

HOUSE OF REPRESENTATIVES,
Washington, DC, May 2, 2017.

Hon. PAUL D. RYAN,
Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER RYAN: Respectfully, I write to tender my resignation as a member of the House Committee on Education and the Workforce. It has been an honor to serve in this capacity.

Thank you.

Sincerely,

STEVEN D. RUSSELL,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

ELECTING A MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. BYRNE. Mr. Speaker, by direction of the House Republican Conference, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 303

Resolved, That the following named Member be, and is hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON EDUCATION AND THE WORKFORCE: Mr. Estes of Kansas.

COMMITTEE ON SMALL BUSINESS: Mr. Estes of Kansas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1180, WORKING FAMILIES FLEXIBILITY ACT OF 2017; PRO- VIDING FOR PROCEEDINGS DUR- ING THE PERIOD FROM MAY 5, 2017, THROUGH MAY 15, 2017; AND FOR OTHER PURPOSES

Mr. BYRNE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1180) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector. All points of order against consideration of the bill are waived. In lieu of the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-15 shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 2. On any legislative day during the period from May 5, 2017, through May 15, 2017—

(a) the Journal of the proceedings of the previous day shall be considered as approved; and

(b) the Chair may at any time declare the House adjourned to meet at a date and time, within the limits of clause 4, section 5, article I of the Constitution, to be announced by the Chair in declaring the adjournment.

SEC. 3. The Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 2 of this resolution as though under clause 8(a) of rule I.

SEC. 4. It shall be in order at any time on the legislative day of May 4, 2017, or May 5, 2017, for the Speaker to entertain motions that the House suspend the rules as though under clause 1 of rule XV. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this section.

SEC. 5. The requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported through the legislative day of May 5, 2017.

The SPEAKER pro tempore. The gentleman from Alabama is recognized for 1 hour.

Mr. BYRNE. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Colorado (Mr. POLIS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. BYRNE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BYRNE. Mr. Speaker, House Resolution 299 provides for the consideration of H.R. 1180, the Working Families Flexibility Act. This resolution provides for a closed rule since no amendments were submitted to the Rules Committee.

Mr. Speaker, the workforce of the 21st century is a lot different from the workforce of the thirties and forties when many of our Nation's labor laws were first written. As such, many of these laws are outdated and out of touch with the realities facing today's workers.

For example, in nearly half of two-parent households, both Mom and Dad work full time. That is up from roughly 30 percent in 1970. Meanwhile, millennials now represent the majority of the workforce.

Given the changes in the workforce, there are new challenges related to the work-family balance. From children's field trips, to taking care of an elderly family member, to a single parent juggling different tasks while their spouse is on a military deployment, the demands are greater than ever. That is where the Working Families Flexibility Act comes in.

This commonsense bill would improve the quality of life for many hard-

working men and women by removing outdated Federal restrictions imposed solely on the private sector.

Already, workers in the public sector at the Federal, State, and local level have the ability to take comp time in lieu of overtime pay if they prefer. This bill would give that same option to workers in the private sector.

Here is how it would work. An employee and their employer would come together and mutually agree to enter an arrangement where the employee would receive time and a half in time off or comp time instead of time-and-a-half overtime pay. In other words, employees would have the choice between paid time off and cash wages for working overtime.

As I mentioned, this provision is already available for workers in the public sector. That is because, in 1985, Congress amended the Fair Labor Standards Act to give public sector employees greater flexibility. In fact, in a report filed by the House Education and the Workforce Committee more than 30 years ago, our Democratic colleagues wrote that this change in law recognized the "mutual benefits" of comp time for State and local governments and outlined the "freedom and flexibility" comp time would offer public sector workers.

Shouldn't workers in the private sector be entitled to the same freedom and flexibility given to government workers?

Now, I know some of my colleagues on the other side of the aisle will say this bill is somehow bad for workers. That could not be further from the truth. Let me clear up some of the false information put out by union bosses and special interest groups.

First, this proposal is completely voluntary. Both an employee and an employer would have to agree to a comp time agreement, and their agreement would have to be put in writing.

Second, no employer can coerce or intimidate their employees into taking comp time. An employee who feels they have been mistreated can file a charge with the Department of Labor, at no cost, or they can bring their own legal action. Employers who take advantage of their employees would face the same penalties as they would for other wage violations.

Now, as a labor and employment attorney, I have been a part of these kind of legal matters in the past, and I can honestly say that no sensible employer would take advantage of an employee and risk double damages, exorbitant attorney fees, and a legal battle with the Federal Government.

Third, employees have control over when to use their comp time, as long as reasonable notice is given and the request doesn't unduly disrupt the workplace. This is the same standard used in the public sector, and it is the same standard used under the Family and Medical Leave Act. I imagine it is also

the same standard used in each of our congressional offices.

Fourth, this bill includes a 5-year sunset that would require Congress to come back and reaffirm this law after reviewing the impact of comp time. This would give us the ability to change the law based on the real-world impact.

Fifth, the bill would set the maximum comp time accrual amount at 160 hours, which is less than what is allowed in the public sector. This provision was actually included after Democrats expressed concerns that workers would accrue too much comp time.

Sixth, an employee has the right to cash out their comp time at any time and for any reason. This is a decision that the employee alone can make. Additionally, at the end of the year, employees would receive a cash payment for any unused hours.

Finally, this is not a far-fetched or radical idea. In fact, President Bill Clinton had his own comp time proposal during his Presidency.

So this bill is great for workers and actually gives them greater choice and flexibility in the workplace. In fact, our committee, the Committee on Education and the Workforce, heard a real-life example of how comp time would make life easier for families during a recent hearing on the bill. We heard about a clerical worker for a mental health company who recently found out she was pregnant and was putting in a lot of overtime during a transition to a new computer system. This mom-to-be simply wanted to waive the overtime pay and, instead, be credited the time for maternity leave.

As her human resources professional testified: "I had to explain to her that we were unable to do so because it was against the law. It was difficult conveying this message to this single mom-to-be who felt she should be allowed the option to choose for herself whether to take the overtime pay or paid leave when her child was born."

□ 1245

That is why this bill is necessary, for people like this working mom. That is how this bill will make a real difference.

Now, Mr. Speaker, I know comp time won't work for every worker or family, so if an employee wants to continue receiving time-and-a-half overtime pay, then they can continue to do so and this bill will have no impact on them. But this bill would create a new option for employees to better meet the needs of the 21st century workforce. Workers today want and need the type of freedom and flexibility that this bill provides. This bill would allow a working mom or dad to put in a little extra time at work in order to have that time off to attend a child's baseball game, dance recital, or field trip. This is all about freedom, flexibility, fairness, and choice.

Certainly, more work and changes will be needed as we adapt to the work-

force of the 21st century, and I look forward to learning more about proposals from my colleagues on the other side of the aisle. But the simple fact that there are other proposals out there should not stop us from passing this commonsense bill to give working families the flexibility they need and deserve.

Mr. Speaker, I urge my colleagues to support House Resolution 299 and the underlying bill.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for yielding me the customary 30 minutes.

Over the last several months, I have heard from thousands of my constituents over the phone, by email, and record numbers at townhalls. Frankly, the overwhelming message is frustration with the Trump administration and Republicans in Congress—no calls to pass this bill, which every group that advocates for workers' rights and unions opposes. The people in my district say that, to the contrary, Republicans continue to put the priorities of the few over the priorities of hard-working Americans.

People are frustrated that, instead of working with Democrats, Republicans are focused on gutting healthcare coverage, increasing premiums, and stripping away workers' rights. People in my district, across my State, and across the country are worried. The members of our immigrant community—our neighbors, family, and friends—will continue to be demonized by the President of the United States. So while I don't expect this kind of rhetoric or policies to change overnight, I feel it is important to share these concerns with this body.

Now, earlier this week, frankly, I was encouraged. There were some signs of positivity. Congressional Democrats and Republicans announced a bipartisan funding bill through the end of the year that shows a bright spot of what we can do together when we try. I hope we can all agree that a government shutdown would be catastrophic. In my district alone, I am reminded of the devastating impact of congressional inaction when I hosted a townhall in Estes Park just last week. The government shutdown in 2013, right during tourist season, cost our small and vibrant town nearly half a million dollars in tax revenue and millions of dollars in sales, threatening the existence of many Main Street businesses that rely on that tourism revenue and keeping Rocky Mountain National Park open. Estes Park sits at the entrance of Rocky Mountain National Park, and Rocky Mountain National Park was closed for most of the 16-day shutdown a few years ago.

But somehow, despite those obvious economic indicators in jobs, Donald Trump tweeted just this morning that our country "needs a good shutdown."

What does that even mean?

We need a good shutdown like we need a root canal. It would put people

in my district out of work and cost the private sector millions of jobs.

But I am hopeful now that we will avoid a shutdown; that, thankfully, the spending bill, through 2017, prohibits funding on a new border wall. It minimizes cuts to the Environmental Protection Agency, allowing them to continue their work to keep our air and our water clean; and Planned Parenthood will continue to receive Federal funding.

Now, that being said, of course, that budget isn't perfect, and we will have the chance to debate it on the floor. The Republicans insist on massive government deficit spending for increased military spending that digs our mountain of debt for the next generation even bigger. The tax-and-spend Republicans continue to spend hand over fist and increase the deficit at the cost of the next generation of Americans.

Now, the bill before us, the Working Families Flexibility Act, is another example of Republicans putting ideology and special interests over the needs of workers and American families. The trend isn't new. It comes out of the typical playbook we have seen for decades.

In fact, this very bill has been introduced multiple times over the past 22 years, never with any success. Nearly identical bills were introduced in 1995, 1997, 1999, 2001, 2003, 2008, 2009, 2013, 2015, and now 2017. That is 10 times over 22 years. Each time, the bill never becomes law, and it won't become law now either. But that is how the Republicans want to spend their time in this body when we actually have important things to discuss that could become law, like fixing our broken immigration system.

This bill somehow claims to provide employees with more flexibility, but the only flexibility are for the bosses. Instead of receiving overtime, workers would receive comp time; so their paychecks won't get anything out of extra time worked. It is important to note that this legislation applies to the private sector and only to employees subject to overtime provisions in the Fair Labor Standards Act. The current overtime threshold is set at just under \$24,000, so only employees that make less than \$24,000 are affected by this bill. We have tried mightily to increase that threshold to keep up with inflation, but we have met resistance by the Republicans every step of the way.

In 2017, the Federal poverty level for a family of four is about \$24,000. So we are talking about only giving overtime to families that are below the poverty level. These families rely on that overtime to pay their bills, to pay their rent, and to put food on the table. These are the families who would benefit most from receiving overtime pay. In fact, a recent study by the Economic Policy Institute showed that 40 percent of people making less than \$22,500 a year worked some overtime hours and needed that income to get by. This same 40 percent are the very people

who would lose out under the Republican bill today.

My Republican colleagues claim that no one is forcing workers to accept comp time instead of overtime pay, and comp time is technically optional. But this argument represents how out of touch Republicans are with the real-life workforce conditions and actual working families.

In practice, the power differential between employers and employees means that many employees would feel obligated to accept comp time instead of overtime pay, even if that is not what works best for them. Especially in non-union workplaces, employees could feel pressure to go along with their employers' demand or risk not even being offered overtime or comp time in the future.

Now, Republicans have also made the argument that public sector workers receive comp time. They are right. But that is not apples to apples. Public sector union membership is around 34 percent, and public sector employees have vast protections that private sector employees lack. As an example, public sector workers can't be fired except for good cause, and they have administrative appeal rights. They can't be discriminated against based on their desire to take overtime pay instead of comp time. Nonunionized private sector workers can be legally discriminated against in assigning their hours based on their decisions to take comp time versus overtime pay.

If the Republicans want to enlarge this discussion to include providing additional workplace protections to workers in the private sector, we are happy to have that discussion both on the committee where I serve with my colleague, Mr. BYRNE, as well as on the floor of the House.

Republicans somehow argue that this bill provides flexibility for workers to get time off, but I will remind my colleagues that nothing in the current Fair Labor Standards Act prevents employers from offering time off right now. In fact, the Fair Labor Standards Act allows the ultimate flexibility. Employers can already provide paid or unpaid leave on sick days, maternity, and paternity under the FLSA. They don't need this legislation to provide them flexibility. They just need to do the right thing.

This bill also ignores the fact that not all businesses are successful. Before coming to Congress, I started several businesses. I know this firsthand. A statistic is that 59 percent of restaurant businesses go out of business within 3 years. I am zero for two. I tried starting two restaurants. They both failed. Maybe that means if I try again someday, I will be finally due for a success.

But what is important is that when something goes out of business, we don't leave the employees in the lurch. What you are effectively doing here by deferring the overtime pay into potential future time off, if the company

goes out of business, that employee would have to get in line with other creditors and risk never being paid. That is not a theoretical risk. The majority of new businesses don't last 10 years. They go out of business. Depriving people of the payment for the work they have done already is not the right way to treat workers in those businesses, and it is not their fault when the bad decision is made by their bosses.

In our committee markup of the bill, my Democratic colleagues offered a number of amendments to improve the legislation. Representative BONAMICI offered an amendment that would allow comp time to earn interest before workers' use. Under the current way this bill is written, low-wage workers are being asked to give an interest-free loan to the company. That doesn't make sense. The amendment didn't pass. If employees receive overtime pay, they should receive interest on it as well.

Representative WILSON offered an amendment that would exempt workers who are earning less than 2½ times the minimum wage, so the employees earning the very least wouldn't be subject to the law and could actually rely on their overtime pay. Again, that amendment was rejected by Republicans.

Representative BLUNT ROCHESTER on the committee offered an amendment that would limit the bill so only workers eligible for at least 7 days of paid sick leave receive comp time. Yet, again, Republicans rejected this amendment.

In total, committee Democrats offered eight amendments to try to improve this bill. Every single one was rejected.

Instead of bringing forward the same, tired, 22-year-old policies that I certainly don't hear my constituents requesting, Democrats have offered real solutions that benefit working families. Working families would benefit from an increase in the overtime salary threshold. Last year, the Department of Labor proposed an increase to that threshold, and 248,000 workers in Colorado alone would have benefited under that rule.

Democrats continue to write bills that provide commonsense solutions. We have offered legislation that would provide up to 12 weeks of partial-paid parental leave. Only 14 percent of the workforce has paid family leave through their employers. As a parent of a 5- and a 2-year-old, I know how important that is to be able to spend time with your newborn kids.

Democrats have also introduced a bill that would allow employees to earn up to 7 sick days per year. That would be a tremendous help to the 4 in 10 private sector employees who don't have access to any paid sick leave at all under current law.

Democrats have also offered legislation to combat pay discrimination. In 2017, women working full time are still

paid 80 cents on the dollar compared to what men make. Democrats have offered legislation that I am proud to co-sponsor that would address that kind of pay disparity. Those are the kinds of bills that the American people need, that workers need, and that we need to help lift people out of poverty and into the middle class.

Today, House Democrats introduced the Equality Act. I was proud to join so many of my colleagues in a bipartisan bill to prohibit discrimination based on gender identity and sexual orientation. Sadly, in many States, it is still legal to fire someone just because they are gay. The Equality Act would finally extend Federal workplace discrimination protections to LGBT Americans in all 50 States and the territories.

Finally, House Democrats will soon be introducing the bill that would raise the minimum wage. In my home State of Colorado, voters chose to raise the wage last November, and many other States have minimum wages higher than the Federal minimum wage. But it shouldn't come down to what State you live in to determine if you even earn enough to put food on the table and pay your rent. It is long past time we update the Federal minimum wage, and the Raise the Wage Act would do just that.

Yet, again, we are offering many solutions that we would love to discuss and love to vote on, and, instead, the Republicans are offering a bill to strip existing rights away from workers.

Mr. Speaker, the bill before us represents the same old policies the Republicans have offered for decades. They have never succeeded, and they won't succeed now. This time around, they are offering a bill that might be great for some of the bosses, but it undermines the lives of hardworking Americans that keep our country going.

Mr. Speaker, I oppose the Working Families Flexibility Act and the rule before us, and I reserve the balance of my time.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman referred to an old playbook being used here. He is right. It is an old playbook. It is a playbook that was used by House Democrats in 1985, by President Bill Clinton during the 1990s. This is not a partisan playbook. This is actually—or used to be, actually—a bipartisan idea to give workers flexibility in the use of their time. That doesn't sound radical to me. It is not radical at all.

What has changed is Democrats used to be for this, and now, for whatever reason, they are not. They would rather lock workers into these restrictive arrangements where you have working mothers, like the one I used in my initial remarks, who can't get their flexible time off that they want because we do not allow them to do that under the Federal Labor Standards Act.

Comp time is just not technically optional, as my friend said, under this

law. It is optional by law. It is a voluntary thing by law. There is no question about that. Employers cannot coerce or intimidate an employee to do that under this law. It is strictly prohibited, and there are serious legal repercussions for an employer who attempts to do that.

There are no differences in the protections for someone under this bill and the protections that public employees have when they seek to have this sort of flextime under the laws that pertain to them. It is the same protection. So it doesn't matter whether you are in the private sector or the public sector; under this bill, you are going to be protected.

□ 1300

Let me tell you something, as someone who has practiced in this area. It is not an idle threat to an employer to face a regulatory proceeding from the Wage and Hour Division of the Department of Labor or to face a private lawsuit. Those are a big deal. If you lose, you have to not only pay double damages, you have got to pay the employees' attorneys fees, which can be significant. No sensible employer is going to go out there and intimidate and coerce and think they can get away with it. They can't.

Wages, under our bankruptcy laws, are the first priority of what is paid out during the winding up of a bankruptcy proceeding. Before any other creditor is paid, wages get paid. In my experience, I don't remember wages ever not being paid in a bankruptcy. That is always assumed. They get taken care of quickly. Most employers do the right thing.

My friend talked about employers needing to do the right thing. Most employers do the right thing. Just like I know my colleague, when he had a business in the private sector, did the right thing by his employees. Most employers do. Yet too often in this body, we act as if the assumption is that employers are going to do the wrong thing, and then we come down with this heavy-handed overregulation, punitive approach that restricts the freedom of both employers and—let's get back to it—the workers themselves to work these things out.

This is a commonsense solution to a real problem in the new workplace of the 21st century, where most moms and dads are working and where we have this new millennial generation that wants flexibility. They expect it. When you go to them and tell them: Oh, you can't have it because it is a Federal law, they don't understand.

I have got to tell you, Mr. Speaker, I don't understand. Yes, I understand that this law was put together in the 1930s. Maybe it made sense for the workplace in the thirties, but it doesn't make sense for the workplace of the 21st century.

I am disappointed in my colleagues who used to be in favor of these sorts of flexible arrangements and no longer

favor it, but I get that. I hope that the rest of us will use our common sense and use what we all know is really happening in the workplace today and support this very important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a document from 1997 from then-President Bill Clinton who opposed a bill that is basically identical to this one in its current form. The President said he would veto this bill, if passed, because he said this bill purports to give working families greater flexibility, but, in reality, it grants employers more rights at the expense of working people.

I hope my friends on the other side of the aisle stop using President Clinton's good name in vain in passage of a bill that is nearly identical to the one that he threatened to veto.

Of course, Democrats want to talk about flexibility. President Clinton, myself, and Democrats of the Education and the Workforce Committee are happy to do that, if there is a way to provide workers with real choices to protect workers against employee abuse in making their decisions, but the current bill, and the same bill that President Clinton opposed, fails in that regard and fails to give employees the rights that they deserve to exercise their comp time.

Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Ms. ADAMS).

Ms. ADAMS. Mr. Speaker, I thank the gentleman from Colorado (Mr. POLIS) for yielding.

Mr. Speaker, I wish to express my strong opposition to H.R. 1180.

H.R. 1180 encourages overwork by encouraging workers to spend more time at work in order to earn paid time off, which employers may or may not allow them to use in the future.

Many hardworking families throughout the 12th District of North Carolina need overtime pay just to make ends meet each month. They should not be compelled by their employer to accept comp time when their monthly budget depends on how much overtime they receive in their paycheck. Overtime pay can be the difference between paying for sending a child to college or going into debt. Parents who earn an hourly wage need overtime, not comp time, to care for their families.

Nothing in the Working Families Flexibility Act strengthens existing workplace protections or promotes workplace flexibility. That is why I offered an amendment last week when H.R. 1180 was considered in committee to exempt comp time arrangements from mandatory arbitration agreements.

This amendment would have ensured protections for employees that H.R. 1180 seek to take away. Unfortunately, the majority decided not to support my amendment or any other amendments offered by my fellow Democrats on the

Education and the Workforce Committee.

Instead of today's bill, the House should consider legislation that would create good jobs with family sustaining wages and benefits. I strongly oppose H.R. 1180, and I encourage by colleagues to vote "no" on this bill.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

My colleague from North Carolina and I worked together on many things, and I have great respect for her, but I think her argument ignores a very important fact about this bill, and that is that you can't be coerced into doing this. You have to do it voluntarily.

If you would rather get your time and a half in pay, that is your decision. You are going to get it. The law requires that. There is nothing that forces anybody to get that.

Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I include in the RECORD the Statement of Administration Policy from President William Jefferson Clinton from 1997, in which President Clinton lays out the criteria, by and large, which is still the criteria under which Democrats would support a comp time flexibility bill, had the Republicans been at all serious about actually passing one into law rather than just passing a symbolic bill that they have passed for 22 years.

[From the American Presidency Project, John T. Woolley & Gerhard Peters, Santa Barbara, CA]

WILLIAM J. CLINTON: STATEMENT OF ADMINISTRATION POLICY: H.R. 1—WORKING FAMILIES FLEXIBILITY ACT OF 1997, MARCH 19, 1997

(HOUSE) (BALLENGER (R) NC AND 99 OTHERS)

The President will veto H.R. 1 if it is passed in its current form. The President will not sign H.R. 1, or any other comp time legislation, unless it adheres to three fundamental principles: (1) real choice for workers; (2) real protection against employer abuse; and (3) preservation of workers' rights.

H.R. 1 purports to give working families greater flexibility. In reality, it grants employers more rights at the expense of working people:

H.R. 1 fails to offer workers real choice. In particular, H.R. 1 would allow an employer to decide when a worker could use his or her compensatory time-off by disapproving such time-off if the employer claims it would "unduly disrupt" its operations. In addition, H.R. 1 would permit an employer to "cash out" a worker's earned compensatory time over 80 hours.

H.R. 1 fails to protect workers against employer abuse. For example, H.R. 1 offers inadequate protections for vulnerable workers and part-time, seasonal, and temporary employees, including garment and construction workers, and those who are employed in industries with histories of Fair Labor Standards Act violations. H.R. 1 also fails to prohibit employers from substituting compensatory time-off for paid vacation or sick leave benefits. Furthermore, H.R. 1 lacks meaningful remedies for workers when employers penalize them for electing to receive overtime pay in lieu of compensatory time-off. In addition, H.R. 1 contains inadequate worker safeguards in cases where an employer goes bankrupt or out-of-business.

H.R. 1 fails to preserve workers' rights. Workers who take compensatory time-off

can be forced to work additional overtime in the same week—even on the weekend—with-out being paid overtime premium pay.

The Administration supports the substitute amendment to be offered by Representative George Miller, although procedural obstacles in the House have prevented the amendment from addressing all of the important issues that need to be treated, including expansion of Family and Medical Leave Act (FMLA). The Administration strongly believes that any legislation to authorize compensatory time under the Fair Labor Standards Act should be linked to expansion of the FMLA. Expanding the FMLA to give working families greater flexibility to foster the education of their children or provide routine health care for their children or elderly relatives will go a long way toward achieving the stated goals of H.R. 1.

The Miller amendment, however, would ensure real employee choice, by adding crucial provisions not found in H.R. 1. For example, employers that adopt comp time programs would have to make comp time available to similarly-situated employees on a fair and non-discriminatory basis. Working families are guaranteed real protection against possible comp time abuse through the Miller amendment.

Furthermore, the Miller amendment would preclude employers from using comp time to modify or reduce existing paid leave plans. It would entitle employees choosing comp time to get regular statements of their accrual and use of comp time; put a reasonable limit on the number of hours of comp time that can be accrued; and allow employees to seek damages when they incur costs because an employer wrongfully denies them use of the comp time they earned. The Secretary of Labor would have the authority to bar employers with a pattern and practice of comp time abuse from continuing to offer comp time. H.R. 1 has none of these protections. These are all improvements to H.R. 1 that guarantee the legislation enhances rather than decreases flexibility for America's working families.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BROWN).

Mr. BROWN of Maryland. Mr. Speaker, I thank my colleague from Colorado (Mr. POLIS) for yielding.

I rise today in opposition to this so-called Working Families Flexibility Act, a bill that would hurt, not help, working people.

This bill would ensure workers have less time, less flexibility, and less money. Under this proposal, workers would forego the overtime they earn today in exchange for comp time in the future, except workers can't choose when they can use that time.

There is nothing stopping a boss from denying a worker from using their comp time to care for a sick child or attend a school event. The only thing that this bill does is provide more flexibility for bosses, while taking away hard-earned overtime pay that many workers rely on to make ends meet.

This is an attempt to undermine hard-fought, 80-year-old worker protections guaranteed by the Fair Labor Standards Act. If Congress wanted to give working families more flexibility, we should give them earned paid sick days, combat pay discrimination, give them a say in their work schedules,

and raise the minimum wage. These are the policies that working families truly need to thrive.

They are popular, commonsense ideas that, unlike this bill, don't force workers into choosing between time and money. Families depend on both. Let's work together to support real flexibility for working families.

Mr. BYRNE. Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to gentlewoman from Michigan (Mrs. DINGELL).

Mrs. DINGELL. Mr. Speaker, I rise in opposition to the rule and underlying bill, and I thank my colleague from Colorado for yielding.

Contrary to its name, the Working Families Flexibility Act provides no flexibility for working families but makes it harder to plan financially at a time when wages have stagnated and American workers are working harder than ever.

The 40-hour workweek is a long established American way of life—a way of life won by hardworking American men and women. This legislation aims to undermine the Fair Labor Standards Act and the 40-hour workweek by handing even more power over to employers by giving them the right to not pay for overtime hours.

This legislation amounts to a hand-out for large American companies at the expense of their workers. Hardworking Americans can't afford to loan their bosses overtime pay for months at a time. Employees would also find themselves at a disadvantage if they wanted to get paid for overtime instead of opting for comp time. Companies would find it in their financial interest to select comp time workers instead of workers who want overtime pay. This isn't the flexibility that American workers need.

The bill is right about one thing: American workers do deserve an update to the FLSA. If they really want to talk about helping American working families gain more flexibility in the workplace, Congress should be taking up bills on paid sick days, paid family and medical leave, and a real increase in wages.

I urge my colleagues to vote "no" on this bill.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think my friends on the other side of the aisle don't understand how this works. An employee comes to their supervisor or the person who runs the HR office in the company and says: I would like to get some comp time in return for the overtime I am getting ready to work because I have got a specific reason to want to use it. The employer says: Okay, when do you want to get the overtime and when do you want to take the comp time? They work that out.

The employer has the responsibility for having the system and the paperwork for showing that they have complied with the law. From an employer's

point of view, that is an extra burden. It is really not in the interest of an employer to do this. An employer would really prefer to say: Look, I don't want to have to do this, because if I make a mistake, I am going to get in trouble with either a private lawsuit or the Department of Labor. So it is really better for the employer not to have this option because it is not going to be an option in which they can make a mistake.

This is for that employee to get the comp time so they can have some flexibility in their schedule. That is who it is for. If they don't want to use it, they don't have to use it. They can still be paid the time and a half that they are paid today. No one can coerce them. The law says you can't do that, and there are real penalties for it.

To the contrary, when we are hearing that somehow this is something for the employers, no, it is not. This is for the workers—the new workers of the 21st century, who sometimes I think we have forgotten about when we have these debates in this body.

Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while we are debating a rule for a bill that would strip workers of their overtime pay, since President Trump took office, dangerous bills like this are more likely to become law.

Just a few weeks ago, President Trump signed a bill into law that strips the American people of our online privacy, allowing internet service providers to sell yours and my sensitive information to the highest bidder without our permission.

This information includes location, financial and health data, information about our children—even pictures of our children—Social Security numbers, web browsing history, app usage history, content of communication: emails, video chats. It is simply wrong.

For this reason, when we defeat the previous question, I will offer an amendment to the rule to bring up Representative JACKY ROSEN's bill, H.R. 1868, which would reinstate the Federal Communication Commission's internet privacy rule.

Mr. Speaker, I ask unanimous consent to insert the text of my amendment in the RECORD, along with extraneous material, immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. Mr. Speaker, sometimes you need a redo or a retake. When this body narrowly passed the bill that President Trump signed that took all of our private data and allowed internet service providers to sell it without our permission, it was a mistake. Hopefully enough Members of this body have since realized it is a mistake and they will now change their vote and support defeating the previous question

allowing for immediate consideration of Representative ROSEN's bill to protect our privacy.

As we know, broadband access through internet access providers is a critical way to have access to a world of information and commerce, but the price of that access should not be all of your private information, including your kids' photographs and birthdays and your Social Security number.

Under the bill that became law, everything you enter on the internet on any site, regardless of their privacy policy, would be owned by your broadband provider and be able to be sold by your broadband provider without your consent.

That is simply wrong for America; it is wrong for consumers; it is wrong for innovation. It casts a shadow over the entire internet ecosystem, which not only has brought so much enjoyment to so many but has created millions of jobs in my district and across our country.

□ 1315

If we can defeat the previous question, we can do a redo on this bill. We can pass H.R. 1868, which would reinstate a rule that has broad, popular support. I haven't heard a single constituent of mine say that they don't want their broadband privacy protected, and I have had hundreds of them say that they do want their broadband privacy protected.

I am hoping that, since my Republican friends have now had the chance to have townhalls and to listen to their constituents, they will agree that we should reinstate the Federal Communications' internet privacy rule to protect our privacy subject to the terms of use; information can be sold if you consent for it to be sold, but without your consent, all the information you enter on the internet should not be the property of the broadband provider for their use and for sale. It is common sense. The vast majority of the American public agrees. I think it is time to call the question on Congress to see if we can get Congress to agree.

Mr. Speaker, I reserve the balance of my time.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

I would say to my colleague and to the House, I did indeed have 11 townhalls 2 weeks ago after the bill he references passed. It didn't come up one time because the American people understand what that was all about, that there were two different Federal agencies battling over something, and it didn't even solve the problem. The agency that put that regulation out didn't have the authority to do it, and it didn't solve the problem. The American people are sick and tired of agencies that don't have the authority to go out there and they do something, and it doesn't solve the problem.

If we want to get to the issue that my friend wants to get to, which I think is important, we ought to get to,

let's work together in a bipartisan fashion and come up with a bipartisan, comprehensive bill that addresses that. I would really like to be a part of that.

But that is not what we are here today about. We are here today about this bill to provide flexibility to working people in the 21st century, particularly millennials.

Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield myself the balance of my time.

I am surprised that people in Alabama weren't clamoring to protect their online privacy at the gentleman's townhall meetings. I will certainly take him at his word. Perhaps it is because they were so concerned with Republican attempts to increase their healthcare insurance rates by 15 to 20 percent, Republican attempts to raise their taxes, and Republican spending that will increase the deficit by \$12 billion in this continuing resolution that were brought before us. Maybe they were so overwhelmed by the Republican efforts to get rid of their healthcare, increase the deficit, spend more money, and take away their rights that they didn't get down their list of concerns to broadband privacy.

Certainly in my district, Mr. Speaker, dozens of constituents in my townhalls—both Republican and Democratic constituents—brought this issue up as a way of arguing how out of touch House and Senate Republicans are to say that, at this time in our Nation's history, what we need is less privacy, not more. I think that there are a lot of things that people are concerned about, and that is certainly one of them.

This debate is about that, frankly, Mr. Speaker, because, if we defeat the previous question, I will be bringing forth Ms. ROSEN's bill. Members of this House will have an opportunity to vote on bringing up Ms. ROSEN's bill to protect our broadband privacy.

Mr. Speaker, the more work, less pay bill before us is yet another example by Republicans to roll back workers' rights under the guise of doing the opposite. Again, if the Republicans have a sincere desire to actually enhance and improve workers' rights, then we are all for that. The labor movement is for that. Let's talk about that. But don't pretend like you have the voices and concerns of workers in mind when workers' advocacy groups say you are stripping away their rights. We are happy to have that discussion.

In many ways, the veto statement from President Clinton in 1997 still lays out as relevant, today, some of the very criteria the Democrats would want to see in a bill that we could support that would empower workers to choose additional comp time, a concept that many Democrats support.

I wish we were working to protect American families today. But instead of collaborating with Democrats to produce a bill that actually accomplishes the stated goal of increasing

worker flexibility, instead, the Republicans have chosen to move forward with their 22-year-old bill that weakens the 40-hour workweek, that President Clinton threatened to veto, that hasn't become law and won't become law, just perhaps as a check-off box rather than to do anything to actually empower workers to choose comp time instead of overtime. They are just checking the box for the big bosses and moving on to the next item without seeing this through into law.

There are a lot of bipartisan bills this body could be taking up this week. Frankly, one of them is Representative ROSEN's bill that I will be bringing up when we defeat the previous question, but, sadly, this bill is not one of them. I am very disappointed that even in the majority, even in the governing capacity, even controlling the House, the Senate, and the Presidency, Republicans are wasting time on what we around here call messaging bills rather than real bills to address issues that Americans want us to work on, like bringing down the cost of college, fixing our broken immigration system, rebuilding our crumbling roads and bridges, or reforming our complicated tax system to make it more friendly for growth in our country.

Mr. Speaker, I support legislation that puts the needs of workers first, but this bill before us does the opposite. This legislation lifts up the big bosses with the hope that a worker may or may not see a benefit down the line without interest if the company stays in business. It is the wrong way to go about it. I oppose the rule. I oppose the underlying bill. I urge a "no" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. BYRNE. Mr. Speaker, I yield myself the balance of my time.

I thank Congresswoman ROBY for being the sponsor of this bill and bringing it forward. As a young woman herself, she understands what's going on in the workplace with people her age and how they try to juggle all the demands of their time. She has come up with a very commonsense approach to how we can deal with this in a way that makes sense for everybody.

We just heard a lot about the labor movement and big bosses. I got transported back in my mind. You would have thought we were in the 1930s and 1940s. I don't know if my colleague from Colorado has been paying attention, but union membership is at its lowest level since the 1940s right now because, even after 8 years of the most pro-union administration in decades, union membership continues to fall, and it continues to fall because workers in America aren't buying what they are selling because a lot of what they are selling is exactly what we hear is the opposition to this bill, which is: Let's limit people; let's restrict people; let's come up with all these things to tell them what they can't do instead of telling them what they can.

What the American people want, what I heard in my townhall meetings, they want the government off their back so that they can make their own choices and live their lives the way they want to live them. This is really true with the millennial generation.

I have four children who are adults right now. They are millennials. They really want to have flexibility in their lives, and this bill, Congresswoman ROBY's bill, gets a little way toward that. I don't see why we would be against trying to give not just young workers, but all workers, that flexibility.

I have heard the arguments, and I have heard them several times now. I have just got to tell you, they make no sense to me. Perhaps they are something that made sense 50, 60, 70 years ago, but they don't make any sense in 2017. It is a different time. It is a different day. Let's give the workers of America some freedom and flexibility because that is what they really want.

Mr. Speaker, I again urge my colleagues to support House Resolution 299 and the underlying bill.

The material previously referred to by Mr. POLIS is as follows:

AN AMENDMENT TO H. RES. 299 OFFERED BY
MR. POLIS

At the end of the resolution, add the following new sections:

SEC. 6. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1868) to provide that providers of broadband Internet access service shall be subject to the privacy rules adopted by the Federal Communications Commission on October 27, 2016. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 7. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 1868.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308–311), describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.”

The Republican majority may say “the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: “Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.”

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled “Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: “Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. BYRNE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. POLIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further pro-

ceedings on this question will be postponed.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 2, 2017.

Hon. PAUL D. RYAN,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 2, 2017, at 11:26 a.m.:

That the Senate passed S. 371.

With best wishes, I am,
Sincerely,

KAREN L. HAAS.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

DISASTER DECLARATION IMPROVEMENT ACT

Mr. BARLETTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1665) to ensure that the Administrator of the Federal Emergency Management Agency considers severe local impact in making a recommendation to the President for a major disaster declaration, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Disaster Declaration Improvement Act”.

SEC. 2. LOCAL IMPACT.

In making recommendations to the President regarding a major disaster declaration, the Administrator of the Federal Emergency Management Agency shall give greater weight and consideration to severe local impact or recent multiple disasters. Further, the Administrator shall make corresponding adjustments to the Agency's policies and regulations regarding such consideration. Not later than 1 year after the date of enactment of this section, the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the changes made to regulations and policies and the number of declarations that have been declared based on the new criteria.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from