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Comp Time - Official Statements

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Total Pages: 4

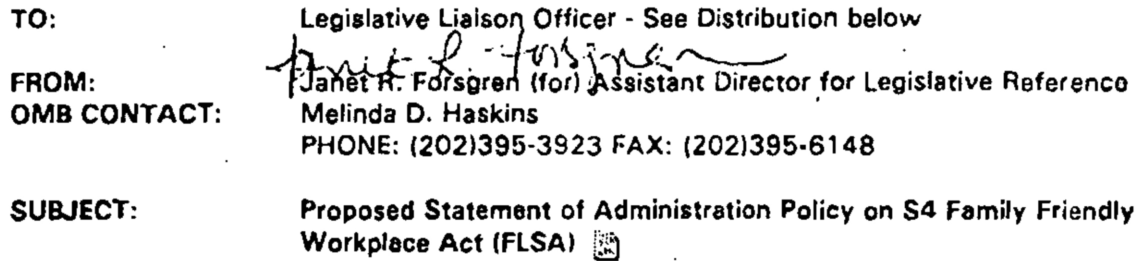
Comp time - official statements

LRM ID: MDH57

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, April 29, 1997

LEGISLATIVE REFERRAL MEMORANDUM



TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT: Proposed Statement of Administration Policy on S4 Family Friendly Workplace Act (FLSA)

DEADLINE: 10 AM Wednesday, April 30, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Please review the attached draft SAP on S.4. We expect the Senate to consider the bill shortly.

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Legislative Referral Memorandum

LRM ID: MDH57 **SUBJECT:** Proposed Statement of Administration Policy on S4 Family Friendly Workplace Act (FLSA)

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: ______________________

_____ FAX RETURN of _____ pages, attached to this reponse sheet

DRAFT -- NOT FOR RELEASE

April 1997
(Senate)

S. 4 - Family Friendly Workplace Act
(Ashcroft (R) MO and 38 others)

The Administration strongly opposes S. 4 because it does not address three fundamental principles: (1) preservation of workers' rights; (2) real protection against employer abuse; and (3) real choice for workers. The President will veto S. 4, or any other compensatory time legislation, unless it complies with these principles.

S. 4 purports to give working families greater flexibility. In reality, it grants employers more rights at the expense of working people:

- S. 4 fails to preserve workers' rights. It effectively eliminates the 40 hour work week by allowing employers to establish an 80-hour biweekly work program and a flexible credit hour program. In addition, workers who take compensatory time-off can be forced to work additional overtime in the same week -- even on the weekend -- without being paid overtime premium pay.

- S. 4 fails to protect workers against employer abuse. S. 4 offers inadequate protections for vulnerable workers and part-time, seasonal, and temporary employees, including garment and construction workers, who are employed in industries with histories of Fair Labor Standards Act violations. The bill also fails to prohibit employers from substituting compensatory time-off for paid vacation or sick leave benefits and contains inadequate worker safeguards in cases where an employer goes bankrupt or out-of-business. Finally, S. 4 lacks meaningful remedies for workers who want to exercise their private rights of action to recover damages from employers who penalize them for electing to receive overtime pay in lieu of compensatory time.

- S. 4 fails to offer workers real choice. In particular, S. 4 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, S. 4 would permit an employer to "cash out" a worker's earned compensatory time over 80 hours.

Finally, the Administration strongly believes that any legislation to authorize compensatory time under the Fair Labor Standards Act, should be linked to expansion of the Family and Medical Leave Act (FMLA). Expanding the FMLA to give working families greater flexibility to foster the education of their children or provide elder care will go a long way toward achieving the stated goals of S. 4.

Comp Time - official statements

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DRAFT

Comp Time

The Honorable James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee will consider S. 4, the "Family Friendly Workplace Act," on Wednesday, February 26. I am writing to emphasize the Administration's strong opposition to S. 4, and to urge your Committee not to order the bill reported.

The Administration believes strongly that any legislation to authorize compensatory time -- "comp time," or paid time-off -- under the Fair Labor Standards Act (FLSA) should be linked to expansion of the Family and Medical Leave Act (FMLA), as the President proposed during the last Congress. The FMLA provides important benefits to working families and has proved effective in meeting the needs of both families and businesses. And, unlike comp time which would be optional, family and medical leave is a right that covered employers may not deny to eligible employees. Expanding FMLA to give working families the flexibility they need for greater involvement in the education of their children and elder care will go a long way -- and in the right direction -- toward achieving the stated goals of S.4. The bill before your Committee does not include FMLA expansion, and it should.

~~Further, any~~ Any comp time legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights, including the 40-hour workweek.

Real choice for employees must include the right to choose whether to earn comp time or overtime premium pay; the right to take comp time when needed for FMLA purposes; the right to choose to use comp time for any purpose with two weeks notice unless its use would cause substantial ~~and grievous economic~~ injury to the employer; and the right to "cash out" accrued comp time for pay on 15 days notice, as well as a prohibition against giving employers the unilateral right to cash out an employee's accrued comp time at their discretion. Real protection against employer abuse must include a number of protections that are entirely absent from S.4, such as the exclusion of vulnerable

DRAFT

workers; special protections in cases where the employer goes bankrupt or out-of-business; prohibitions against employers' substituting comp time for paid vacation or sick leave benefits, or penalizing employees who choose overtime premium pay instead of comp time; damages that allow an employee to obtain adequate relief if denied the use of comp time or denied overtime assignments; and strong effective provisions, ~~and adequate resources~~, for enforcement. Preservation of worker rights requires preserving the 40-hour workweek, the right to receive premium pay for overtime work, and the cardinal FLSA principle that overtime is earned whenever an employer knows or has reason to know that overtime is being worked. Several provisions of S. 4., including the 80-hour biweekly work program and the flexible credit hour program, could effectively eliminate these rights.

President Clinton will veto any bill that does not meet these fundamental principles. While the President has called for and strongly supports enactment of ~~FMLA expansion and~~ responsible comp time legislation, he will not sign any bill -- including S. 4 -- that obliterates the principle of time-and-a-half for overtime or that destroys the 40-hour workweek. Workers -- not employers -- must be able to decide how best to meet the current needs of their family.

Sincerely,

DRAFT

CYNTHIA A. METZLER
Acting Secretary of Labor

* Vice President's Speech to the AFL/CIO last week

of discussion here about flex time, and I know there's been some concern on the part of some. We believe strongly that there should be a link between expanding family and medical leave and the Act there and any flex time legislation Congress considers. And any flex time legislation Congress considers. And any flex time proposals must address our principles of choice for employees not employers. Real protection, against any employer abuse. And preservation of basic worker rights. And I want you to know that President Clinton has his eyes wide open, understands the subtleties of these issues very clearly, and he will absolutely, without thinking twice, veto any comp time bill that does not meet these flex time principles. You give the choice to the employer or violate these other principles, it will be vetoed in a New York minute. He will not sign any legislation. Let me repeat this. President Clinton will not sign any legislation that obliterates the principle of time and a half for overtime or destroys the 40-hour work week. If you work overtime, you get to decide whether you want extra time or extra money, and you have a legal right to the overtime.

ON Comp Time bill

Third, let me mention campaign finance reform. I know this is another one that has been extremely controversial. We support campaign finance reform. I believe it's important to clean up this crazy system. However, we oppose and we will fight to the end in these efforts that target labor unions and their members or that denies workers the opportunity to be involved in the political process. That kind of effort is just more of the same kind of approach that has been faced by these men and women who have been trying to organize. And that is why President Clinton will veto any legislation that would obstruct labor's ability to communicate its views on candidates and legislative issues that are important to organized labor, members, and their families.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 25, 1996
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 2391 - Working Families Flexibility Act of 1996
(Ballenger (R) NC and 46 cosponsors)

The Administration strongly opposes H.R. 2391. If the bill were presented to the President in its current form, the Secretary of Labor would recommend that it be vetoed.

Although entitled the "Working Families Flexiblity Act of 1996", H.R. 2391 would disproportionately grant rights to employers, not workers:

- H.R. 2391 fails to protect a worker's right to choose overtime compensation or compensatory time-off. In particular, H.R. 2391 would allow employers to decide when workers could use their earned compensatory time-off by objecting if it "unduly disrupts" the employers' operations. An employer could choose to cash out compensatory time-off over 80 hours, which has already been earned and relied upon by the worker, thereby eliminating true worker choice.

- H.R. 2391 also does not provide adequate assurances that workers will receive the compensation they are due. For example, the bill does not provide any protections against certain industries with long histories of Fair Labor Standards Act violations and abuses of vulnerable workers.

Finally, H.R. 2391 would permanently authorize the option of allowing compensatory time-off in lieu of overtime compensation without any plan to evaluate its potential impact on worker's earnings or ability to use earned compensatory time-off.

* * * * * * *

(Do Not Distribute Outside Executive Office of the President)

This position was developed by the Legislative Reference Division (Briatico) in consultation with HRD (Matlack/Himler), and OIRA (Bond). The Department of Labor (Zeitz/Blank) concurs in this position. VAPD (Rideout) and the Department of Commerce (Clark), and the Office of Personnel Management (Woodruff) had no objections to a substantively-similar, earlier version. EP (Wasserman) and the Small Business Administration (Deane) responded with no comments on the earlier version.

OMB/LA Clearance: OMB -- Lisa Kountoupes, Ken Apfel, Jack Lew; WH/LA -- Andy Blocker/Janet Murguia/John Hilley; COS -- John Angell, Jennifer O'Connor for Harold Ickes

H.R. 2391 was reported by the House Economic and Educational Opportunities Committee on July 11, 1996.

Administration Position to Date

The Administration has not previously taken a formal position on H.R. 2391.

In announcing his new Family-Friendly Workplace Proposals at the Nashville Family Reunion on June 24, 1996, President Clinton said that he would strongly oppose any bill to change the Fair Labor Standards Act to allow paid time-off instead of overtime pay "that allows employers to coerce their employees, fails to protect true worker choice, and fails to guarantee that workers will receive the compensation they are due."

The Department of Labor has advised that Assistant to the President and Director for Legislative Affairs John Hilley told the Democratic Caucus on July 24, 1996, that the President would veto H.R. 2391. Labor has also advised that White House Legislative Affairs would prefer that the Statement of Administration Policy say "the President would veto the bill", rather than the Secretary of Labor would recommend veto.

Background

Under the Fair Labor Standards Act (FLSA), most hourly workers in the private sector are prohibited from accruing compensatory time. Instead, employers are required to pay overtime wages for any hours worked beyond 40 in a workweek.

The FLSA overtime pay provisions for State and local employees are different. Under the FLSA, State and local public organizations may provide their employees with compensatory time-off instead of overtime wages if: (1) the employee or his collective bargaining representative has agreed to the arrangement; and (2) the compensatory time off is given at a rate not less than one and a half hours for each hour of work for which overtime compensation is required.

Major Provisions of H.R. 2391

According to the House Committee on Economic and Educational Opportunities report on H.R. 2391, the bill would amend the FLSA to:

(Please note that expected manager's floor amendment changes are indicated by bold-faced type.)

-- Allow private sector employers to offer overtime compensation to employees in the form of compensatory time-off. This time-off would be given at the rate of at least one and one-half times the employee's regular rate of pay. **Private sector employers who choose to discontinue offering compensatory time-off must provide 30 days notice to employees.**

-- Require, in non-union settings, that an employer and employee reach a mutual, written, and verifiable agreement that overtime compensation will be in the form of compensatory time-off. These agreements must be reached prior to the performance of the work for which the compensatory time-off will be given. Employees can withdraw from these agreements at any time, **but employers are required to provide 30 days notice to employees before withdrawl can occur.**

-- Require, in union settings, that agreements for employees to receive overtime compensation in the form of compensatory time-off be pursuant to a collective bargaining agreement or any other agreement between the employer and the collective bargaining representative.

-- Prohibit private sector employers from making acceptance of compensatory time-off for overtime hours a condition of employment.

-- Prohibit private sector employers from directly or indirectly intimidating, threatening, coercing, or attempting to coerce employees from requesting or not requesting compensatory time-off in lieu of overtime pay.

-- Allow private sector employees who have accrued compensatory time-off to use the time-off as requested if: (1) the request is made within a reasonable time in advance; and (2) the time-off will not "unduly disrupt" the employer's operations.

-- Allow private sector employees to accrue 240 hours of compensatory time in a year. Any accrued compensatory time must be "cashed out" not less than once a year. Employees would be allowed to cash out their compensatory time within 30 days of submitting a written request.

-- Allow private sector employers to deny an employee's request to use earned compensatory time if the employee's use of the compensatory time would "unduly disrupt" the employer's operations. **The bill would also allow employers to provide monetary compensation for an employee's unused compensatory time-off in excess of 80 hours with 30 days notice to the employee.**

-- Establish legal penalties for employers who directly or indirectly coerce employees into taking or not taking compensatory time-off. The bill would make such employers liable to the employee for the employee's rate of compensation for each hour of compensatory time accrued and an equal amount as liquidated damges.

-- Require private sector employees to be compensated monetarily for any unused compensatory time-off upon voluntary or involuntary termination of employment.

Pay-As-You-Go Scoring

According to HRD (Himler), H.R. 2391 would not affect direct spending or receipts; therefore, it is not subject to the pay-as-you-go requirement of the Omnibus Budget and Reconciliation Act of 1990.

LEGISLATIVE REFERENCE DIVISION DRAFT
July 24, 1996 - 5:10 p.m.

Comp time — official statements

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

FEB 26 ....

The Honorable James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee will consider S. 4, the "Family Friendly Workplace Act," on Wednesday, February 26. I am writing to emphasize the Administration's strong opposition to S. 4, and to urge your Committee not to order the bill reported.

The Administration believes strongly that any legislation to authorize compensatory time -- "comp time," or paid time-off -- under the Fair Labor Standards Act (FLSA) should be linked to expansion of the Family and Medical Leave Act (FMLA), as the President proposed during the last Congress. The FMLA provides important benefits to working families and has proved effective in meeting the needs of both families and businesses. And, unlike comp time which would be optional, family and medical leave is a right that covered employers may not deny to eligible employees. Expanding FMLA to give working families the flexibility they need for greater involvement in the education of their children and elder care will go a long way toward achieving the stated goals of S.4. The bill before your Committee does not include FMLA expansion, and it should.

Any comp time legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights, including the 40-hour workweek.

Real choice for employees must include the right to choose whether to earn comp time or overtime premium pay; the right to take comp time when needed for FMLA purposes; the right to choose to use comp time for any purpose with two weeks notice unless its use would cause substantial injury to the employer; and the right to "cash out" accrued comp time for pay on 15 days notice, as well as a prohibition against giving employers the unilateral right to cash out an employee's accrued comp time at their discretion. **Real protection** against employer abuse must include a number of protections that are entirely absent

from S.4, such as the exclusion of vulnerable workers; special protections in cases where the employer goes bankrupt or out-of-business; prohibitions against employers' substituting comp time for paid vacation or sick leave benefits, or penalizing employees who choose overtime premium pay instead of comp time; damages that allow an employee to obtain adequate relief if denied the use of comp time or denied overtime assignments; and strong effective provisions for enforcement. Preservation of worker rights requires preserving the 40-hour workweek, the right to receive premium pay for overtime work, and the cardinal FLSA principle that overtime is earned whenever an employer knows or has reason to know that overtime is being worked. Several provisions of S. 4., including the 80-hour biweekly work program and the flexible credit hour program, could effectively eliminate these rights.

President Clinton will veto any bill that does not meet these fundamental principles. While the President has called for and strongly supports enactment of responsible comp time legislation, he will not sign any bill -- including S. 4 -- that obliterates the principle of time-and-a-half for overtime or that destroys the 40-hour workweek. Workers -- not employers -- must be able to decide how best to meet the current needs of their family.

The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

CYNTHIA A. METZLER
Acting Secretary of Labor

Labor - Team Act

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

FEB 25 1997

The Hon. James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee may consider S. 295, the "Teamwork for Employees and Managers Act," on Wednesday, February 26. I am writing to emphasize the Administration's opposition to S. 295, and to urge your Committee not to order the bill reported.

This bill would amend section 8(a)(2) of the National Labor Relations Act (NLRA) to broadly expand employers' abilities to establish and control employee involvement programs. Section 8(a)(2) states, in part, that it is an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization. By prohibiting employer domination and interference, section 8(a)(2) protects the right of employees to choose their own independent representative to advance their interests.

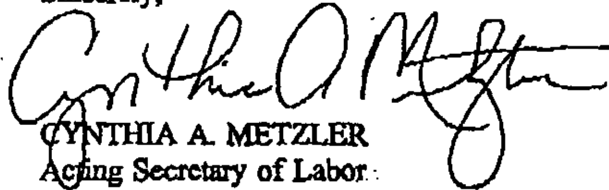
The Administration strongly supports further labor-management cooperation within the broad parameters allowed under current law. Recent decisions of the National Labor Relations Board (NLRB) have helped clarify the broad legal boundaries of labor-management teamwork, and the NLRB can be expected to provide additional guidance in the exercise of its independent authority. Your Committee's hearing showed that employers currently do have the latitude to cooperate with employee teams. The employee groups described by IBM, for example, were clearly legal, and the IBM team that testified has never found it necessary to discuss wages and hours, showing that productivity and quality teams need not run afoul of the law. I note that the NLRB has ordered only four companies a year, on average, to terminate illegal employee involvement schemes since *Electromation* was decided, and that there is no other penalty for violation of section 8(a)(2).

Rather than promoting genuine teamwork, S. 295 would undermine the delicate system of checks and balances between employer and employee rights and obligations that has served this country so well for six decades. It would do this by allowing employers to establish company unions where no union currently exists and by permitting company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging workplace cooperation, this bill would abolish basic protections that help ensure independent democratic representation in the workplace.

As several witnesses before the Committee testified, section 8(a)(2) is not the place to begin reform of the National Labor Relations Act. Rather, they -- as did the Dunlop Commission before them -- recommend changes in the law to facilitate the free choice of employees to be represented by an independent union and to deter unfair labor practices by employers, which have become routine and widespread. The Administration agrees with that approach.

For the foregoing reasons, the Administration opposes the enactment of S. 295. If S. 295 were presented to the President, I would recommend that he veto the bill.

Sincerely,



CYNTHIA A. METZLER
Acting Secretary of Labor

Betsy Myers
67311

Abortion-partial-birth
talking points

TALKING POINTS ON FITZSIMMONS STORY

- Nothing that Mr. Fitzsimmons now says contradicts or undermines the President's position, which is that so-called partial-birth abortions should be banned except when they are necessary to save the life of a woman or prevent serious harm to her health.

- The President has never claimed that partial-birth abortions are used only to prevent death or serious harm.

- Indeed, the President has said, in several written statements on the subject: "Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard -- namely, that the procedure must be necessary to prevent death or serious adverse health consequences . The procedure may well be used in situations where a woman's serious health interests are not at issue. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them."

- The President's position today remains what it has always been: that he will sign a bill banning partial-birth abortions, but only if it has an exception that will protect those women -- even if few in number -- who need this procedure to save their lives or prevent serious harm to their health.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Comp Time –
official statements

TO: JOHN PODESTA (COS)
JOHN HILLEY (WHLA)
ANDY BLOCKER (WHLA)
PHIL CAPLAN (COS)
GENE SPERLING (NEC)
BRUCE REED (DPC)
ELENA KAGAN (DPC)
DAVID STRAUSS (OVP)

CC: SARAH LATHAM
ELISA MILLSAP
RUSSELL HORWITZ

DATE: March 3, 1997

FROM: Alice Shuffield (OMB/LA)

RE: H.R. 1, Working Families Flexibility Act – Letter for clearance

---

Attached for your clearance is a draft Labor letter regarding H.R. 1, the Working Families Flexibility Act of 1997. The House Labor Committee plans to markup the bill on Wednesday, and the Labor Department hopes to send the letter out today. The draft is almost identical to the letter we sent last week (also attached) on the Senate bill, S. 4. Whereas the Senate bill would change current law from the 40-hour work week to an 80-hour work two weeks, the House bill keeps the 40-hour work week.

I will be in contact with you for your clearance by 4:30 pm this afternoon. Please let me know (5-4790) if you have any questions or concerns.

THANKS!

DRAFT

The Honorable William F. Goodling
Chairman
Committee on Education and the Workforce
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Goodling:

We understand that your Committee will consider H.R. 1, the "Working Families Flexibility Act of 1997," on Wednesday, March 5. I am writing to emphasize the Administration's strong opposition to H.R. 1, and to urge your committee not to order the bill reported.

The Administration believes strongly that any legislation to authorize compensatory time -- "comp time," or paid time-off -- under the Fair Labor Standards Act (FLSA) should be linked to expansion of the Family and Medical Leave Act (FMLA), as the President proposed during the last Congress. The FMLA provides important benefits to working families and has proved effective in meeting the needs of both families and businesses. And, unlike comp time, which would be optional, family and medical leave is a right that covered employers may not deny to eligible employees. Expanding FMLA to give working families the flexibility they need for greater involvement in the education of their children and elder care will go a long way toward achieving the stated goals of H.R. 1. The bill before your Committee does not include FMLA expansion, and it should.

Any comp time legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights ~~including the 40-hour workweek.~~

Real choice for employees must include the right to choose whether to earn comp time or overtime premium pay; the right to take comp time when needed for FMLA purposes; the right to choose to use comp time for any purpose with two weeks notice unless its use would cause substantial injury to the employer; and the right to "cash out" accrued comp time for pay on 15 days notice, as well as a prohibition against giving employers the unilateral right to cash out an employee's accrued comp time at their discretion. Real protection against employer abuse must include a number of protections that are entirely absent from H.R. 1, such as the exclusion of vulnerable workers and

DRAFT

part-time, seasonal and temporary workers, including garment and construction workers; special protections in cases where the employer goes bankrupt or out-of-business; prohibitions against employers' substituting comp time for paid vacation or sick leave benefits, or penalizing employees who choose overtime premium pay instead of comp time; damages that allow an employee to obtain adequate relief if denied the use of comp time or denied overtime assignments; and strong effective provisions for enforcement. Preservation of worker rights requires preserving ~~the 40-hour workweek and~~ the right to receive premium pay for overtime work.

diff. from 5.4 HR

THREE

President Clinton will veto any bill that does not meet ~~these~~ fundamental principles. While the President has called for and strongly supports enactment of responsible comp time legislation, he will not sign any bill — including H.R. 1 — that diminishes employees' rights to receive time-and-a-half overtime premium pay when they work more than a 40-hour workweek. Workers — not employers — must be able to decide how best to meet the current needs of their families.

diff. from 5.4 HR.

The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

DRAFT

CYNTHIA A. METZLER
Acting Secretary of Labor

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

FEB 26 ....

The Honorable James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee will consider S. 4, the "Family Friendly Workplace Act," on Wednesday, February 26. I am writing to emphasize the Administration's strong opposition to S. 4, and to urge your Committee not to order the bill reported.

The Administration believes strongly that any legislation to authorize compensatory time -- "comp time," or paid time-off -- under the Fair Labor Standards Act (FLSA) should be linked to expansion of the Family and Medical Leave Act (FMLA), as the President proposed during the last Congress. The FMLA provides important benefits to working families and has proved effective in meeting the needs of both families and businesses. And, unlike comp time which would be optional, family and medical leave is a right that covered employers may not deny to eligible employees. Expanding FMLA to give working families the flexibility they need for greater involvement in the education of their children and elder care will go a long way toward achieving the stated goals of S.4. The bill before your Committee does not include FMLA expansion, and it should.

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from S.4, such as the exclusion of vulnerable workers; special protections in cases where the employer goes bankrupt or out-of-business: prohibitions against employers' substituting comp time for paid vacation or sick leave benefits, or penalizing employees who choose overtime premium pay instead of comp time; damages that allow an employee to obtain adequate relief if denied the use of comp time or denied overtime assignments; and strong effective provisions for enforcement. Preservation of worker rights requires preserving the 40-hour workweek, the right to receive premium pay for overtime work, and the cardinal FLSA principle that overtime is earned whenever an employer knows or has reason to know that overtime is being worked. Several provisions of S. 4., including the 80-hour biweekly work program and the flexible credit hour program, could effectively eliminate these rights.

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The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

CYNTHIA A. METZLER
Acting Secretary of Labor