, women and children of our great nation.

#### HONORING GIL GARCIA

### HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 13, 1999*

Mrs. CAPPS. Mr. Speaker, I rise to bring to the attention of my colleagues an extraordinary man and friend who celebrated his 60th birthday on March 31, Gil Garcia.

Gil has spent his entire life working on and serving the Central Coast of California. His formative years were spent in the Goleta Valley, where he attended elementary and junior high schools; he then went on to graduate from Santa Barbara Catholic High School. After serving four years in the United States Air Force in Oxnard, Gil worked for Arendt,

Moser and Grant Architects for fourteen years, where he received his license to practice architecture. In 1976, he founded Garcia Architects, Inc., an architectural firm that continues to thrive today. Garcia Architects has received numerous awards throughout the years, including recognition from the Santa Barbara Chapter of the American Institute of Architects.

In addition to Gil's significant architectural contributions to the City of Santa Barbara and the State of California, Gil has been and will continue to be an effective, innovative and caring councilman and community leader. His work has earned him the Life Time Achievement Award from the Santa Barbara News-Press, Man of the Year Award, and Volunteer of the Year from the Santa Barbara Chamber of Commerce. He has also been recognized by the Santa Barbara Hispanic Achievement Council.

Mr. Speaker, Gil Garcia's dedication to the people he represents is exemplary and I believe in his vision for our community. I congratulate Gil on his 60th birthday, and I commend him for years of service to the city of Santa Barbara and to our nation.

#### WOMEN'S HISTORY MONTH HONOREES

### HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 13, 1999*

Mr. SABO. Mr. Speaker, as Women's History Month draws to a close today, I rise to salute a woman from my Congressional District in Minnesota who has dedicated most of her life to encouraging all citizens to exercise their right to vote and play an active role in government.

Upon moving to Minneapolis from New York City, Florence Gray joined the League of Women Voters (LWV) of Minneapolis in 1948 to get more involved in her new community. The LWV of Minneapolis is a non-partisan organization which works to influence public policy through education and advocacy, providing election-related services, and sponsoring various educational forums and projects. In 1948, Gray helped create a new unit of the LWV along with a group of friends—many of them other young mothers like herself—and served as its chairperson. As the years passed, her leadership positions accumulated. During the 1960s, she was elected to the Minneapolis LWV Board as Treasurer, then became Vice President, then led the group as President from 1963 to 1965. She also served as the Minnesota vice president of the LWV.

After years of public service in the League of Women Voters, Gray went back to college in 1968 to complete her bachelor's and master's degrees at the University of Minnesota. In 1974, she was appointed Associate Director of the Epilepsy Research Center of the University of Minnesota's Neurology Department. After 17 years with the Center, she "retired," though she continued to serve as a part-time consultant for the Epilepsy Program. During this time, she rededicated herself to the LWV, heading the LWV of Minneapolis' 75th Anniversary Planning Committee. In 1994, she was presented with the LWV's esteemed Bess Minarik Award for her years of tireless efforts serving on the LWV.

One of Florence Gray's fellow LWV members once described her as "hard working, dedicated, tenacious, resilient, witty, wise, and wonderful. She has long since earned whatever honors we can give her." It is indeed fitting to salute Florence Gray for her lifetime of community service.

Mr. Speaker, I am pleased to honor Florence Gray in celebration of Women's History Month. I thank her for her contributions to both the state of Minnesota and to our country, and I wish her continued successes in the future.

#### IN MEMORY OF JOYCE CHIANG

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 13, 1999*

Mr. STARK. Mr. Speaker, I join my colleagues to mourn the loss of Immigration and Naturalization Service attorney Joyce Chiang.

Ms. Chiang was a bright young woman who was of uncompromising service to my staff on issues concerning immigration law. My staff spoke highly of Ms. Chiang, who was a knowledgeable representative of the agency, who confidently and concisely explained the intricacies of the 1996 immigration law. My district office was fortunate to benefit Ms. Chiang's expertise on implementation of the new law, as she fulfilled her trial-attorney training in the San Francisco INS office.

I am saddened by the questions concerning her death as we mourn the loss of this bright young woman and fine public servant.

#### RAIDERS TAKE CURTIN CALL

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 13, 1999*

Mr. VENTO. Mr. Speaker, I would like to submit for the RECORD this article from the February 21, 1999 edition of the St. Paul Pioneer Press which recounts the exciting victory of Roseville High School's girls hockey team. Impressively, this is Roseville's second state championship title in four years. Amazingly enough, they have only had a women's hockey program for four years. This is yet another example of the young people in the Fourth District of Minnesota accomplishing many special goals.

The coach of this mighty team, Rich Kuehne, will be departing now that the season is over. After 33 years of coaching hockey, including four years with Roseville's girls hockey team, Mr. Kuehne is retiring. Additionally, their star player, Ms. Ronda Curtin will be graduating and attending the University of Minnesota where she will continue her hockey career as a member of the Gopher's team. I wish both of them continued success in their endeavors and congratulate them on an outstanding season.

The Roseville girls hockey team has demonstrated, once again with an undefeated season, that hard work and dedication always lead to success. I wish them luck in future seasons and congratulate them on their superior performance.