Mr. STEVENS. Mr. President, I am awaiting the arrival of the distinguished minority leader so that we can proceed to the consideration of S. 2240. I suggest the absence of a quorum until he arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES ACT OF 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate S. 2240, Calendar No. 518, the flexitime bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 2240) to amend Title V, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

Without objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 4, after line 2, insert the following:

"(8) 'collective bargaining', 'collective bargaining agreement', and 'exclusive representative' have the same meanings given such terms—

"(A) by section 7103(a)(12), (8), and (16) of this title, respectively, in the case of any unit covered by chapter 71 of this title; and

"(B) in the case of any other unit, by the corresponding provisions applicable under the personnel system covering this unit.".

On page 9, strike line 11, through and including line 20, and insert the following:

"(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for—

"(1) in the case of a full-time employee, not more than 24 credit hours accumulated by such employee, or

"(2) in the case of a part-time employee, the number of credit hours (not excess of one-fourth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.".

On page 13, strike line 3, through and including page 14, line 2, and insert the following:

"§ 6130. Application of programs in the case of collective bargaining agreements

"(a)(1) In the case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.

"(2) Employees within a unit represented by an exclusive representative shall not be included within any program under this subchapter except to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.

"(b) An agency may not participate in a flexible or compressed schedule program under a collective bargaining agreement which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.".

On page 14, strike line 22, through and including page 16, line 21, and insert the following:

"(a) Notwithstanding the preceding provisions of this subchapter or any collective bargaining agreement and subject to subsection (c) of this section, if the head of an agency finds that a particular flexible or compressed schedule under this subchapter has had or would have an adverse agency impact, the agency shall promptly determine not to—

"(1) establish such schedule; or

"(2) continue such schedule, if the schedule has already been established.

"(b) For purposes of this section, 'adverse agency impact' means—

"(1) a reduction of the productivity of the agency;

"(2) a diminished level of services furnished to the public by the agency; or

"(3) an increase in the cost of agency operations.

"(c)(1) This subsection shall apply in the case of any schedule covering employees in a unit represented by an exclusive representative.

"(2)(A) If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination under subsection (a)(1) not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter in this section referred to as the 'Panel').

"(B) The Panel shall promptly consider any case presented under subparagraph (A), and shall take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact.

"(3)(A) If an agency and an exclusive representative have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this subchapter and the head of the agency determines under subsection (a)(2) to terminate a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule involved.

"(B) If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel.

"(C) The Panel shall promptly consider any case presented under subparagraph (B), and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

"(D) Any such schedule may not be terminated until—

"(i) the agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of that agreement; or

"(ii) the date of the Panel's final decision, if an impasse arose in the reopening of the agreement under subparagraph (A) of this paragraph.

"(d) This section shall not apply with respect to flexible schedules that may be established without regard to the authority provided under this subchapter.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1982".

SEC. 2. (a) Chapter 61 of title 5, United States Code, is amended—

(1) by inserting before section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"§ 6120. Purpose

"The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

"§ 6121. Definitions

"For purposes of this subchapter—

"(1) 'agency' means any Executive agency, any military department, and Library of Congress;

"(2) 'employee' has the meaning given it by section 2105 of this title;

"(3) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

"(4) 'credit hours' means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday;

"(5) 'compressed schedule' means—

"(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

"(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays;

"(6) 'overtime hours', when used with respect to flexible schedule programs under sections 6122 through 6126 of this title, means all hours in excess 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours; and

"(7) 'overtime hour', when used with respect to compressed schedule programs under sections 6127 and 6128 of this title, means any hours in excess of those specified hours which constitute the compressed schedule.

"(8) 'collective bargaining', 'collective bargaining agreement', and 'exclusive representative' have the same meanings given such terms—

"(A) by section 7103(a) (12), (8) and (16) of this title, respectively, in the case of any unit covered by chapter 71 of this title; and

"(B) in the case of any other unit, by the corresponding provisions applicable under the personnel system covering this unit.

operate at our own peril if we do not understand one thing that is happening. This is another example of the American people leading their leaders. The American people understand better than we understand that there is a need for a commonsense approach to dealing with what they understand may be the thing that can end the existence of the human race as we know it today.

A poll that my colleague (Mr. ROTH) conducts on a yearly basis recently was published by my colleague. It showed, to my amazement—maybe this is reflecting that I do not know my State as well as I thought I did. This poll showed that, out of a registered number of voters of about 300,000 in the State, 13,000 responded in writing to my senior colleague.

He asked them "What do you think the probability of a nuclear war in your lifetime is?" He had four categories, if my memory serves me. One said very likely, one said likely, and it went on down the line.

The very likely and likely added up to 54 percent of the people of my State—54 percent of the people of my State who answered that poll.

I agree this is not a scientific poll in the sense that Mr. Caddell or Wirthlin or any of them in the polling business would consider it, but 13,000 people responded out of a registered total of eligible voters of 300,000 in my State; 13,000 wrote back and more than half of them said that in their lifetime, they believe, there will be a nuclear war.

I think they understand something pretty clearly: If we keep building weapons and not agreeing, not talking, we in fact are likely to have it become a self-fulfilling prophecy.

Mr. President, I sincerely appreciate the majority whip's giving me this time. To conclude, I think the American people want very badly for us to be strong. I think there is a consensus that we need to build up our military, particularly conventional, capability. I think there is an overwhelming consensus that you cannot trust the Russians, nor should you trust the Russians. I believe there is an overwhelming view that says that there is not a compatibility between the Soviet system and our system. I believe the vast majority of the American people rightly perceive the Soviet Union as a threat.

Having said all that, it is not the least bit inconsistent for them also to say, "But, in our mutual interest, we should deal with the people we do not trust, we do not like, we think are bad for our interests when, in fact, we can do it in a way that is verifiable and in a way that meets both of our concerns; that is, the annihilation of humanity."

But we in the Senate, in the 10 years I have been here, talk about those things as if they are mutually exclusive. My friends on the left stand up and say, not only must we have arms control, but we do not need any bigger military. My friends on the right stand up and say, we need a bigger military and we need more missiles and we cannot have any agreement with the Russians, because no matter how tight the agreement is, you cannot trust them anyway.

But the American people have said where we should be. The American people say, build up our military, be credible and tough and strong, second to no one in the world. But negotiate on the issue of nuclear weapons.

I make a prediction, Mr. President, that my colleagues will arrive at that conclusion very shortly. When I say shortly, I mean within the year. Because this is where the American people are—and the American people are right.

I end by saying if we trusted the basic good judgment of the American people a little bit more, we would all be a little bit better off.

Mr. President, I should like to switch to a second subject, if my colleague will yield me another 2 minutes.

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

PROPOSED CUTS IN SOCIAL SECURITY

Mr. BIDEN. Mr. President, the media is full of stories about proposed cuts and proposals relating to the social security system. On almost a weekly basis—I guess I have had 14 thus far this year—on Monday night I have a town meeting. The most people that have ever shown up at the town meetings are 600 and as few as 100, somewhere on the average of 200. As I said, I think I have had 14 or 15 since the middle of January. Social security is a big issue. We in the Senate spend many hours debating the issue, and we are scaring the living devil out of the American people about the solvency of the system, what is going to happen to the system.

While it is proper, Mr. President, for proposed social security cuts to receive a great deal of attention and publicity; I am afraid all that attention has obscured yet another cut which could have an equally devastating effect on seniors. I am referring, Mr. President, to the Budget Committee's proposal to slash $23.5 billion from the medicare program over the next 3 years.

Among other changes in law, this proposed savings would be achieved through the institution of a 6-percent copayment in fiscal year 1983, an 8-percent copayment in fiscal year 1984, and a 9-percent copayment in fiscal year 1985. These copayments would be charged against medicare part A, that is, the cost of hospitalization. Currently, the patient pays a $256 deductible against the first day's cost, with medicare picking up the tab for days 2 to 60.

If this proposal is enacted into law, Mr. President, it will mean that a medicare patient would be forced to pay $116.34 per week—after the deductible—for the average hospital room in Delaware, as opposed to no fee today. In fiscal year 1984, assuming a 5-percent increase in the cost of a hospital room, the charge would be $165.36/week, again as opposed to no fee today. In fiscal year 1985, assuming another 5-percent jump in hospital costs, the additional charge would rise to $192.15 per week.

To bring this proposal into even clearer perspective, Mr. President, a 60-day hospital stay for a medicare patient under current law costs that patient $256 in out-of-pocket expenses. If this proposal is approved, that stay will cost $1,287.87 in fiscal year 1983, $1,743.48 in fiscal year 1984 and $1,972.80 in fiscal year 1985.

When he first heard of the magnitude of the proposed medicare cuts, John Muldoon—who is president of the Association of Delaware Hospitals—called my office to express his view that the proposal is "unrealistic." I go a step beyond that characterization, Mr. President. I believe this proposal represents a callous attempt to cut costs in order to hide the failure of the administration's economic program.

How are we to expect seniors to cope with this attempt to balance the budget on their backs? Let us remember that, although the CPI actually went down last month, the health care portion of the index jumped by 12 percent.

Let us also remember, Mr. President, that this generation of seniors has made its sacrifice. They have been through the Great Depression. They have been through three and, in some cases, four wars. They have worked to bring the country out of numerous recessions.

Yes, they are willing to do more. Each senior I speak to expresses his or her willingness to do their part to help get America's economy back on track. But they are not willing to have the budget balanced on their backs. Mr. President, we must reject the Budget Committee's medicare cut.

Mr. President, I once again thank the Senator from Alaska for giving me this time, and I yield the floor.

PRIVILEGE OF THE FLOOR—S. 2240

Mr. STEVENS. Mr. President, I ask unanimous consent that when S. 2240 is being considered by the Senate, Ira Shapiro, Marcia McCord, Michael Forscey, Gerald Lindrew, and Ed Jayne be permitted access to the floor during all proceedings.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business has concluded.

"§ Flexible schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish, in accordance with this subchapter, programs which allow the use of flexible schedules which include—

"(1) designated hours and days during which an employee on such a schedule must be present for work; and

"(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

"(b) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement referred to in section 6130(a) of this title, if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

"(1) restrict the employees' choice of arrival and departure time,

"(2) restrict the use of credit hours, or

"(3) exclude from such program any employee or group of employees.

"§ 6123. Flexible schedules; computation of premium pay

"(a) For purposes of determining compensation for overtime hours in the case of an employee participating in a program under section 6122 of this title—

"(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other provision of law; or

"(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

"(b) Nothwithstanding the provisions of law referred to in subsection (a)(1) of this section, an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 6126 of this title or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

"(c)(1) Notwithstanding section 5545(a) of this title, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which such premium pay is otherwise authorized, except that—

"(A) if an employee is on a flexible schedule under which—

"(i) the number of hours during which such employee must be present for work, plus

"(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the nightwork hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

"(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

"(2) Notwithstanding section 5343(f) of this title, and section 4107(e)(2) of title 38, night differential will not be paid to any employee otherwise subject to either of such sections, solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized, except that such differential shall be paid to an employee on a flexible schedule under this subchapter—

"(A) in the case of an employee subject to subsection (f) of such section 5343, for which all or a majority of the hours of such schedule for any day fall between the hours specified in such subsection, or

"(B) in the case of an employee subject to subsection (e)(2) of such section 4107, for which 4 hours of such schedule fall between the hours specified in such subsection.

"§ 6124. Flexible schedules; holidays

"Notwithstanding sections 6103 and 6104 of this title, if any employee on a flexible schedule under section 6122 of this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Office of Personnel Management).

"§ 6125. Flexible schedules; time-recording devices

"Notwithstanding section 6106 of this title, the Office of Personnel Management or any agency may use recording clocks as part of programs under section 6122 of this title, and the Bureau of Engraving and Printing may use recording clocks to record time and attendance of employees of such Bureau without regard to whether the use of recording clocks is part of a program under section 6122 of this title.

"§ 6126. Flexible schedules; credit hours; accumulation and compensation

"(a) Subject to any limitation prescribed by the Office of Personnel Management or the agency, a full-time employee on a flexible schedule can accumulate not more than 24 credit hours, and a part-time employee can accumulate not more than one-fourth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

"(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for—

"(1) in the case of a full-time employee, not more than 24 credit hours accumulated by such employee, or

"(2) in the case of a part-time employee, the number of credit hours (not excess of one-fourth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.".

"§ 6127. Compressed schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish programs which use a 4-day workweek or other compressed schedule..

"(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any program under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

"(2) Upon written request to any agency by an employee, the agency, if it determines that participation in a program under subsection (a) would impose a personal hardship on such employee, shall—

"(A) except such employee from such program; or

"(B) reassign such employee to the first position within the agency—

"(i) which becomes vacant after such determination,

"(ii) which is not included within such program,

"(iii) for which such employee is qualified, and

"(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

"§ 6128. Compressed schedules; computation of premium pay

"(a) the provisions of sections 5542(a), 5544(a), and 5550(2) of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

"(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by the applicable provisions referred to in subsection (a) of this section. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

"(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

"(d) Notwithstanding section 5546(b) of this title, an employee on a compressed scheduled who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirements for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act (29 U.S.C. 207) whichever provisions are more beneficial to the employee.

"§ 6129. Administration of leave and retirement provisions

"For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326,

and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

"'§ 6130. Application of programs in the case of collective bargaining agreements

"(a)(1) In case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.

"(2) Employees within a unit represented by an exclusive representative shall not be included within any program under this subchapter except to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.

"'(b) An agency may not participate in a flexible or compressed schedule program under a collective bargaining agreement which contains premium pay provisions which are inconsistent with the provisions of sections 6123 or 6128 of this title, as applicable.".

§ 6131. Criteria and review

"(a) Notwithstanding the preceding provisions of this subchapter or any collective bargaining agreement and subject to subsection (c) of this section, if the head of an agency finds that a particular flexible or compressed schedule under this subchapter has had or would have an adverse agency impact, the agency shall promptly determine not to—

"'(1) establish such schedule; or

"'(2) continue such schedule, if the schedule has already been established.

"'(b) For purposes of this section, "adverse agency impact" means—

"(1) a reduction of the productivity of the agency;

"(2) a diminished level of services furnished to the public by the agency; or

"(3) an increase in the cost of agency operations.

"(c)(1) This subsection shall apply in the case of any schedule covering employees in a unit represented by an exclusive representative.

"(2)(A) If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination under subsection (a)(1) not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter in this section referred to as the 'Panel').

"(B) The Panel shall promptly consider any case presented under subparagraph (A), and shall take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact.

"(3)(A) If an agency and an exclusive representative have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this subchapter and the head of the agency determines under subsection (a)(2) to terminate a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule involved.

"'(B) If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel.

"(C) The Panel shall promptly consider any case presented under subparagraph (B), and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

"(D) Any such schedule may not be terminated until—

"(i) the agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of that agreement; or

"(ii) the date of the Panel's final decision, if an impasse arose in the reopening of the agreement under subparagraph (A) of this paragraph.

"'(d) This section shall not apply with respect to flexible schedules that may be established without regard to the authority provided under this subchapter.".

"'§ 6132. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

"'(1) such employee's rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

"(2) such employee's right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee's right to request an agency determination under section 6127(b)(2) of this title.

"'(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, compensation).

"'§ 6133. Regulations; technical assistance; program review

"(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

"(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

"(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

"(A) the efficiency of Government operations;

"(B) mass transit facilities and traffic;

"'(C) levels of energy consumption;

"'(D) service to the public;

"(E) increased opportunities for full-time and part-time employment; and

"(F) employees' job satisfaction and nonworklife.

"'(c) With respect to employees in the Library of Congress, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Librarian of Congress.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"Sec.
"6120. Purpose.
"6121. Definitions.
"'6122. Flexible schedules; agencies authorized to use.
"6123. Flexible schedules; computation of premium pay.
"6124. Flexible schedules; holidays.
"6125. Flexible schedules; time-recording devices.
"6126. Flexible schedules; credit hours; accumulation and compensation.
"6127. Compressed schedules; agencies authorized to use.
"'6128. Compressed schedules; computation of premium pay.
"6129. Administration of leave and retirement provisions.
"6130. Application of programs in the case of negotiated contracts.
"6131. Criteria and review.
"6132. Prohibition of coercion.
"'6133. Regulations; technical assistance; program review."

SEC. 3. Section 3401(2) of title 5, United States Code, is amended by inserting "(or 32 to 64 hours during a biweekly pay period in the case of a flexible or compressed work schedule under subchapter II of chapter 61 of this title)" after "week".

SEC. 4. Each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act shall be continued by the agency concerned subject to the review of such schedule by the agency within 90 days after the date of enactment of this Act and such further action as the agency shall take under the second sentence of this section. If, in reviewing the schedule, the agency determines that the schedule has reduced the productivity of the agency or the level of services to the public or has increased the cost of the agency operations, the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

SEC. 5. The amendments made by this Act shall not be in effect after three years after the date of the enactment of this Act.

Mr. STEVENS. Mr. President, there is a time agreement on this bill, is there not? Will the Chair state that agreement?

The PRESIDING OFFICER. The Senator is correct.

The Chair is advised that when the Senate proceeds to the consideration of S. 2240, a bill to authorize the Federal Government's use of flexible and compressed work schedules for its employees, but not before Tuesday, June 29, 1982, debate on an amendment to be offered by the Senator from Colorado (Mr. ARMSTRONG) relative to the Walsh-Healy Act and the Contract Work Hours and Safety Standards Act shall be limited to 1 hour, to be equally divided and controlled, debate on a perfecting amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY) to the Armstrong amendment shall be limited to 30 minutes, to be equally divided and controlled, debated on two committee amendments which shall be offered

shall be debated out of the time allotted on the bill, with no other amendments in the first and second degree to be in order, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 5 minutes to be equally divided and controlled. Provided, that in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Mr. STEVENS. I thank the Chair.

Mr. President, I yield myself such time as I need to pursue an opening statement and some committee amendments.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. I designate Mr. EAGLETON to control the time under my control.

Mr. STEVENS. I thank the minority leader. I am delighted to be able to work once again with my good friend from Missouri.

Mr. President, when we passed S. 2254, which continued the Government's alternative work schedules experiments for 4 months, I said we would continue to work on a compromise bill to authorize an alternative work schedules program. With the help of some Members in the House, S. 2240 with an amendment is that compromise.

S. 2240 authorizes alternative work schedules for 3 years. Programs established under Public Law 95-390, the experimental program, can be reauthorized under this act. Management of each such program must review the program within 90 days of enactment. If they determine the program reduced productivity, reduced the level of service to the public, or increased agency costs, the agency must immediately terminate that schedule regardless of any contract provision. That decision is not negotiable or reviewable.

Programs started subsequent to enactment, including those replacing terminated schedules, are fully negotiable where a unit is represented by an exclusive bargaining agent. Agency management is free not to institute a schedule if they can provide evidence that one of the aforementioned negative factors is likely to occur. If the exclusive bargaining agent disagrees, the impasse will be presented to the Federal Service Impasses Panel with the burden of proof on agency management.

Once a negotiated new program is in effect, an agreement may be reopened by management to seek termination if it determines that one of the previously mentioned negative factors has resulted from the program. If no agreement is reached on termination, the impasse will be presented to the Federal Service Impasses Panel. The panel must rule in 60 days. It must rule in favor of the agency if it determines that productivity declined, service to the public diminished or cost increased as a result of the program.

Mr. President, in order to conform this bill to a recently introduced House bill, I intend to offer an amendment to more fully clarify the intent of an agency's unilateral right to terminate an experimental schedule and its subsequent responsibilities. This amendment requires that prior to the termination of an experimental schedule an agency must certify that the termination of such a schedule and reintroduction of a more traditional schedule will not increase costs. Administrative cost resulting from the transition from one schedule to another are not to be considered in making the cost determination.

Second, this amendment clarifies that an agency which terminates an experimental schedule must negotiate in good faith on any new schedule proposed by an exclusive representative of that agency's unit. This applies to those agencies where there are either agreements containing a provision for alternative work schedules or agreements for such schedules that are in existence on the date of enactment of this legislation.

I intend to move the adoption of those amendments after the statement of the distinguished Senator from Missouri.

Finally, Mr. President, I will also ask adoption of a technical amendment that clarifies a minor budgetary problem. A provision in the bill authorizing the Bureau of Engraving and Printing to use time clocks will under this amendment not be effective until October 1, 1982, and that authority would also be made permanent.

Mr. President, at this time I am happy to yield to my good friend from Missouri if he has a statement to make.

Mr. EAGLETON. Mr. President, in 1978, Congress enacted the Federal Employees Flexible and Compressed Work Schedules Act, Public Law 95-350, better known as the flexitime legislation. The legislation required the Office of Personnel Management (OPM) to establish a program to conduct a carefully controlled 3-year experiment throughout the Federal Government with various work schedules which were alternatives to the traditional 8-hour day, 40-hour week.

Stated simply, the basic goal of that legislation was to assess whether the promising trend in the private sector toward alternatives to the traditional 8-hour day could work effectively in the Federal Government. in 1978, when I chaired hearings on the original flexitime legislation, there was already an impressive volume of evidence that private companies which had experimented with flexible scheduling and alternatives to the traditional work day and week were extremely enthusiastic about it. Employees were generally very excited about their newly-found flexibility; it was proving to be particularly beneficial to families with children where both parents worked, enabling the parents to spend substantially more time with their children. Employers generally reported that after an initial adjustment, the change to more flexible scheduling did not make management more difficult; in fact, the improved employee morale led to increased productivity and more than offset any difficulties which resulted from administrative inconvenience.

In my view, the potential benefits from flexible work hours for family life—the chance to ease the dilemma for parents who wanted to spend more time with their children but also either wanted to work or found it necessary financially to work—alone justified the Federal Government's experiment with flexible and compressed work schedules. From the private sector studies, it was evident that a range of other potential benefits could result as well: Everything from lengthened hours of service to the taxpayers; less congested traffic patterns; possible reductions in energy consumption in cases where the 4-day week proved viable. At the same time, the evidence suggested that not all experiments with flexible new schedules produced the desired results. I remember several cases in which workers switched to a 4-day, 10-hour schedule, found it to be exhausting, and opted to return to the 5-day week. But the overall evidence certainly justified a careful experiment to measure the benefits and costs of more flexible scheduling and to assess systematically the circumstances where it would work and those where it would not.

As the committee report on this legislation described, the experiment with alternative work schedules has been generally successful. OPM's final report to the President found that the program was, in most cases, beneficial to the public and the employees themselves. The committee report summarizes the OPM findings in this way:

> The benefits of these schedules to employees were overwhelming. Working parents could structure their work schedules to best attend to their children's needs. Appointments outside of the office could be more easily scheduled without the necessity of taking sick or annual leave. Travel times to and from the office were reduced. Employees generally had a greater degree of control over their work lives which provided them with more time to devote to non-work activities.
>
> The benefits of these schedules to government, when utilized in a proper fashion, were also significant. Hours of service to the public increased. Tardiness and absenteeism of employees were reduced. Energy consumption in buildings decreased. General productivity was enhanced.
>
> On the other hand, improper use of alternative work schedules did have some serious repercussions. In some cases, productivity and work performance declined. Service to the public was delayed and hindered. Workers were unavailable when needed. Costs increased.

I agree with the botton line assessment in the committee report: "the result of the experimental program showed that the use of alternative work schedules can be beneficial to all concerned when the schedules were used properly." However, the interests of the Federal employees are obviously not the sole concern; the most important consideration is the quality of the service provided to the public and insuring that a change to flexible work schedules does not harm that service in any way.

S. 2240 established the Federal Government's use of flexible and compressed work schedules on a permanent basis. In fashioning the legislation, Senator STEVENS has gone to great lengths to accommodate two potentially conflicting concerns: The rights of employees represented by labor unions to bargain collectively over vital workplace issues—and the nature of work schedules is obviously such an issue—and the responsibility of management to exercise some judgment that flexible or varied work schedules are not appropriate in certain situations or that there may be situations where a flexible work schedule is having an unanticipated adverse effect on Government service. In my view, S. 2240 establishes a framework which protects the needs and prerogatives of both the Federal managers and the employees and their representatives. Management has the authority to make an initial determination that a particular schedule, if initiated, will have an adverse effect in an agency. In cases where a particular schedule is already in effect, management is granted a limited right to reopen an agreement to seek termination of a schedule which management believes is having an adverse effect. In either case, however, once the initial management decision is made, management can go no further unilaterally. Where initiating a flexible schedule is at issue, full negotiation on all aspects of an alternative work schedule must occur. Where terminating an existing schedule is the question, once the agreement is reopened, the termination of a schedule is fully negotiable. If the parties reach an impasse in either case, the issue must be resolved by the Federal Service Impasses Panel.

It is no secret that the flexitime program has been the subject of rather stormy controversy which prevented timely passage of permanent legislation which the 3-year experiment concluded in March. I commend Senator STEVENS for the time he has devoted to this legislation and the compromise he has crafted between viewpoints that at onetime seemed almost irreconcilable. Only a person with a deep commitment to the interests of Federal workers and an understanding of management's concerns could have produced this result. While the ultimate outcome for this legislation is by no means assured, without Senator STEVEN'S extraordinary work, we would not be on the floor today. I know of no person who has done more over the years to protect the interests of the Federal employees and the quality of the Civil Service than Senator STEVENS.

S. 2240 provides a framework for successful continuation of flexible work schedules on a permanent basis; it does not provide a guarantee. In the testimony taken in 1978 in connection with the original flexitime legislation, one point came through with particular clarity: Flexible work schedules are obviously a boon to employees. To succeed, however, they require management which is capable and adaptable, and willing to tolerate some initial adjustment period because it cares about the morale of its employees and recognizes the long-term benefits which can result in terms of productivity.

That approach to management has often been sadly lacking in the last 18 months. The Federal civil service has taken a terrific beating at the hands of an administration which often seems intent on demoralizing Federal workers, degrading the importance of their work, and driving them into a private sector which, in the current recession, is not exactly ripe with opportunities. This administration's war on Federal employees goes far beyond what is necessary to cut the Federal budget. It is an ideological vendetta stemming from the philosophy that the Federal Government should be permanently weakened because Government is not an essential instrument for discharging responsibilities to the public or fulfilling our collective aspirations as a society.

Without much confidence, I hope that the administration will use the passage of this legislation as a moment to reconsider their dangerous and short-sighted view of the Federal civil service. If President Reagan, Dr. Devine, and others are too committed to their philosophy to reconsider its consequences, I hope that they will make a sincere attempt to implement this legislation effectively. In a period of RIF's and furloughs, pay caps and benefit cuts, flexible and compressed work schedules have been one of the very few bright spots for Government workers. With effective management, this program can continue to benefit the taxpayers well.

Mr. STEVENS. Mr. President, I am most grateful to the Senator from Missouri for his kind remarks.

I point out to him that I think the work, the dogged persistence on this issue has been done by Jamie Cowen of my staff, Ed Jayne of Senator PRYOR'S staff, and Ira Shapiro of his staff. I think they deserve the credit he has so generously bestowed on me.

UP AMENDMENT NO. 1047

Mr. STEVENS. Mr. President, as I indicated, I send to the desk two amendments that I have described previously, the first to conform this to the House bill, and the second, a technical amendment. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER (Mr. HUMPHREY). There are committee amendments to the bill that should be disposed of.

Mr. STEVENS. Very well, Mr. President. It was my intention to have these amendments added to the committee amendments, and then have them all treated as original text for the purpose of further amendment.

To be certain that there is no controversy with respect to further amendments, I ask unanimous consent that we proceed in that manner so that there will be no question with respect to further amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1047.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

UP AMENDMENT NO. 1047

On page 17, line 11, delete the period and insert the following: "(other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule).".

Page 21, amend section 4 (beginning on line 14 and ending on line 12 of page 22) to read as follows:

"SEC. 4 (a) Except as provided in subsection (b), each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act shall be continued by the agency concerned.

"(b)(1) During the 90-day period after the date of the enactment of this Act, any flexible or compressed work schedule referred to in subsection (a) may be reviewed by the agency concerned. If, in reviewing the schedule, the agency determines in writing that—

"(A) the schedule has reduced the productivity of the agency or the level of services to the public, or has increased the cost of the agency operations, and

"(B) termination of the schedule will not result in an increase in the cost of the agency operations (other than a reasonable administrative cost relating to the process of terminating a schedule),

"the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

"(2) If a schedule established pursuant to a negotiated agreement is terminated under paragraph (1), either the agency or the exclusive representative concerned may, by written notice to the other party within 90 days after the date of such termination, initiate collective bargaining pertaining to the establishment of another flexible or compressed work schedule under subchapter II

of chapter 61 of title 5, United States Code, which would be effective for the unexpired portion of the term of the negotiated agreement."

At the end of the bill add the following new section:

SEC. . (a) Section 6106 of title 5, United States Code, is amended by striking out the period and inserting in lieu thereof a comma and "except that the Bureau of Engraving and Printing may use such recording clocks.".

(b) The amendment made by this section shall take effect October 1, 1982. Section 5 of this Act shall not apply to the amendment made by this section.

On page 8, beginning with the comma on line 18, strike out all through line 22 and insert in lieu thereof a period.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1047) was agreed to.

Mr. STEVENS. Mr. President, I ask that the committee amendments, as amended, be agreed to.

The committee amendments, as amended, were agreed to.

The PRESIDING OFFICER. Without objection, the bill, as amended, will be considered as original text for the purpose of subsequent amendment.

Mr. SASSER. Mr. President, I rise to confirm my understanding that since this bill provides authorization for the continuation of programs conducted under Public Law 95-390 its provisions do not therefore affect or impair the alternative work schedules conducted by the Tennessee Valley Authority in accordance with the TVA Act of 1933. The terms and conditions of employment for TVA personnel, as established by the TVA Act, are not affected by S. 2240, as I understand it. Further, S. 2240, the Federal Employees Compressed Work Schedules Act of 1982 does not expand the application of the Federal labor-management relations law of chapter 71 to cover agencies, like TVA, which are not now covered.

Mr. STEVENS. The Senator's understanding is correct.

RECESS UNTIL 1 P.M.

Mr. STEVENS. Mr. President, we are now in the position of awaiting the first substantive amendment to be offered by the Senator from Colorado (Mr. ARMSTRONG). He is in the Committee on Finance on a very important matter and we do not wish to disturb the meeting of the Committee on Finance.

Therefore, with the understanding that it has been approved by the distinguished minority leader, I ask unanimous consent that the Senate stand in recess until 1 p.m.

There being no objection, the Senate, at 12:05 p.m. recessed until 1 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SCHMITT).

The PRESIDING OFFICER. Who yields time? The majority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 1 minute without the time being charged against anybody.

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

Mr. BAKER. Mr. President, I understand we are prepared to resume consideration of the flexitime bill on which there is a time limitation; is that correct?

The PRESIDING OFFICER. The Senator from Tennessee is correct.

Mr. BAKER. Would the Chair please state the condition of the time agreement?

The PRESIDING OFFICER. The agreement under which S. 2240 is being considered is as follows: Debate on an amendment to be offered by the Senator from Colorado (Mr. ARMSTRONG) relative to the Walsh-Healy Act and the Contract Work Hours and Safety Standards Act shall be limited to 1 hour, to be equally divided and controlled; debate on a perfecting amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY) to the Armstrong amendment shall be limited to 30 minutes to be equally divided and controlled. Is that sufficient for the Senator? There are other provisions.

Mr. BAKER. No, Mr. President, that is sufficient.

There is one provision in the order that I will discuss with the minority leader and other Senators, and I may ask for a modification at a later point. That has to do with the control of time in opposition to the Kennedy amendment, assuming the Kennedy amendment is offered. I will not now do that, but I will confer with the minority leader and make sure he has no objection to it.

I think the intention of the order was that if the Kennedy amendment is offered, the time in opposition would be under the control of Senator from Colorado (Mr. ARMSTRONG). The way it is written at this time, it would be under the control of the minority leader or his designee. I do not think that is a problem but it is a matter which has been brought to my attention, and I will consult with the minority leader later on that point.

The PRESIDING OFFICER. The Senator is correct in his interpretation.

Mr. BAKER. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Alaska.

Mr. STEVENS. Mr. President, may I inquire is the Senator from Colorado prepared to proceed with his amendment at this time?

Mr. ARMSTRONG. Mr. President, I am prepared.

Could I just inquire as to what the status of time is at the moment, how much time remains on the bill?

The PRESIDING OFFICER. The Senator from Alaska has 11 minutes, the Senator from Missouri has 7 minutes.

Mr. ARMSTRONG. Mr. President, is it the desire of the Senator from Alaska that I proceed at this time?

Mr. STEVENS. If the Senator from Colorado is prepared, that would be our request.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 1048

(Purpose: To amend the Contract Work Hours Standards Act and the Walsh-Healey Act to permit employees, to whom such Acts apply, to work any combination of hours in a forty-hour workweek)

Mr. ARMSTRONG. Mr. President, I will be delighted to proceed. Before I do so may I thank the Senator from Alaska for helping me work out the time so we could offer this amendment in a way that permitted me to be present when it was offered. I have been tied up in the Committee on Finance with some important business, and yet I did wish to be here to present this amendment and to discuss it with my colleagues, and I am grateful to the Senator from Alaska for his courtesy.

With that word of explanation, I do sent an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1048.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will endeavor to explain it.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Sec. . (a) Section 102(a) of the Contract Work Hours Standards Act (40 U.S.C. 328(a)) is amended to read as follows:

"(a) Notwithstanding any other provision of law, the wages of every laborer and mechanic employed by any contractor or subcontractor in his performance of work on any contract of the character specified in section 103 shall be computed on the basis of a standard workweek of forty hours, and work in excess of such standard workweek shall be permitted subject to the provisions of this section. For each workweek in which any such laborer or mechanic is so employed, such wages shall include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of forty hours in the workweek.".

(b) Section 102(b) of such Act is amended—

(1) by striking out "eight hours in any calendar day or in excess of" in paragraph (1); and

(2) by striking out "eight hours or in excess of" in paragraph (2).

Sec. . Subsection (c) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" (41 U.S.C. 35 (c)), commonly known as the Walsh-Healey Act, is amended by striking out "eight hours in any one day or in excess of".

Sec. . The amendments made by this Act shall not affect collective bargaining agreements in effect on the date of enactment of this Act.

Mr. ARMSTRONG. Mr. President, we are proceeding under controlled time, and I yield myself 10 minutes.

Mr. President, the proposal to create a permanent statutory authority for alternative work schedules for Federal employees is now before the Senate for consideration. The Office of Personnel and Management created and evaluated work schedules that vary from the conventional workweek and found them beneficial to agencies, employees, and the public. They concluded that alternative work schedules can improve the productivity of an organization and increase its service to the public without additional costs.

I support this concept and, indeed, I congratulate the Senator from Alaska and others who have brought this legislation to the floor because, in my opinion, there are many instances in which this flexitime concept for Federal employees is not only in the best interests of the employees but also enhances the productivity of the Government itself.

I feel we must also, however, offer that same kind of option to the Federal contractors in the private sector. The concept of increased productivity, energy savings, and improved employee morale through use of a compressed workweek is embraced both in my amendment to the Walsh-Healey Act—which governs Federal contractors—and in this legislation to reauthorize the Government's flexitime program. With these legislative proposals more or less identical in concept, Congress has a golden opportunity to update a relic of the past.

The amendment I offer today simply permits Federal contractors the option of insitituting flexible work schedules without facing penalty. The administration and many Senators have expressed their support for the legislation. It is needed primarily to bring the laws governing Federal contractors into conformity with current overtime provisions and flexibility provided to private sector employees, and, if the legislation before us passes, to Federal employees themselves. Specifically, the proposal amends parts of two statutes which regulate pay standards for Government contractors: The Walsh-Healey Act and the Contract Work Hours and Safety Standards Act. Those laws presently mandate that "no persons employed by Federal contractors shall be permitted to work in excess of eight hours in any one day without payment of time and one half for overtime."

Since the 1930's, when the Walsh-Healey and Contract Work Hours and Safety Standards Acts were enacted, employer and employee needs and desires have changed. Today more than one-fifth of the labor force is functioning under flexible, compressed, or voluntarily reduced work schedules. This trend will continue throughout the 1980's as life styles and family structures are changing. Employers who respond creatively to these new conditions will have the competitive edge.

Unfortunately, the Federal regulations have not kept pace with the changing society. Moreover, the unnecessary and outdated restriction has brought extra costs to the Government. In a report to the Congress by the Comptroller General (Contractors Use of Altered Work Schedules for Their Employees—How is it Working? April 1976), the Department of Labor cited one instance of an organization utilizing a 4-day work schedule, that negotiated a contract with the Government and included about $240,000 in overtime and associated costs in the contract price because of the overtime payment required by the Walsh-Healey Act. The legislation also reduces the number of bids on Government contracts. The Department of Defense and the General Services Administration, who both do a large amount of contracting for the Government, supported legislative changes in the Walsh-Healey Act and Contract Work Hours and Safety Standards Act for this reason.

Mr. President, this amendment has one objective and one aim. To allow Federal contractors the option of alternative work schedules. I stress we are talking only about an option. This requires no company and no empolyee to change their existing work schedule. It merely says in those instances where employees and their companies wish to do so they may adopt a 10-hour 4-day workweek or some other version of a workweek without incurring overtime until the total hours worked within the workweek exceed 40 hours.

This, I stress, is exactly the same provision that now governs every other private sector firm and employee.

The benefits of flexitime, however, go far beyond less Government interference in the private sector. There are, at least for some companies, distinct advantages in choosing to implement the alternative work schedule. Numerous studies have been conducted on the optional compressed workweek, including those done by the Comptroller General, the Bureau of Labor Statistics, and the National Center for Energy Management and Power.

Among the conclusions are the following: That in some cases, at least, greater productivity is realized—higher weekly output, improved use of plant and equipment and improved employee morale; improved working conditions—reduced employment working costs, increased job satisfaction, and ease of recruitment; and energy conservation.

One advantage of particular interest to me deals with the problem of air pollution. We now have evidence, as a result of a study released by the Denver Regional Council of Governments in cooperation with the Denver Federal Executive Board, examining the travel habits of some 7,000 Federal employees on the compressed work schedule in Denver. To date, this study is the only in-depth investigation which applies the full travel impact resulting from an experiment of this size. The study concludes that the compressed workweek is one of the most effective transportation management actions that Denver's Federal agencies can take in addressing the concern of air pollution and traffic congestion. It has been estimated that neither providing free transit service at peak periods for everyone in the area, nor an extensive and complicated program of carpool matching would even equal the impact on air pollution that resulted from only 7,000 employees on a compressed workweek.

It is easy to imagine what might result if all employees of Federal contractors in the area, which easily number twice that of the Federal employees in the study, were allowed the option of shifting to a 4-day workweek schedule.

A change in the Walsh-Healey Act would not in any way affect the Fair Labor Standards Act, which governs all workers and provides that overtime premiums be paid whenever employees work more than 40 hours a week. My amendment would not impact the collective bargaining process, nor would it conflict with any of the Federal labor laws. Nothing in this amendment is to be construed to cover employees other than those employees specified in the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act. Finally, this amendment does not mandate a compressed workweek, but only restores to American firms and their employees serving the Federal Government a basic option, a basic freedom of choice.

Mr. President, the Government employees are eager to see the Federal Employees Flexible Work Schedules Act become permanent. We have heard many of the unions and workers testify to that effect. The same is true for the employees in the private sectors who are working on Federal contracts. Many private sector collective bargaining agreements across the Nation encompass the 4-day, 10-hour workweek. In my own State of Colorado, many labor contracts include provisions for a compressed workweek and are merely awaiting action by Congress to update the law in the way that my amendment suggests.

In my opinion, it is only fair for Federal contractors to have the same advantages that private sector and Government employees do. If that is ever to be accomplished, this is the time to do it, because it relates, in concept, so directly to the legislation which is now pending before us.

Mr. President, in conclusion, I would like to point out that this amendment

is supported by the administration, by the National Association of Manufacturers, the U.S. Chamber of Commerce, the Business Roundtable, NFIB, and dozens of other associations and individual companies, a list of which I ask unanimous consent be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ASSOCIATIONS

National Association of Manufacturers.
U.S. Chamber of Commerce.
Business Roundtable.
N.F.I.B.
American Apparel Manufacturing Association.
American Horse Council.
American Motorcyclists Association.
American Recreation Coalition.
American Textile Manufacturers Institute, Inc.
Associated Builders and Contractors, Inc.
Associated General Contractors of America.
Electronic Industries Association.
International Snowmobile Industry Association.
National Meat Association.
National Marine Manufacturing Association.
National Motor Sports Committee.
National Spa and Pool Institute.
Printing Industries of America.
Recreation Vehicle Dealers Association.
Recreation Vehicle Industry Association.
United States Ski Association.

OTHERS

A. H. Robins.
ALCOA.
Ball Corporation.
Bristol Myers Corporation.
Burlington Industries.
C. A. Norgren and Company.
Dow Chemical U.S.A.
E. I. duPont de Nemours and Co.
General Telephone and Electronics Co.
JLG Industries.
Mobil Oil Corporation.
Motorola, Inc.
Spring Mills, Inc.
TRW, Incorporated.
Uniroyal, Inc.
United Technologies Corporation.
Upjohn Company.
Xerox Corporation.

Mr. ARMSTRONG. Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, the amendment of the distinguished Senator from Colorado is an interesting amendment and one that deserves review by the Senate and by the Congress. But I say to the Senate that it should not be on this bill.

This is a bill from the Governmental Affairs Committee. When we go to conference we will be going to conference with the Post Office and Civil Service Committee in the House. Our old Post Office and Civil Service Committee was folded into the Governmental Affairs Committee reorganizations several years ago. Our subcommittee now has the same jurisdiction as the House full committee.

The Armstrong amendment will jeopardize the passage of this flexitime legislation. The current experimental legislation expires for most agencies on July 21. The House of Representatives will not return until July 12. They will have only a week to dispose of this legislation. We have received assurances that if we amended the bill in the manner that we have already amended it, that the House would attempt to pass our bill without amendments. This amendment will mean that it will involve the jurisdiction of two committees in the House and will undoubtedly see that this bill would be referred to those two committees and that would be the end of flexitime for Federal employees.

In addition to that, let me point out to the Senate that the Armstrong amendment does not contain the protections afforded the Federal employees to insure that an alternative work schedule is not imposed upon them. Our bill, S. 2240, provides full negotiation over the establishment and termination of flexitime where a union is involved.

If there is no union, a majority of the employees in the unit must vote to agree with an agency decision to establish a particular schedule. Despite union representation, or a majority consent, as the case may be, an employee who would experience personal hardship from the schedule can be exempted. This employee has recourse to the Special Counsel of the Merit System Protection Board if the agency does not exempt him. Unfortunately, the Armstrong amendment does not, and I do not think it could, provide these kinds of protections because of the mechanisms that are already in the Federal law to deal with such exemptions for particular employees.

Now, my plea to the Senate is not to attach this amendment to this particular bill. It is within the jurisdiction of the Labor Committee. I understand that there is similar legislation in the Labor Committee. The only result that can happen is either the House will strip such an amendment off and send it back here or the House will be forced to refer this bill to the two committees as I indicated.

The Senator is attempting to conform the requirements of the Walsh-Healey Act to the Fair Labor Standards Act and, as I understand it, he wants to substitute for the 8-hour workday restriction the 40-hour workweek for Federal contractors.

It is, as I indicated, in my opinion a subject that needs to be pursued. The Walsh-Healey Act applies only to Federal contractors. It requires overtime to be paid for hours in excess of 8 hours a day. That, however, is completely foreign to the concepts of flexitime as they apply to Federal employees, and the impact of this would be, as I indicated, in my opinion, to jeopardize the passage of the flexitime bill. We will not have the time to save those compressed work schedules that had been instituted during the period of the experiment. It would require us to address the matter entirely in a different way. We just cannot handle this in negotiation with the people that we would be compelled to meet with if this matter were sent to conference.

But I state to the Senate that in my opinion the House would not go to conference on this bill. There is no reason for the House Post Office and Civil Service Committee to tackle the problems of the Walsh-Healey Act. Does the Senator from Missouri desire to comment?

Mr. EAGLETON. Yes.

Mr. STEVENS. I yield to the Senator from Missouri such time as he may wish.

Mr. EAGLETON. Mr. President, I join with the distinguished floor manager, Senator STEVENS, in urging that Senator ARMSTRONG's amendment to this bill, which amends the Walsh-Healey and Contract Work Hours Standards Acts, be tabled. I do so for both procedural and substantive reasons.

First, Senator ARMSTRONG's amendment is not germane to the Federal flexitime bill. An amendment to the Walsh-Healey Act has absolutely nothing to do with extension of Federal flexitime programs. In fact, adoption of the Armstrong amendment will seriously jeopardize the prospects for enacting this continuation of the Federal flexitime program, a topic just discussed by Senator STEVENS.

Second, Senator ARMSTRONG introduced a bill which is virtually identical to the pending amendment on February 5, 1981; it is still pending before the full Labor and Human Resources Committee.

No full committee executive session has ever been scheduled on this legislation. In seeking to add his amendment to the flexitime bill, Senator ARMSTRONG is attempting to bypass full committee consideration by the committee of jurisdiction.

Finally, Mr. President, I would point out that while Senator ARMSTRONG likes to suggest that this amendment is needed "to bring the laws governing Federal contractors into conformity with current overtime provisions and flexibility in work schedules provided to private sector employees, and ironically, to Federal employees themselves," the amendment differs from the Federal flexitime bill in a very significant way. The Federal flextime bill contains a number of provisions designed to insure employee free choice in selecting alternative work schedules or a compressed work week.

I emphasize the words "employee free choice."

Senator ARMSTRONG's amendment does not include a comparable protection for private sector employees. Although his amendment states that it will not affect collective-bargaining agreements in effect on the date of enactment, it does not provide any mechanism for unorganized employees to have a voice in determining their work schedules. The unorganized worker would have no choice but to simply

quit his job if he could not, for family reasons, or child care arrangements, or whatever, adjust to increased hours in the work day.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ARMSTRONG. Mr. President, I yield to the Senator from Wyoming.

Mr. WALLOP. I thank the Senator from Colorado.

Mr. President, I rise in support of his amendment. I would point out to the distinguished Senator from Alaska that because the House threatens us with inability or a lack of desire to act, there is no reason for us not to do something which, in our judgment, is right. I believe that we should do what our intellect in the Senate tells us we should do, and that we should not worry about threats from the House, whether they will or will not take up a certain thing. They have as much responsibility and accountability to the Federal employees who they seek to respond to as we do.

If they leave us with nothing but threats, so be it. It would be their threats and their inability to act, or their lack of desire to act, or their obstinance in the face of these threats, that would be the troublesome factor to the Federal employee, not that of the Senate, if it is, in fact, the Senate's ideas.

Mr. President, as I said, I rise in support of the amendment offered by my distinguished colleague from Colorado. The amendment would permit Federal private contractors to utilize a 4-day, 40-hour workweek. The Walsh-Healey Act currently limits the ability of private industry to employ innovative work schedules. While the limits of the act may have been appropriate back in the 1930's, there is a need to modernize this provision to reflect the changing work force of the 1980's.

In recent years, a number of companies have successfully implemented a 4 day, 40-hour work schedule. The flexibility it provides to both employer and employee is an important incentive for a more productive workplace. These experiments have not succeeded in all cases. Trial and error demonstrate where such a program is appropriate. This amendment will greatly expand the number of firms that can utilize the 4-day workweek.

The issue has been before the Congress for 10 years. Our former colleague from Kentucky, Senator Marlow Cook, was the original proponent of this legislation. I congratulate my colleague from Colorado for his efforts in seeking passage of this legislation.

Our economy is at a crossroads. Last year, we adopted tax incentives to reindustrialize private industry. We need to adopt techniques which will improve productivity and innovation. Our economy is faced with an aging work force. There are also more women in the workplace. Flexibility in work schedules is necessary as we return to a full growth economy. The 4-day, 40-hour workweek bill is one small step. Another improvement is the compensatory time legislation which I introduced earlier this year. This legislation, S. 2395, would permit companies to maintain their work force throughout the year even when there are peaks and troughs in work orders. I will not offer my proposal as an amendment today, but do hope that we can address the issue in the near future.

For the moment, I would urge my colleagues to vote in favor of the pending amendment.

I thank the Senator from Colorado for yielding.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Wyoming for his observations, with which I fully agree.

Mr. President, I now yield 10 minutes to the Senator from Oklahoma. I would note in doing so, that the Senator is extraordinarily well informed on this issue, having presided at the hearings held by the Subcommittee on Labor on this subject.

Mr. NICKLES. I thank the Senator from Colorado.

Mr. President, I ask unanimous consent that Senator HELMS and I may be added as cosponsors to the Armstrong amendment.

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

Mr. NICKLES. Mr. President, I rise in support of the Armstrong amendment. As the Senator from Colorado stated, the subcommittee of which I am chairman, the Subcommittee on Labor, held extensive hearings on this matter in March 1981. We have convincing evidence from a number of sectors—private, public, union, and nonunion—that we need changes in the Walsh-Healey Act amendments which now mandate the payment of overtime for anything over 8 hours.

In investigating this, we find out that under the present statutes, all private employers who are not doing Government work do not have to pay overtime until they exceed 40 hours of work. We find out the Government employees are allowed to have flexitime. But we also find out that those persons who are doing work for the Federal Government, Federal contractors, are obligated under this so-called mandatory overtime over 8 hours.

What does that mean? I think it is important for people to realize that they have to pay overtime for over 8 hours a day, and you are doing contract work for the Federal Government, if you wanted to work four 10-hour days. I think that is evident by the statement of the Senator from Alaska saying, "Yes, flexitime works, it does work," but there are a lot of cases where it does work and a lot of cases where it will not work, where employees have opted to do so.

In those cases where the employees find it is to their economic advantage, to their time advantage, to their family advantage, to work four 10, or some other flexible schedule besides the 5 days, right now they find out if they are doing Federal contract work they cannot do so because their employer cannot compete.

Why can they not compete? Figure it up. If you work four 10-hour days and you are obligated to pay time-and-a-half over 8, the cost of working 40 hours is not 40 hours but it is 44 hours, because you pay time-and-a-half for 2 hours over 8 for 4 days.

It is time-and-a-half for those 8 hours, and that half-time premium is 4 hours. Instead of paying for 40 hours, you pay for 44 hours. In other words, it is a 10-percent premium.

You realize this if you are doing Federal construction or contract work, if it is labor intensive. Usually in construction you are looking at two primary costs, the materials, which are somewhat fixed for all contractors, and labor. You find out if you are doing Federal contract work you have a 10-percent premium added on, mandated by the Federal Government. It makes no sense.

Why should a Federal contractor be under a different law than all other private contractors? If they do private work, they are not mandated by it, but if they do Federal work they are mandated by it. It makes no sense.

I think Senator STEVENS and the Senator from Missouri realize the fallacy of this. They may say, "Yes, for Federal employees, we will allow flexitime." I congratulate them on it. I think there has been some productivity increase and morale increase that have been advantageous. But why are we going to prohibit that from private contractors doing work for the Federal Government?

Mr. President, much of the opposition to the Armstrong amendment is based on agruments that just will not stand up when they are closely examined. Today, I would like to discuss the Armstrong amendment, why I support it, and why I cosponsor it.

The purpose of the Armstrong amendment is to alter the Walsh-Healey Act to permit the employees of Federal contractors the same flexitime scheduling rights as those enjoyed by their counterparts in private industry and the Federal workforce. This is a concept which my predecessor, Senator Bellmon, successfully helped put through the Senate during the 96th Congress. Additionally, I might add that the current administration supports such an amendment to the Walsh-Healey Act. I will submit for the record at the conclusion of my statement a copy of a letter on the subject from Secretary Donovan, but first let me relate to my colleagues its conclusion:

The administration supports legislative reform to provide Federal contractors with increased flexibility in alternative workweek scheduling. The administration would support the amendment proposed by Senator ARMSTRONG to make the language of the

Walsh-Healey Act and the Contract Work Hours and Safety Standards Act comparable to that of the Fair Labor Standards Act, namely to permit work in any combination of hours per day without paying overtime until hours exceed 40 per week. This legislative language would be consistent with the administration's view that the act should be amended to permit labor and management to implement flexible worktime arrangements that could enhance the quality of worklife, promote energy efficiency, and increase productivity.

Flexible work schedules have been proven to have several distinct advantages. First, they have resulted in increased productivity. Second, there have been reductions in absences and tardiness on the part of workers. Third, there have been improvements in employee morale. Fourth, there has been a better utilization of resources. Fifth, there has been a reduction in energy requirements. Finally, employers and employees have both benefited in several ways. Employers have been free to experiment with new time schedules that allow for both imagination and innovation. Employees have been able to arrange their schedules so that they can have 3-day weekends, take advantage of educational opportunities, and spend more time with their families. To date, flexible work schedules have provided distinct advantages to both employers and employees.

The Armstrong amendment which we are considering today would simply eliminate the 8-hour-per-day restriction of the Walsh-Healey Act that applies only to the employees of Federal contractors. It eliminates the restriction but does not compel the adoption of flexible work schedules. All we are doing here is providing the employees of Federal contractors the same opportunity to have flexible work schedules that their counterparts in the Federal Government and private industry already possess. Thus, Senator ARMSTRONG'S amendment merely eliminates a discriminatory situation that has prevailed in recent years in this area. Moreover, it frees Federal contractors to devise ways and means to cut costs and increase worker productivity. As a result, it represents one way in which we in this body can seek to reduce the budget and help restore the economy to a sound footing.

If Senator ARMSTRONG'S amendment is enacted, workers and employers in several energy intensive industries—meatpacking, printing, and construction, for example—all heavily organized, I might point out—will be able to take advantage of flexitime and compressed work-week scheduling. All industries and all workers would not be inclined to take advantage of a Walsh-Healey change. Those most likely to do so can generally be categorized as small and energy intensive. This was made clear at hearings held early last year before the Labor Subcommittee. Consequently, this amendment would only affect a small but nevertheless important part of the American economy.

Opponents of the Armstrong amendment have offered many reasons for not supporting this measure. Some have charged that collective bargaining will be undermined. This criticism is both unfair and inaccurate. Collective bargaining will not be affected by the Armstrong amendment. Others have charged that the Armstrong amendment, by undermining the 8-hour day, will lead to an attack on the measures that protect workers from being exploited by unscrupulous employers. This criticism is again both unfair and inaccurate. This amendment is merely a small step to extend to the employees of Federal contractors the benefits of flexible work schedules that their counterparts in other parts of the work force already enjoy. This small, but significant, step is designed not to undermine the protections enjoyed by the American worker but rather to remove from Federal law a restriction that makes no sense whatsoever. It is time for Congress to take a close look at the over regulation that has so hampered the American economy in recent years. The Armstrong amendment will remove one restriction that will encourage the innovation and imagination of which Americans are capable once restrictive and senseless regulations are eliminated.

A final argument made by opponents of the Armstrong amendment is that it could result, if adopted, in the killing of the Federal flexitime extension legislation proposal of Senator STEVENS. I am a cosponsor of the earlier bill sponsored by Senator STEVENS and fully support his amendment here today. Senator ARMSTRONG has a right to offer an amendment—an amendment which is no more than a conforming amendment that will allow all employees and employers to enjoy the benefits of flexible work scheduling should they so choose. If the House of Representatives chooses to defeat this legislation because the Senate enacts a conforming amendment, then the House—I repeat, the House—and not the Senate has killed this legislation.

As Senators, we have an obligation to legislate in the best interests of all of our constituents. This was the vision that James Madison had when he argued for the national interest in Federalist Paper No. 51. This is the same vision that Senator ARMSTRONG had when he submitted his amendment. I urge my colleagues to accept the Armstrong amendment. Its benefits will be enjoyed by many people as time passes and at this time, it best serves the national interest of the United States.

I ask unanimous consent that a letter to me concerning this matter from Secretary of Labor Raymond J. Donovan, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 16, 1982.

Hon. DON NICKLES,
Chairman, Subcommittee on Labor,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the Administration's views on (a) Senator Armstrong's bill, S. 398, to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to provide federal contractors with increased flexibility in alternative workweek scheduling and (b) a subsequent modification of S. 398, which Senator Armstrong is considering attaching to S. 2240, the flexitime legislation.

As I indicated in my July, 1981 letter to you on the first question, the Administration supports legislative reform to provide federal contractors with increased flexibility in alternative workweek scheduling. With regard to the second question, let me say that the Administration would support the amendment proposed by Senator Armstrong to make the language of the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act comparable to that of the Fair Labor Standards Act, namely to permit work in any combination of hours per day without paying overtime until hours worked exceed forty per week.

This legislative language would be consistent with the Administration's view that the Act should be amended to permit labor and management to implement flexible work time arrangements that could enhance the quality of worklife, promote energy efficiency, and increase productivity.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

RAYMOND J. DONOVAN,
Secretary of Labor.

Mr. THURMOND. Mr. President, will the distinguished Senator from Colorado yield to me?

Mr. ARMSTRONG. Mr. President, I shall be pleased to yield to the distinguished Senator from South Carolina 3 minutes or more, as he wishes.

Mr. THURMOND. I thank the Senator.

Mr. President, I support the amendment offered by my distinguished colleague and good friend from Colorado (Mr. ARMSTRONG). This amendment would conform the overtime provisions of the Walsh-Healey and Contract Work Hours and Safety Acts to those of the Fair Labor Standards Act.

Mr. President, under the Fair Labor Standards Act, most employers may adopt flexible work schedules conducive to their business needs without incurring liability for overtime compensation, unless employees are required to work in excess of 40 hours in a calendar week. Unfortunately, this is not the case where Federal contractors are concerned. Under the Walsh-Healey and Contract Work Hours and Safety Acts, Federal contractors are subject to overtime liability whenever an employee works in excess of 8 hours a day.

Last year, Senator ARMSTRONG introduced a bill, S. 398, which would have

permitted Federal contractors to adopt a 10-hour, 4-day workweek schedule without incurring overtime liability. I felt that was a significant improvement over the present situation, and I joined as a cosponsor.

The amendment Senator ARMSTRONG offers today is one step better than the bill introduced by him last year. It would strike all reference to 8-hour days in the overtime provisions of the Walsh-Healey and Contract Work Hours and Safety Acts, and provide that wages for workers on Federal contracts will be computed on the basis of a standard workweek of 40 hours. With this change, only work in excess of such standard workweek will be considered as overtime.

Mr. President, not only will this amendment help to increase worker productivity and thereby reduce labor costs on Federal contracts, it also should contribute to worker satisfaction and morale by enhancing leisure time for employees. Accordingly, I commend this amendment to my colleagues as an appropriate adjunct to the Federal Employees Flexible and Compressed Work Schedules Act.

Mr. President, if there is no objection, I ask that I be added as a cosponsor.

Mr. ARMSTRONG. Mr. President, not only is there no objection to adding the Senator as a cosponsor; I am delighted that he chooses to associate himself with this effort in that way.

I ask unanimous consent that the Senator be added, Mr. President.

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

Mr. ARMSTRONG. Mr. President, unless others wish to speak, I have yet a little business to complete before I yield the floor.

First, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, I have a couple of other matters to take care of. Then I do want to recognize the junior Senator from Oklahoma again.

I send to the desk an article from the Engineering News Record about firms who favor the compressed workweek. I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Engineering News Record, June 24, 1982]

MANY FIRMS FAVORING COMPRESSED WORKWEEK

Alternative work schedules that squeeze more working hours into fewer days, such as "four-10's," are becoming increasingly popular with large design and construction firms, a new survey reveals.

Of the 18 union and nonunion firms examined, nine worked some form of compressed workweek in their home office and engineering operations, and seven of the 13 firms with construction capability used for 10-hour days on their jobsites. Five of the six construction firms on a standard schedule are union companies. The survey was conducted by T. Michael Goodrich, vice president of BE&K, Inc., Birmingham, Ala.

Companies using a compressed work schedule reported that its advantages far outweigh disadvantages, and none said that they intended to abandon the system. It is the "greatest thing since sliced bread," quipped one contractor executive whose firm uses four-10's on jobsites and "four-nines and a four" for office workers.

He and others responding to the survey noted that worker acceptance of the schedules is almost universal, with productivity increasing and absenteeism declining dramatically. Workers, they said, "love it" because of the longer periods of leisure time, reduced travel expenditures and enhanced "job satisfaction." It has also become an effective recruitment tool, observed some executives.

Construction firms were especially enthusiastic about the use of four-10s on their projects, explaining that cost savings were achieved by the elimination of one start-up and shutdown a week. The firms also claimed they could control contruction schedules more effectively by using Fridays as a makeup day for weather delays and using a second three-day shift for more extensive delays.

However, there are some hang-ups in using compressed workweeks. Problems mentioned most frequently in the survey responses centered on those caused by a firm's interaction with clients, suppliers and other divisions using a different schedule. Others included practical problems on jobsites such as additional lighting costs, lessened effectiveness during winter months and on jobsites in remote regions where housing is provided for workers, and child-care problems for working parents.

Mr. ARMSTRONG. I also ask unanimous consent to have printed in the RECORD a letter to me from the National Federation of Independent Businesses, which represents some 600,000 individuals and businesses in this country, in which they endorse this amendment; also, a letter from the administration in which the administration endorses and expresses its support for the amendment; a resolution signed by some 35 businesses and associations in which they endorse the amendment; a discussion of this matter in a memorandum to Members of the Senate from the Chamber of Commerce of the United States, in which they respectfully urge Senators to support the amendment and give their reasons why; finally, a letter from the National Association of Manufacturers, in which they endorse the amendment and express support for it.

I ask unanimous consent that all these items be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESSES,
June 29, 1982.

Hon. WILLIAM ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR BILL: I want to express NFIB's support for your proposal to amend the Walsh-Healy Act. As you know, many small employers who have agreed with their employees to institute "flextime" schedules have been unable to contract with the federal government because of provisions of the Walsh-Healy Act. Your proposal will increase opportunities for small business and, therefore, make a positive contribution to the economy.

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director Federal Legislation.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, D.C., June 16, 1982.

Hon. DON NICKLES,
Chairman, Subcommittee on Labor, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the Administration's views on (a) Senator Armstrong's bill, S. 398, to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to provide federal contractors with increased flexibility in alternative workweek scheduling and (b) a subsequent modification of S. 398, which Senator Armstrong is considering attaching to S. 2240, the flexitime legislation.

As I indicated in my July, 1981 letter to you on the first question, the Administration supports legislative reform to provide federal contractors with increased flexibility in alternative workweek scheduling. With regard to the second question, let me say that the Administration would support the amendment proposed by Senator Armstrong to make the language of the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act comparable to that of the Fair Labor Standards Act, namely to permit work in any combination of hours per day without paying overtime until hours worked exceed forty per week.

This legislative language would be consistent with the Administration's view that the Act should be amended to permit labor and management to implement flexible worktime arrangements that could enhance the quality of worklife, promote energy efficiency, and increase productivity.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

RAYMOND J. DONOVAN.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, D.C., June 25, 1981.

Hon. DON NICKLES,
Chairman, Subcommittee on Labor, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN NICKLES: This is to express the views of the Department of Labor on S. 398, a bill "(t)o amend the Walsh-Healey and the Contract Work Hours Standards Act to permit certain employees to work a ten-hour day in the case of a four-day workweek."

The Department of Labor supports sufficient flexibility in the contract labor standards statutes to permit management and labor to implement new worktime arrangements that could enhance the quality of worklife, promote energy efficiency, and increase productivity.

We understand that some workers are interested in new worktime arrangements which can result in greater time available for family and other personal activities. We also recognize that our Nation's employers are interseted in worktime arrangements which can maintain or increase employees'

job satisfaction while creating energy savings and more productive results than conventional arrangements. A number of our Nation's employers and their employees have been trying some of these unconventional work arrangements. At your Subcommittee on Labor's March hearings, it was noted that contracts providing for a four-day, 10-hour day workweek have been signed with labor organizations in the construction industry in Alabama, Florida, Kentucky, Louisiana, Ohio, Oklahoma, Texas, and Utah.

The Federal law's contract overtime pay requirement for work over eight hours in a day in effect precludes the use of unconventional worktime arrangements by employers and employees subject to these laws. Moreover, the existence of this requirement may tend to discourage experimentation with these arrangements by others who are not currently subject to Federal legal constraints.

We support legislative action to remove the present disincentives so that Federal contractors, and their employees, can move forward together, as can other employers and their workers, in trying new worktime arrangements.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

RAYMOND J. DONOVAN.

To meet the needs of today's workforce and current economic realities, the following associations and companies strongly support legislative reform of the Walsh-Healey Act and the Contract Work Hours Act to provide flexibility in the day to day scheduling of employees working on federal contracts:

A. H. Robins;
ALOCA;
American Apparel Manufacturing Association;
American Horse Council;
American Motorcyclists Association;
American Recreation Coalition;
American Textile Manufacturers Institute, Inc.;
Associated Builders and Contractors, Inc.;
Associated General Contractors of America;
Ball Corporation;
Bristol Myers Company;
Burlington Industries;
Business Roundtable;
C.A. Norgren & Company;
Dow Chemical U.S.A.;
E. I. duPont de Nemours & Company;
Electronic Industries Association;
General Telephone and Electronics Corporation;
International Snowmobile Industry Association;
JLG Industries;
Mobil Oil Corporation;
Motorola Inc.;
National Association of Manufacturers;
National Meat Association;
National Marine Manufacturing Association;
National Motor Sports Committee;
National Spa and Pool Institute;
Printing Industries of America;
Recreation Vehicle Dealers Association;
Recreation Vehicle Industry Association;
Springs Mills Inc.;
TRW, Incorporated;
Uniroyal, Inc.;
U.S. Chamber of Commerce;
United States Ski Association;
United Technologies Corporation;
Upjohn Company;
Xerox Corporation.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, June 29, 1982.

To: Members of the Senate.
From: Hilton Davis, Vice President, Legislative and Political Affairs.
Subject: Senator Armstrong's Flexitime Amendment to S. 2240.

The Senate will soon consider S. 2240, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, reauthorizing the 1978 Act which provides the option of flexible work schedules to federal employees—the same flexibility that private sector employers and employees are assured by the Fair Labor Standards Act.

However, one segment of the American workforce is denied the right to opt for alternative workweek schedules without overtime penalties—federal contractors.

Federal contractors need that flexibility. Senator Armstrong intends to introduce an amendment to S. 2240 on the Senate floor to accomplish that end.

The Armstrong amendment would permit innovative work schedules without daily overtime premiums for federal contractors. It would benefit employees, employers, and the federal government, and would eliminate the wage-hour discrimination against federal contractors.

On behalf of the Chamber's more than 250,000 members, I respectfully urge you to support the Armstrong amendment and eliminate the costly and inequitable daily overtime requirements which now apply only to federal contractors.

The Walsh-Healey Act singles out federal contractors to impose a daily overtime premium for hours worked in excess of an eight-hour day. For all other employers, private and public, overtime is required only for hours worked in excess of a 40-hour workweek. Walsh-Healey prevents federal contractors from adopting, for example, a work schedule of four ten-hour days or three thirteen-hour days, instead of the more common five eight-hour day workweek schedule.

Numerous studies, including a 1976 General Accounting Office report, have demonstrated that flexible or alternative workweek schedules benefit both management and workers.

The Armstrong amendment would not only rectify the inconsistencies and inequities of the current law; it would encourage federal contractors to use compressed workweeks. Compressed workweeks:

Benefit employees by (1) improving employee morale, (2) providing more opportunity for extended leisure time, (3) improving performance by increasing productivity and enhancing quality of worklife, (4) decreasing job dissatisfaction, (5) permitting increased employer responsiveness to employee desires, (6) reducing employee working costs (such a commuting fares, restaurant lunches, and child care), and (7) providing more accessibility to the workplace for women with children;

Benefit employers by (1) decreasing overtime costs, (2) increasing employee productivity (due largely to reduced start-up and closedown time), (3) reducing energy consumption, (4) permitting more efficient use of physical resources, (5) enhancing personnel and production flexibility, (6) reducing absenteeism, tardiness, and employee turnover, and (7) aiding employee recruitment (because of the attractiveness of alternatives to the five-day eight-hour standard); and

Benefit the federal government by (1) creating cost savings for federal contractors which would be reflected in lower and more competitive bids (and thus reduced federal costs), and (2) increasing competition for federal contracts (by making wage-hour requirements consistent across-the-board, eliminating a disincentive to potential bidders.)

Elimination of these restrictive Walsh-Healey requirements is particularly appropriate and sensitive to our economy's needs at this time of government budget-cutting and energy conservation.

It is also noteworthy that in the private sector, alternative workweek schedules are gaining popularity with both employers and employees. Furthermore, there is a current trend toward these provisions in collective bargaining agreements.

Finally, S. 2240 is an appropriate and necessary vehicle for these much-needed reforms because its subject and provisions are similar. In fact, the Armstrong amendment serves the exact goals and objectives that S. 2240 serves.

I strongly urge you to support Senator Armstrong's amendment, to oppose any effort to weaken or alter it, and to support S. 2240 as amended.

NATIONAL ASSOCIATION OF MANUFACTURERS,
June 17, 1982.

Hon. WILLIAM L. ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ARMSTRONG: Earlier this week, the National Association of Manufacturers urged you to support an amendment to be offered by Senator Armstrong during the Senate's consideration of S. 2240, the "Federal Employee Flexible and Compressed Work Schedules Act of 1982."

Yesterday, the Administration voiced its support for Senator Armstrong's amendment. Enclosed is a copy of the letter to Senator Nickles from Secretary of Labor Donovan expressing the Administration's position, underscoring the importance it attaches to this matter.

The NAM wishes to reaffirm its strong support for Senator Armstrong's efforts. We ask you to vote in favor of his amendment and to support S. 2240, as amended.

Sincerely yours,

JERRY J. JASINOWSKI.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, D.C., June 16, 1982.

Hon. DON NICKLES,
Chairman, Subcommittee on Labor, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the Administration's views on (a) Senator Armstrong's bill, S. 398, to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to provide federal contractors with increased flexibility in alternative workweek scheduling and (b) a subsequent modification of S. 398, which Senator Armstrong is considering attaching to S. 2240, the flexitime legislation.

As I indicaterd in my July, 1981 letter to you on the first question, the Administration supports legislative reform to provide federal contractors with increased flexibility in alternative workweek scheduling. With regard to the second question, let me say that the Administration would support the amendment proposed by Senator Armstrong to make the language of the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act comparable to that of the Fair Labor Standards Act, namely to permit work in any combination of hours per day without paying overtime until hours worked exceed forty per week.

This legislative language would be consistent with the Administration's view that the Act should be amended to permit labor and management to implement flexible worktime arrangements that could enhance the quality of worklife, promote energy efficiency, and increase productivity.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

RAYMOND J. DONOVAN.

Mr. ARMSTRONG. Mr. President, I yield to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to have printed in the RECORD a list of some contracts from many, many States throughout the country. This list has grown considerably since the time of our hearing. It shows the number of unionized plants that are now on flexitime. They have something less than the 5 days. I think most of these are listed on the computer as having four 10-hour-day workweeks. I ask unanimous consent that this be printed.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CONSTRUCTION LABOR RESEARCH COUNCIL,
Washington, D.C., June 29, 1982.

Senator DONALD L. NICKLES,
6327 Dirksen Senate Office Building, Washington, D.C.

DEAR MR. SMISTS: The Construction Labor Research Council has prepared the enclosed listing from its data files of those collective bargaining agreements within the construction industry which permit the option of utilizing a weekly work schedule of four days with 10 hours of straight time work each day.

Data are for the 1,200 contracts in CLRC's file. They do not include contracts signed in 1982 which include the 4-10's option for the first time. It is our understanding that a number of agreements signed this spring have added this provision.

Please call if we can be of any further assistance.

Sincerely,

ROBERT M. GASPEROW,
Executive Director.

Enclosure.

CRAFT CODES

04.—Asbestos workers
08.—Boilermakers
12.—Bricklayers
13.—Bricklayers—H/H
15.—Carpenters—H/H
16.—Carpenters
20.—Cement masons
21.—Cement masons—H/H
23.—Crane operators—H/H
24.—Crane operators
26.—Crane operators—utility
28.—Electricians
32.—Elevator constructors
33.—Floor covers
34.—Glaziers
35.—Iron workers—H/H
36.—Iron workers—structural
37.—Iron workers—ornamental
38.—Iron workers—reinforcing
39.—Laborers—H/H
40.—Laborers—building
41.—Laborers—tunnel
42.—Laborers—hod carriers
44.—Lathers
48.—Millwrights
52.—Painters
56.—Plasterers
60.—Pipefitters
64.—Plumbers
65.—Pipefitters—refrigeration
66.—Roofers
68.—Sheet metal workers
72.—Teamsters
74.—Teamsters—H/H
76.—Tile layers

CONTRACTS WITH 4-10'S, JUNE 29, 1982

City and craft

Birmingham, Ala., 36
Birmingham, Ala., 48
Mobile, Ala., 12
Mobile, Ala., 16
Mobile, Ala., 20
Mobile, Ala., 24
Mobile, Ala., 36
Mobile, Ala., 40
Mobile, Ala., 48
Mobile, Ala., 60
Mobile, Ala., 68
Mobile, Ala., 72
Washington, D.C., 60
Jacksonville, Fla., 60
Miami, Fla., 60
Pensacola, Fla., 16
Pensacola, Fla., 20
Tampa, Fla., 60
Boise, Idaho, 34
Ft. Wayne, Ind., 52
Louisville, Ky., 08
Alexandria, La., 40
Baton Rouge, La., 40
Baton Rouge, La., 44
Baton Rouge, La., 52
Baton Rouge, La., 60
Baton Rouge, La., 64
Baton Rouge, La., 72
Lake Charles, La., 40
New Orleans, La., 04
New Orleans, La., 24
New Orleans, La., 34
Shreveport, La., 24
Akron, Ohio, 60
Muskogee, Okla., 20
Tulsa, Okla., 20
Abilene, Tex., 12
Galveston, Tex., 12
Galveston, Tex., 20
Houston, Tex., 04
Houston, Tex., 08
Houston, Tex., 12
Houston, Tex., 16
Houston, Tex., 20
Houston, Tex., 33
Houston, Tex., 60
Houston, Tex., 64
Houston, Tex., 68
San Antonio, Tex., 60
Wichita Falls, Tex., 36
Salt Lake City, Utah, 15
Salt Lake City, Utah, 21
Salt Lake City, Utah, 23
Salt Lake City, Utah, 34
Salt Lake City, Utah, 39
Salt Lake City, Utah, 40
Salt Lake City, Utah, 74
Newport News, Va., 20
Newport News, Va., 52
Newport News, Va., 56
Newport News, Va., 60
Norfolk, Va., 04
Norfolk, Va., 12
Norfolk, Va., 16
Norfolk, Va., 40
Norfolk, Va., 52
Norfolk, Va., 60
Richmond, Va., 04
Richmond, Va., 52
Richmond, Va., 56
Richmond, Va., 60
Roanoke, Va., 04
Roanoke, Va., 52
Roanoke, Va., 60
74 records processed.

Mr. NICKLES. Also, I wish to comment on a telegram, Mr. President. At the proper time, I shall enter this into the RECORD. I received this today from Mr. Kenneth Blaylock, who is national president of the American Federation of Government Employees. Most other Senators, I am sure, received this today. Mr. Blaylock urges the Senate to vote against the Armstrong amendment. He says:

Adoption of this amendment would destroy the protection provided for private sector workers under the Walsh-Healey Act and also jeopardize passage of this legislation which continues and expands the authority for the use of alternative work schedules. Alternative work schedules have proven—in their limited experimental use over the past 3 years to be successful in improving agency productivity and Federal employee morale. It should be continued.

I say to my colleagues, I am somewhat perplexed about this telegram. The logic used by Mr. Blaylock confuses me. Why should we vote to continue flexitime for Federal employees yet at the same time vote to deny even the possibility of flexitime for the employees of private Federal contractors?

That makes no sense.

According to Mr. Blaylock, flexitime is described by him as a "success" for Federal employees. However, flexitime for private employees of Federal contractors would "destroy the protection provided for private sector employees under the Walsh-Healey Act."

Mr. Blaylock, I submit, wants to have two kinds of flexitime, one for Federal employees and yet a second which he would deny to the employees of private Federal contractors.

I submit that this kind of blatant discrimination is not only unjust but it is un-American. This, my friends, is the type of tactic that the opponents of the Armstrong amendment are forced to resort to when the shallow arguments that support their reasoning collapse of their own accord.

I think we have had enough of this foolishness, and I hope we vote today to pass the Armstrong amendment and restore a little commonsense, a little equity to persons that are working for Federal contractors, as well as those who work for the Federal Government, as well as those who work for private employers.

I ask unanimous consent that the telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
Washington, D.C., June 29, 1982.

Hon. DON NICKLES,
U.S. Senate,
Washington, D.C.

On behalf of the 700,000 Federal workers who are represented by the American Federation of Government Employees (AFL-CIO), I urge you to vote no on the Armstrong amendment to S. 2240, the Flexible Hours and Compressed Work Schedules Act of 1982.

Adoption of this amendment would destroy the protection provided for private sector workers under the Walsh-Healey Act and also jeopardize passage of this legisla-

tion which continues and expands the authority for the use of alternative work schedules have proven—in their limited experimental use over the past 3 years—to be successful in improving agency productivity and Federal employee morale. It should be continued.

I urge you, therefore, to support the motion to table the crippling Armstrong Walsh-Healey amendment, and to vote against the Armstrong amendment if the motion to table fails.

KENNETH T. BLAYLOCK,
National President.

Mr. NICKLES. Mr. President, one additional comment. I have heard some people say this is antiunion, this is antiworker. That is far from the truth of the matter. I am in manufacturing. I work with employees who work on five 8-hour days. I work with employees who work on four 10's. I work with employees who like to work four 10's. Many people would rather have the flexitime, some people would rather not. A lot of employees have said that they have a great deal of flexibility to change schedules around to make them conform to particular employees' desires, but yet we come in and tell that employer "Because you do work for the Federal Government, you cannot do it. You can do it if you are doing work in the private sector, you can have some flexibility."

I listed the names of a number of unions who have signed on collective bargaining for flexitime. I think it is kind of ridiculous to say, "No, we are going to exclude it. We are going to discriminate against you and not allow you to have that opportunity."

A lot of employees, Mr. President, want to see this Armstrong amendment passed. It may well be that they are in construction work and they have to drive to the construction site. It may well be that that construction site is 50 miles away and they do not want to commute four of five times; maybe they can only commute three or four times, and have the opportunity to finish their job, come back and have a 3-day weekend with their family. Maybe they like to hunt. Maybe they like to fish. Maybe they want to travel. Whatever they want to do, let us give them that flexibility. Let us not have a Federal Government regulation which would prohibit it. Let us restore a little commonsense. Let us put Federal empolyees and Federal contractors under the same laws and requirements as all other private employees and all other governmental employees.

I urge the adoption of the Armstrong amendment.

Mr. STEVENS. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague.

I am most sympathetic to the amendment offered by my colleague from Colorado, but I cannot find anywhere the answer to the question: How can we get it through the House? Is it not better that at this time we try and take the part of it that we can achieve, namely, for the Federal Government, and at a later time try to support the private sector? I am anxious to support your legislation.

Mr. NICKLES. If the Senator will yield, I would be happy to make a comment.

I think the Senate, operating under its own guidance and wisdom, really does not need to operate under the wisdom of the leadership of the House. We have two different bodies. I personally did not come to the Senate to be governed by the House.

Mr. WARNER. I agree with the Senator, but as a practical legislative problem we cannot get it through the House.

The PRESIDING OFFICER. The 1 minute of the Senator has expired.

Mr. STEVENS. Mr. President, I might say to my good friend from Colorado and my friend from Oklahoma that I, too, have not really made up my mind what to do about the problem of the amendment that they offer except that I know there is no question that the House will not agree to it. They have the committee that the distinguished Senator from Oklahoma is the chairman of, the Subcommittee of the Labor Committee that has jurisdiction over this. That committee can report the bill out to the floor and enter a conference with the Members from the House who deal with the Walsh-Healey Act regularly. Our committee does not know anything about it. This is not something that we ought to be forced to take to the House in conference or to try to get the House to adopt. Again I say that the amendment of the Senator from Colorado does not give the private sector employees the same protection as this bill gives Government employees. It is not possible to do so because of the mechanisms that are built into the Federal Government it terms of the ability to get unit votes, the ability to have an impasse. We have an impasse panel. It is not proper to state that this gives the private employees the same protection as our bill gives Government employees because it is just not possible under existing law.

Does the Senator wish to make some further comment? If he does not, I intend to make a motion to table. One Senator has an appointment downtown, and we want to have a long vote.

Mr. EAGLETON. May I have 30 seconds?

Mr. ARMSTRONG. Mr. President, I have concluded my remarks. I have a little time remaining which I hope I can yield to the Senator from Indiana (Mr. QUAYLE), who I am told is on his way to the floor to make a statement on this matter. I should like to reserve time for that purpose.

Mr. WARNER. Will the Senator yield? Does he care to address the question of how we would get this through the House? I am sympathetic with the position of the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I am wondering if the Senator from Alaska has time to yield to me for the purpose of responding to that question?

Mr. STEVENS. If the Senator will limit it to 1 minute, I am happy to do that. The Senator wants to leave.

Mr. ARMSTRONG. I should be happy to limit it to half a minute.

The answer to the question raised by the Senator from Virginia is that the statute books are full of provisions which at some time or another were purported to be unpassable in one House or the other. It is our task to send to the other body the best legislation we can, and then it is up to the conferees to work it out. As the Senator knows, that is a usual thing—for the Senate to say, "No, we will never agree to that," and for the House to say, "No, we will never agree to that."

Let us send them a good bill, a bill that conforms the private sector to the practice that we are recommending and work it out in conference. I am confident we can sell it to them.

Mr. STEVENS. I yield 30 seconds to the Senator from Missouri.

Mr. EAGLETON. Mr. President, taking up the theme just discussed between Senators STEVENS and ARMSTRONG, I think it should be noted that a subcommittee of the Labor and Human Resources Committee reported out the amendment that was in bill form on July 9, 1981. That is almost a calendar year ago. That subcommittee of Labor and Human Resources reported it up to the full committee. Senator NICKLES is on that committee. I am on that committee. Senator HATCH of Utah is the chairman of that committee. It has been there sound asleep before the full committee since July 9, 1981. Not a peep has been heard about it, not the slightest effort has been made to move it. Senator HATCH could convene a committee markup on the bill at any time he desires, but it has sat dormant for a calendar year. Now it emerges as this amendment.

Mr. KENNEDY. Mr. President, as ranking minority member of the Labor and Human Resources Committee I want to join the Senator from Alaska and the Senator from Missouri in opposing the Armstrong amendment.

Those who support the Federal flexitime bill, as I do, should understand that adoption of the Armstrong amendment will seriously jeopardize the prospects for enacting the flexitime bill before the current authorization expires next month.

The Armstrong amendment is not germane to the bill before us. If adopted it will have to be referred to two House committees and it is extremely unlikely that House action can be completed before the deadline.

Moreover the chairman of the House Post Office and Civil Service Committee has made it clear that he will not

act on a Senate passed bill which includes a Walsh-Healy amendment.

Beyond that there is absolutely no excuse for addressing the Walsh-Healy issue today. The Labor Subcommittee completed hearings on Walsh-Healy on March 10, 1981. The bill was reported to the full committee on July 9, 1981.

It has languished there for 12 months.

The Armstrong amendment is nothing more than an attempt to disrupt the orderly procedures of the Senate by circumventing the committee structure. There is simply no justification for proceeding in this manner when no one on the Labor Committee is preventing consideration of the bill under normal procedures.

Adoption of the Armstrong amendment will not result in flexitime work schedules in the private sector because it will not become law if attached to this bill. Instead, the likely consequence will be to deny the benefits of the Federal program to thousands upon thousands of Federal workers because no bill will be enacted.

Every Member of this body should understand that a vote for the Armstrong amendment is a vote against the Federal flexitime bill.

I urge the defeat of the amendment.

● Mr. GLENN. Mr. President, I rise in support of S. 2240, the Federal Employees Flexible and Compressed Work Schedule Act of 1982. The author of the legislation, the Senator from Alaska (Mr. STEVENS) has consistently demonstrated a profound interest in the needs of Federal employees, along with the need for a more efficient Federal bureaucracy. I believe that this bill is just one more example of that interest.

The flexitime experiment has been an asset to worker satisfaction and a boon to dual career families. Studies performed by the Office of Personnel Management indicate that the experiment has enjoyed an impressive 90 percent satisfaction rating. This coupled with the reports of productivity improvements outpacing declines by a 3-to-1 margin gives us sufficient reason to continue the flexitime program.

Management views flexitime very positively. More than 80 percent of the supervisors involved in the program favor continuing the present schedules. S. 2240 goes beyond the present program to extend to agency heads more authority to eliminate inefficient schedules. It also established a standardized procedure for judging the efficacy of a schedule.

Extension of this program could be frustrated by the amendment offered by the Senator from Colorado (Mr. ARMSTRONG). So, even though this amendment deserves attention, I do not believe this is the appropriate time or place. The Labor and Human Resources Committee is capable of considering this issue in detail. (As a result, I support Mr. STEVEN's motion to table this amendment and allow the Federal Government to maintain this beneficial program.)●

● Mr. DODD. Mr. President, I strongly oppose the Armstrong amendment allowing management to impose extended workdays on employees under Federal contract.

This amendment would undermine labor standards earned only after hard and long struggles and would have a punitive effect on workers under collective bargaining agreements today. The Walsh-Healey Public Contracts Act of 1936 requires that workers under Federal contract not work more than 8 hours per day without overtime pay. Ninety-three percent of workers under Federal contract today have a collective bargaining contract requiring payment for time-and-a-half after 8 hours. It would be wrong to punish legislatively freely reached worker-management agreements on hours. But that is exactly what we would do by allowing the management of nonunion employees to impose longer days on their workers. We would penalize unionized companies in the competition for Government contracts.

Under this amendment, longer workdays could be readily imposed—regardless of the risks to worker health and safety and regardless of the disruption to home and family. The known potential for such risks and the potential for disruption of family life is even greater now than when Walsh-Healey was enacted in 1936.

Now we know that asbestos, petrochemicals, and other substances to which workers are exposed can cause severe hazards to worker health. We know that prolonged exposure to high levels of noise can cause hearing loss. We know of the contribution of fatigue to the probability of cripping accidents. And now, many of the standards we have developed to protect workers from these hazards are based on 8-hour—not 10-hour—workdays. Excessive noise is probably the most frequent worker health hazard. The standard regulating noise exposure is based on an "8 hour time-weighted average." Are we to redo such standards for a 10 hour or even longer day? Or are we to guess at whether worker health is endangered by regular, prolonged exposure at management convenience?

And what of the working women whose family life is structured around an 8 hour absence? In 1936 when Walsh-Healey was enacted, we did not even count the number of the women in the labor force; 11 years later, at first count, there were less than 17 million women workers. In 1979, over 43 million American women worked outside the home. Over 30 percent of these women workers have children at home. More than 5 million children under age 6 have mothers who work for a living. Can we seriously argue that it provides more flexibility to these women to allow their employers to impose a longer working day? Is it reasonable to expect their families to readjust their schedules?

Compressed schedules can be conducive to better home and community life. But that decision should remain with those who are engaged in the work and not with those who manage it. The flexitime program extended in S. 2240 is a voluntary, worker initiated program. I applaud the flexitime program and I intend to vote in favor of the Stevens bill.

But the suggestion made with this amendment is categorically different. It punishes unionized workers. It allows management to place at risk the health and safety of workers. It makes a mockery of standards outside the purview of the Walsh-Healey Act. It ignores the needs of those workers for whom compressed schedules may cause disruption of family life. I will vote against this amendment and I urge my colleagues to do likewise.●

Mr. HATCH. Mr. President, I join in strong support of the amendment offered by my distinguished colleague, Senator ARMSTRONG. He has succinctly and persuasively made the case for adoption of his amendment. I would emphasize only a couple things.

First, the Senate as a body is not blazing a new trail with this amendment. Just 2 years ago, in the 96th Congress, this body added a similar amendment to pending legislation that was in a technical sense not germane to the Walsh-Healey Act and the Contract Work Hours Standards Act. On December 9, 1980, Senator BELLMON added a compressed workweek amendment to the Revenue Sharing bill H.R. 7112. This amendment was adopted by a record vote, 43 to 38. Unfortunately, the amendment was dropped by the other body.

Second, it should be noted that this amendment would not in any respect change the Federal minimum wage law or the overtime provisions of the Fair Labor Standards Act. Those statutes remain completely intact. Further, the Armstong amendment would not in any way affect the collective bargaining process, except to make it possible to bargain over flexible work schedules such as the 4-day workweek where such bargaining is not discouraged by current law.

Third, while making it financially feasible to adopt a compressed workweek, the amendment in changing the Walsh-Healey Act and the Contract Work Hours Standards Act does not mandate—I repeat, does not mandate—the adoption of such a schedule. Thus, even in the nonunion context, employees do not have to fear that this amendment will automatically result in a different work schedule.

Finally, I think it should be reiterated how this amendment is designed to do simple equity. The case has been persuasively made for giving Federal employees the opportunity of alternative work schedules. That is all we are trying to do for employees of Federal

contractors. Indeed, there is a certain irony in all this. The case for Federal employees to enjoy flexible work schedules was not made just on the experience under the experimental program which Congress established in 1978. The impetus for the Federal experiment was in part due to the experience of flexible and compressed work schedules in the private sector to begin with. The committee reports on the 1978 legislation expressly alluded to the positive experience in the private sector as grounds for expanding its experimental use by Federal employees. Moreover, the Washington Post, in commenting recently on the Federal flexitime legislation, noted: "In many private companies, the old 9-to-5 routine has become outmoded. One out of the five workers now chooses to work either part time or on a flexible schedule. Some specialists predict that half of the labor force will be flexing its work time by the next decade." In short, the practice and trend which began in the private sector should be encouraged to grow there at the same time they are being encouraged in the Federal sector.

I urge the adoption of the amendment.

WALSH-HEALEY MUST BE REFORMED

● Mr. KASTEN. Mr. President, earlier this year, the owner of a small business in McFarland, Wis., came to me with a problem his firm was having with the Walsh-Healey Act.

After reviewing the facts of this case with the owner, I came away convinced that Walsh-Healey had to be reformed and made more flexible for Government contractors.

The company, ENA Business Forms Inc., is a 24 employee printing company that contracts its services with the Federal Government.

Several years ago during the energy crunch, ENA's employees requested that they be permitted to set their own hours of work rather than work straight 8-hour days or less.

As Walsh-Healey is currently written. Government contractors are required to pay overtime for any work over 8 hours a day regardless of the total hours worked per week. This is the case even if employees request to be placed on an alternative work schedule and still work a 40-hour week. The effect of Walsh-Healey is that while Federal employees may benefit from flexitime, many private sector workers involved with Federal contracts are not allowed this option.

In ENA's case, employees were paid overtime for work over 40 hours a week, but not paid overtime for work over 8 hours a day. Thus, ENA was out of compliance with the very provisions of Walsh-Healey the Senate is attempting to amend today.

Subsequently, ENA was audited by the Department of Labor and found to be out of compliance with Walsh-Healey. As a result of this audit, ENA, the business, owes $27,661.76 to ENA, the workers.

Currently, ENA is on the brink of bankruptcy because of the inflexibility of Walsh-Healey. The worst possible finish to this story would be that ENA would go bankrupt because of Walsh-Healey.

But ENA is still fighting for its economic survival. And although we in the Senate cannot alleviate the burden Walsh-Healey has placed on ENA, we can fight too by amending the act to allow Government contractors the same flextime options offered to Government employees.

It appears that at a time when the Federal Government is working so hard to restore vitality to the American economy, a law which is as counterproductive as Walsh-Healey must be reformed.

Congress must bring the laws governing Federal contractors into conformity with the overtime provisions and flexibility in work schedules provided to the private sector employees, and ironically, to Federal employees themselves.

The restrictions of Walsh-Healey were passed by Congress in 1935, nearly a half century ago. In those 50 years, the American work force and American lifestyle have changed dramatically. Unfortunately, restrictive laws governing Government contractors have not kept up with the times.

Today the Senate has the opportunity to reform a law that has outlived its usefulness and now is a burden on workers and businesses. I urge my colleagues to support the Armstrong amendment on behalf of all the small businesses across the country that deserve the right to establish flextime schedules without over time penalties.●

Mr. QUAYLE. Mr. President, I would like to speak in support of the Armstrong amendment to the Federal Employees Flexitime Act, and to oppose any efforts to weaken that amendment. I believe we are making a small but important improvement in the flexitime extension by allowing Federal contractors as well as Federal employees to participate in this program. I believe it is critical that we eliminate inequitable restrictions on Federal contractors so that they can have the same rights and flexibility in workweek scheduling that are presently enjoyed by other employers. If we decline to include Federal contractors in this measure we are discriminating against a single class of workers and employers and refusing them the benefits and flexibility of alternative workweek scheduling which we reserve only to those outside the confines of government contract work.

This amendment is very simple. It simply gives Federal contractors the same rights already enjoyed by private sector contractors. Current law makes it prohibitively expensive for government contractors to use alternative work schedules because of premium rates which must be paid on any work performed in excess of 8 hours per day.

I know that many Federal employees in Indiana have contacted me asking my help in preserving their flexitime privileges. They support the idea, they have worked under it and they like it.

Now it is time to end discrimination against those workers and employers who have never had the chance to operate under a compressed workweek.

The benefits of working on an alternative work schedule are many. In hearings on this issue before the Subcommittee on Labor, which is chaired by the distinguished Senator from Oklahoma, Senator DON NICKLES, we heard many witnesses attest to the advantages of the compressed workweek. Specifically:

It increased worker productivity. The result is a higher weekly output, improved use of plant equipment and improved employee morale as demonstrated through reduced absenteeism, tardiness, and turnover.

It improves working conditions. A necessary side-effect of the change is reduced working costs associated with reduced commuting time, lunches, and child care. Also there is more usable leisure time for employees and more time for personal business, medical appointments, and rest.

It promotes energy conservation. A reduction in fuel costs is associated with fewer commuting days. (The Comptroller General reported that employee commuting time and gasoline consumption could be reduced by as much as 20 percent by converting to a compressed workweek.) In addition, there would be a reduced need for heating and cooling plants and offices.

I understand that some labor groups have been concerned that this measure would affect them unfavorably. Opponents of the amendment are saying that it will adversely affect the minimum wage, that it will alter the 40-hour overtime provisions of the Fair Labor Standards Act or even that it will mandate a certain number of hours in a workday. Let me dispell that concern. This measure maintains the 40-hour workweek. It allows for flexible scheduling of hours within that time limit. It makes no change in minimum wages and it does not mandate the number of hours in a workday. Any time worked over 40 hours weekly will still be compensable by overtime pay.

I would like to make one other point before I close. Studies of alternative and compressed workweeks have shown that experience with the schedule has been an important factor in influencing attitudes about such schedules. In general, employees have tended to be very positive about the schedules, but those who have actually experienced them were much more favorable than those who hypothesized the effects.[1] I feel this is signifi-

[1] Simcha Ronen, Ph. D., Management Department, Graduate School of Business Administration, New York University, Testimony before the Subcommittee on Labor on S. 398, p. 4.

cant because I believe many poeple "hypothesize" the effects of flextime on the work of government contractors. It has been used with great success for private sector employees, for government employees and it has been shown to increase productivity, I see no reason why we need to discriminate against a single group of employees and employers when we do not place those restrictions on the private sector. I support the Armstrong amendment and I encourage my colleagues to support it.

● Mr. GRASSLEY. Mr. President, I support Senator ARMSTRONG's amendment to remove daily overtime restrictions placed on Federal contractors by the Walsh-Healey and Contract Work Hours and Safety Standards Act. Currently, Federal contractors are prohibited from utilizing any form of flexitime provisions that are enjoyed by other Federal workers, as well as private sector employees. The Walsh-Healey Act singles out Federal contractors to impose a daily overtime premium for hours worked in excess of an 8-hour day. For all other employees, private and public, overtime is required only for hours worked in excess of a 40-hour workweek. I feel that Senator ARMSTRONG's amendment, which is similar to S. 398 which I have cosponsored, would provide an excellent opportunity for restoring uniform and equitable treatment of all employees, including Government contractors. This amendment would bring those laws governing Government contractors into conformance with the Fair Labor Standards Act and maintain the 40-hour workweek overtime standard.

The Bureau of Census has shown recently that in 1980, approximately 12 percent of all full-time, nonfarm wage earners were on flexitime or other schedules that permit them to vary the time their workdays begin and end. By the end of the decade, it is estimated that over one-third of the work force will be involved in compressed, flexible, or other alternative work schedules. Alternative schedules have been gaining popularity with employers, employees, and in recent collective-bargaining agreements for many good reasons.

Such schedules have proven to be more responsive to the desires of employees, provided more leisure time and reduced commuting time and expense. Equally important are the substantial benefits to employers in increased productivity, reduced energy requirements and more efficient use of capital equipment. Resulting cost saving for Federal contractors would be reflected in lower and more competitive bids for Federal procurements.

I am pleased to note the administration has endorsed this amendment, as well as many employer and employee groups across the Nation. Furthermore, I feel that S. 2240 is an appropriate vehicle for Senator Armstrong's reforms because they serve the exact goals and objectives of this bill. Federal contractors and their employees should be permitted latitude in tailoring their work schedules when it is in their mutual self-interest. Government should not stand in the way of these changes, but rather promote worktime arrangement that could enhance the quality of worklife, encourage energy efficiency and increase productivity. I urge my colleagues to join in support of this amendment to allow Federal contractor's employees to benefit from innovative work schedules, while maintaining the 40-hour workweek overtime standard that protects all workers.●

● Mrs. HAWKINS. Mr. President, I support S. 2240, the Federal Employees Flexible and Compressed Work Schedule Act of 1982. I believe that the 3-year flexitime experiment involving Federal employees has been successful and deserves to be continued. The experiment in flexible and compressed workweeks demonstrates that this intelligent personnel policy will generate important benefits, including higher output, reduced energy usage, and greater employee satisfaction.

At a time when productivity growth has been slow, it is noteworthy that other observers have also concluded that flexitime programs will lead to savings and improved morale. For example, an interim report of the flexitime program prepared by the Office of Personnel Management concluded that alternative work schedules "can produce improvements in productivity, greater service to the public, and savings in cost." The report also noted that more than 90 percent of employees and 85 percent of supervisors participating in these programs were satisfied with the results and recommended their continuation.

Another demonstration of the success of flexitime is its increased use in the public and private sector. The Bureau of Census reports that in 1980, 12 percent of all full nonfarm wage and salary workers were on a flexitime or compressed work schedule. By 1990, it is estimated that over 30 percent of the workforce will be using some type of flexible work schedule.

It is easy to see why flexitime improves productivity by improving morale. Increasingly, single working fathers and mothers need to arrange their work schedules to spend more time with their families. The latest census reports noted a dramatic rise in one-parent families in the workforce. Of the 31.5 million families with children under age 18 in the country in 1981, 21 percent were single-parent families, up sharply from 11 percent in 1970. Clearly, a personnel policy which materially helps the head of one out of every five working parents will show up in national productivity statistics. Therefore, Federal policy should promote the usage of flexitime in both the public and private sectors. That is why I support the continuation of the flexitime program.

While this legislation allows the Federal Government and most private firms to take advantage of flexible work schedules, curiously private businesses doing business with the Federal Government are prevented from adopting flexible work schedules or compressed workweeks for their employees. That is because the Walsh-Healey Act of 1936 imposes two separate standards on private businesses, one for Government contractors and another for private firms. Senator ARMSTRONG's amendment eliminates the dual standard by making overtime pay requirements uniform in Government and privately contracted work. It does so by allowing all contractors to use flexitime if they choose to do so.

Passage of the Armstrong amendment will lead to Federal procurement savings. Presently, the requirement that private businesses contracting with the Government must pay premium rates for all hours worked in excess of 8 hours per day, making it prohibitively expensive for Government contractors to use compressed workweek schedules. This costs the Government money because such contractors cannot pass on to the Government saving achieved by compressed workweeks. Furthermore, the Walsh-Healey Act discourages private sector users of compressed workweeks from bidding on Federal contracts, thus denying the Federal Government of the services of some of the more innovative and productive contractors in the labor market.

Mr. President, it is not often that the Senate has a chance to raise productivity, improve worker morale, and save the taxpayers money simultaneously. I believe we should take the opportunity to do so by passing this important amendment, and S. 2240.●

Mr. NICKLES. Will the Senator yield?

Mr. EAGLETON. Yes; I yield.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Just a half a minute. The Senator has to be downtown in 10 minutes.

Mr. NICKLES. I will make a real quick comment, and that comment is, yes, we reported it out of subcommittee. We did not have the votes in the full committee. But the Senator is also aware that that bill has passed the Senate before in the previous Congress.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Colorado yield back the remainder of his time?

Mr. ARMSTRONG. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I thank the Senator.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Colorado. On this question the yeas and the nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), the Senator from California (Mr. HAYAKAWA), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

I also announce that the Senator from Georgia (Mr. MATTINGLY) is absent due to illness.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA), and the Senator from Georgia (Mr. MATTINGLY) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. TSONGAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 49, nays 46, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—49

Andrews	Glenn	Moynihan
Baucus	Hart	Murkowski
Biden	Heflin	Nunn
Boren	Heinz	Packwood
Bradley	Hollings	Pell
Bumpers	Huddleston	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Riegle
Cannon	Johnston	Sarbanes
Chafee	Kennedy	Sasser
Cranston	Leahy	Specter
DeConcini	Levin	Stafford
Dixon	Long	Stevens
Dodd	Mathias	Warner
Durenberger	Melcher	Weicker
Eagleton	Metzenbaum	
Ford	Mitchell	

NAYS—46

Abdnor	Exon	Nickles
Armstrong	Garn	Percy
Baker	Goldwater	Pressler
Bentsen	Gorton	Pryor
Boschwitz	Grassley	Quayle
Brady	Hatch	Roth
Byrd, Harry F., Jr.	Hatfield	Rudman
	Hawkins	Schmitt
Chiles	Helms	Simpson
Cochran	Humphrey	Stennis
Cohen	Jepsen	Symms
D'Amato	Kasten	Thurmond
Danforth	Laxalt	Tower
Dole	Lugar	Wallop
Domenici	Matsunaga	Zorinsky
East	McClure	

NOT VOTING—5

Denton	Kassebaum	Tsongas
Hayakawa	Mattingly	

So the motion to table Mr. ARMSTRONG's amendment (UP No. 1048) was agreed to.

(Later the following occurred:)

Mr. MATSUNAGA. Mr. President, on rollcall vote No. 202, I am recorded as having voted "Aye." I intended to vote "Nay." Inasmuch as the change in vote will not change the result, I ask unanimous consent that I be recorded as having voted "Nay."

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

(The foregoing tally has been corrected to reflect the above order.)

Mr. MURKOWSKI assumed the chair.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, how much time do we have remaining on the bill?

The PRESIDING OFFICER. A total of 18 minutes remains on the bill. The Senator from Alaska controls 11 minutes.

Mr. STEVENS. Mr. President, we had time for the Senator from Indiana. The Senator from Virginia wishes 3 minutes.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. STEVENS. Mr. President, I might state to the Senate that it is our intention to have a rollcall vote on the final passage.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. STEVENS. I yield to the Senator from Virginia.

The PRESIDING OFFICER. Will the Senators conversing please excuse themselves to the cloakroom? The Senate will come to order.

Mr. STEVENS. Mr. President, I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I first would like to acknowledge the distinguished Senator from Colorado and others who were in support of his amendment.

I should say that it was practical politics when we had to vote against that amendment. Should it appear again on a proper vehicle, I would provide my support. I thank those who recognize the need for us to get on with S. 2240, which I consponsor with the distinguished Senator from Alaska, because it is desperately needed by those serving in the Federal Government.

Last March when this legislation was introduced, it was referred to the Governmental Affairs Committee, and we approved S. 2254 in a temporary 4-month extension of the existing experimental program. That extension expires July 20.

S. 2240 will continue the programs established under Public Law 95-390, the experimental program for 3 years. Management of the existing programs must review them for reduced productivity, reduced level of public service, or increased agency costs. If the findings show that the program is defective, the agency must terminate the program immediately. The decision is not negotiable or reviewable.

During the past 3 years, over 325,000 Federal employees in 1,500 organizations have participated in this program. There have been some programs that have not met the criteria of better service, increased productivity and lower cost. These programs will be terminated.

This legislation will provide the opportunity for the effective programs to continue and new programs to start. This legislation will provide the Federal manager additional tools to provide better, less costly service. This legislation will also provide the Federal employee with optional work schedules and the chance to increase production.

Flexitime, or alternative work schedules (AWS), has been used in private industry for a number of years with great success. Managers in companies, such as Metropolitan Life Insurance, say that flexitime has increased the productivity of 10,000 employees in New York City.

The 3-year experiment has been successful. A report by the Office of Personnel Management indicated that more than 90 percent of employees and 85 percent of supervisors participating in these experiments were satisfied with the results and wished to continue the program.

This legislation S. 2240, is supported by OPM, the administration, the employee groups and the employers themselves.

Senator STEVENS is to be congratulated for initiating this worthwhile legislation, and I am pleased to join with him. I urge my colleagues to accept the amendments offered today by Senator STEVENS and to enact S. 2240 for the good of the Government, its employees and the American taxpayer.

Mr. STEVENS. Mr. President, I do commend the Senator from Colorado and the Senator from Oklahoma on the amendment they offered. I, too, have a deep feeling about that amendment, and Senator BELLMON's amendment when he was here.

I appreciate the support of the Members of the Senate to clear this bill to go to the House unencumbered by that amendment. I do appreciate the manner in which the Senator from Colorado and the Senator from Oklahoma handled the presentation of their points of view.

Mr. President, I do not have any more requests for time. If there are no more requests for time, the Senator from Missouri and I will join in yielding back time on the bill.

Mr. HATCH. Mr. President, I rise in strong support of S. 2240. I believe that there is considerable merit in extending, on a permanent basis, a program that has demonstrated its worthiness. It was for this reason that I introduced in March of this year an earlier version of the proposal (S. 2156), since then, the interested parties, including the administration, Federal employee representatives, and congressional leaders, have closely reviewed the proposal and exchanged

recommended changes. The outcome of this process is the pending bill as reported by my distinguished colleague from Alaska (Mr. STEVENS).

Mr. President, the Office of Personnel Management has found that alternative work schedules can produce improvements in productivity, greater service to the public, and added cost savings. Equally important is the fact that workers themselves have had a very positive experience with the concept of flexitime and of the compressed workweek. Many people are coming into the work force, especially women with family responsibilities, for whom flexible schedules are very beneficial. They are productive people, yet they are not able to work exactly the hours that have been regarded as traditional. Moreover, virtually every experimental program involving flexible work schedules has demonstrated significant improvements in the morale of employees. And there is greater job satisfaction. As aptly noted by the Federally Employed Women organization:

The time-management and psychological benefits derived from these programs by the employee are substantial. Alternative work schedules help people balance their home and work life responsibilities. They provide a sense of freedom and autonomy for the worker, resulting in increased job satisfaction and higher employee morale.

Flexitime has proven its worth in the Federal Establishment across the Nation in 1,500 different agencies, involving 325,000 people. And, the people of my State of Utah have enjoyed the success of the program like those in other States. For instance, almost 600 of my constituents at Dugway Proving Grounds personally contacted me, urging support for the legislation. They stated:

We have been on the 4-day workweek for the past 18 months and can assure you that it has many advantages over the regular 8-hour day.

These people are obviously pleased with the program. And I say that when Federal employees are happier and more productive, other American taxpayers are getting their money's worth as well.

I urge the passage of the legislation.

Mr. EAGLETON. Mr. President, I yield back my remaining time.

Mr. STEVENS. Mr. President, I yield back my time and I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), the Senator from California (Mr. HAYAKAWA), the Senator from Vermont (Mr. STAFFORD), and the Senator from Georgia (Mr. MATTINGLY) are absent due to illness.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON), the Senator from California (Mr. HAYAKAWA), the Senator from Georgia (Mr. MATTINGLY) would each vote "yea".

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. TSONGAS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—93

Abdnor	Exon	Melcher
Andrews	Ford	Metzenbaum
Armstrong	Garn	Mitchell
Baker	Glenn	Moynihan
Baucus	Goldwater	Murkowski
Bentsen	Gorton	Nickles
Biden	Grassley	Nunn
Boren	Hart	Packwood
Boschwitz	Hatch	Pell
Bradley	Hatfield	Percy
Brady	Hawkins	Pressler
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd, Harry F., Jr.	Helms	Quayle
	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Humphrey	Roth
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Wallop
Dole	Long	Warner
Domenici	Lugar	Weicker
Durenberger	Mathias	Zorinsky
Eagleton	Matsunaga	
East	McClure	

NAYS—2

Rudman	Tower

NOT VOTING—5

Denton	Mattingly	Tsongas
Hayakawa	Stafford	

So the bill (S. 2240), as amended, was passed, as follows:

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1982".

SEC. 2. (a) Chapter 61 of title 5, United States Code, is amended—

(1) by inserting before section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end therof the following new subchapter:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"§ 6120. Purpose

"The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

"§ 6121. Definitions

"For purposes of this subchapter—

"(1) 'agency' means any Executive agency, any military department, and the Library of Congress;

"(2) 'employee' has the meaning given it by section 2105 of this title;

"(3) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

"(4) 'credit hours' means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday;

"(5) 'compressed schedule' means—

"(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

"(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays;

"(6) 'overtime hours', when used with respect to flexible schedule programs under sections 6122 through 6126 of this title, means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours; and

"(7) 'overtime hours', when used with respect to compressed schedule programs under sections 6127 and 6128 of this title, means any hours in excess of those specified hours which constitute the compressed schedule.

"(8) 'collective bargaining', 'collective bargaining agreement', and 'exclusive representative' have the same meanings given such terms—

"(A) by section 7103(a)(12), (8), and (16) of this title, respectively, in the case of any unit covered by chapter 71 of this title; and

"(B) in the case of any other unit, by the corresponding provisions applicable under the personnel system covering this unit.".

"§ 6122. Flexible schedules; agencies authorized to use

"(a) Not withstanding section 6101 of this title, each agency may establish, in accordance with this subchapter, programs which allow the use of flexible schedules which include——

"(1) designated hours and days during which an employee on such a schedule must be present for work; and

"(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

"(b) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement referred to in sec-

tion 6130(a) of this title, if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

"(1) restrict the employees' choice of arrival and departure time,

"(2) restrict the use of credit hours, or

"(3) exclude from such program any employee or group of employees.

"§ 6123. Flexible schedules; computation of premium pay

"(a) For purposes of determining compensation for overtime hours in the case of an employee participating in a program under section 6122 of this title—

"(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other provision of law; or

"(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

"(b) Notwithstanding the provisions of law referred to in subsection (a)(1) of this section, an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 6126 of this title or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

"(c)(1) Notwithstanding section 5545(a) of this title, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which such premium pay is otherwise authorized, except that—

"(A) if an employee is on a flexible schedule under which—

"(i) the number of hours during which such employee must be present for work, plus

"(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the nightwork hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

"(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

"(2) Notwithstanding section 5343(f) of this title, and section 4107(e)(2) of title 38, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized, except that such differential shall be paid to an employee on a flexible schedule under this subchapter—

"(A) in the case of an employee subject to subsection (f) of such section 5343, for which all or a majority of the hours of such schedule for any day fall between the hours specified in such subsection, or

"(B) in the case of an employee subject to subsection (e)(2) of such section 4107, for which 4 hours of such schedule fall between the hours specified in such subsection.

"§ 6124. Flexible schedules; holidays

"Notwithstanding sections 6103 and 6104 of this title, if any employee on a flexible schedule under section 6122 of this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Office of Personnel Management).

"§ 6125. Flexible schedules; time-recording devices

"Notwithstanding section 6106 of this title, the Office of Personnel Management or any agency may use recording clocks as part of programs under section 6122 of this title.

"§ 6126. Flexible schedules; credit hours; accumulation and compensation

"(a) Subject to any limitation prescribed by the Office of Personnel Management or the agency, a full-time employee on a flexible schedule can accumulate not more than 24 credit hours, and a part-time employee can accumulate not more than one-fourth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

"(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for—

"(1) in the case of a full-time employee, not more than 24 credit hours accumulated by such employee, or

"(2) in the case of a part-time employee, the number of credit hours (not excess of one-fourth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.".

"§ 6127. Compressed schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish programs which use a 4-day workweek or other compressed schedule.

"(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any program under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

"(2) Upon written request to any agency by an employee, the agency, if it determines that participation in a program under subsection (a) would impose a personal hardship on such employee, shall—

"(A) except such employee from such program; or

"(B) reassign such employee to the first position within the agency—

"(i) which becomes vacant after such determination,

"(ii) which is not included within such program,

"(iii) for which such employee is qualified, and

"(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not late than 10 days after the day on which a written request for such determination is received by the agency.

"§ 6128. Compressed schedules; computation of premimum pay

"(a) The provisions of sections 5542(a), 5544(a), and 5550(2) of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

"(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provide by the applicable provisions referred to in subsection (a) of this section. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

"(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

"(d) Notwithstanding section 5546(b) of this title, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which in not in excess of the basis work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act (29 U.S.C. 207) whichever provisions are more beneficial to the employee.

"§ 6129. Administration of leave and retirement provisions

"For purposes of administering sections 6303(a), 6304, 6307(a) and (c) 6323, 6326, and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

"§ 6130. Application of programs in the case of collective bargaining agreements

"(a)(1) In the case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.

"(2) Employees within a unit represented by an exclusive representative shall not be included within any program under this subchapter except to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.

"(b) An agency may not participate in a flexible or compressed schedule program under a collective bargaining agreement which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.".

"§ 6131. Criteria and review

"(a) Notwithstanding the preceding provisions of this subchapter or any collective bargaining agreement and subject to subsection (c) of this section, if the head of an agency finds that a particular flexible or compressed schedule under this subchapter has had or would have an adverse agency impact, the agency shall promptly determine not to—

"(1) establish such schedule; or

"(2) continue such schedule, if the schedule has already been established.

"(b) For purposes of this section, 'adverse agency impact' means—

"(1) a reduction of the productivity of the agency;

"(2) a diminished level of services furnished to the public by the agency; or

"(3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule).

"(c)(1) This subsection shall apply in the case of any schedule covering employees in a unit represented by an exclusive representative.

"(2)(A) If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination under subsection (a)(1) not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter in this section referred to as the 'Panel').

"(B) The Panel shall promptly consider any case presented under subparagraph (A), and shall take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact.

"(3)(A) If an agency and an exclusive representative have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this subchapter and the head of the agency determines under subsection (a)(2) to terminate a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule involved.

"(B) If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel.

"(C) The Panel shall promptly consider any case presented under subparagraph (B), and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

"(D) Any such schedule may not be terminated until—

"(i) the agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of that agreement; or

"(ii) the date of the Panel's final decision, if an impasse arose in the reopening of the agreement under subparagraph (A) of this paragraph.

"(d) This section shall not apply with respect to flexible schedules that may be established without regard to the authority provided under this subchapter.".

"§ 6132. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

"(1) such employee's rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

"(2) such employee's right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee's right to request an agency determination under section 6127(b)(2) of this title.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6133. Regulations; technical assistance; program review

"(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

"(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

"(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

"(A) the efficiency of Government operations;

"(B) mass transit facilities and traffic;

"(C) levels of energy consumption;

"(D) service to the public;

"(E) increased opportunities for full-time and part-time employment; and

"(F) employees' job satisfaction and nonworklife.

"(c) With respect to employees in the Library of Congress, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Librarian of Congress.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"Sec.
"6120. Purpose.
"6121. Definitions.
"6122. Flexible schedules: agencies authorized to use.
"6123. Flexible schedules; computation of premium pay.
"6124. Flexible schedules; holidays.
"6125. Flexible schedules; time-recording devices.
"6126. Flexible schedules; credit hours; accumulation and compensation.
"6127. Compressed schedules; agencies authorized to use.
"6128. Compressed schedules; computation of premium pay.
"6129. Administration of leave and retirement provisions.
"6130. Application of programs in the case of collective bargaining agreements.
"6131. Criteria and review.
"6132. Prohibition of coercion.
"6133. Regulations; technical assistance; program review.".

SEC. 3. Section 3401(2) of title 5, United States Code, is amended by inserting "(or 32 to 64 hours during a biweekly pay period in the case of a flexible or compressed work schedule under subchapter II of chapter 61 of this title)" after "week".

SEC. 4. (a) Except as provided in subsection (b), each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compresed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act shall be continued by the agency concerned.

(b)(1) During the 90-day period after the date of the enactment of this Act, any flexible or compressed work schedule referred to in subsection (a) may be reviewed by the agency concerned. If, in reviewing the schedule, the agency determines in writing that—

(A) the schedule has reduced the productivity of the agency or the level of services to the public, or has increased the cost of the agency operations, and

(B) termination of the schedule will not result in an increase in the cost of the agency operations (other than a reasonable administrative cost relating to the process of terminating a schedule),

the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

(2) If a schedule established pursuant to a negotiated agreement is terminated under paragraph (1), either the agency or the exclusive representative concerned may, by written notice to the other party within 90 days after the date of such termination, initiate collective bargaining pertaining to the establishment of another flexible or compressed work schedule under subchapter II of chapter 61 of title 5, United States Code, which would be effective for the unexpired portion of the term of the negotiated agreement.

SEC. 6. (a) Section 6106 of title 5, United States Code, is amended by striking out the period and inserting in lieu thereof a comma and "except that the Bureau of Engraving and Printing may use such recording clocks.".

(b) The amendment made by this section shall take effect October 1, 1982. Section 5 of this Act shall not apply to the amendment made by this section.

SEC. 5. The amendments made by this Act shall not be in effect after three years after the date of the enactment of this Act.

Mr. STEVENS. I move to reconsider the vote by which the bill was passed.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IRANIAN PERSECUTION OF THE BAHA'I COMMUNITY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 636, Senate Concurrent Resolution 73.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follow:

A concurrent resolution (S Con. Res. 73) to condemn the Iranian persecution of the Baha'i community.