

S. 4 had strong penalties under the comptime provisions. The committee substitute takes these strong penalties and extends them to violations under the other flexible workplace options.

Mr. President, the committee substitute will also include an addition to the provisions for biweekly work schedules and flextime options. It will require the Department of Labor to revise its Fair Labor Standards Act posting requirements so employees are on notice of their rights and remedies under the biweekly and flextime options as well as the comptime option.

Let me now discuss the salary basis provision. Under the FLSA's salary basis standard, an employee is said to be paid on a salary basis—and thus exempt from the FLSA overtime requirements—if he or she regularly receives a straight salary rather than hourly pay. These individuals are usually professionals or executives. Furthermore, the FLSA regulations state that an exempt employee's salary is not subject to an improper reduction.

For years this subject to language was noncontroversial. Recently, however, some courts have reinterpreted this language to mean that even the possibility of an employee's salary being improperly docked can be enough to destroy the employee's exemption, even if that employee has never personally experienced a deduction. Seizing upon this reinterpretation, large groups of employees, many of whom are highly compensated, have won multimillion-dollar judgments in back overtime pay—even though many of them never actually experienced a pay deduction of any kind. This problem is especially rife in the public sector.

Mr. President, this legislation would not affect the outcome in cases where a salary has in fact been improperly docked. If an employer docks the pay of a salaried employee because the employee is absent for part of a day or a week, the employee could still lose his or her exempt status.

The purpose of S. 4, in this regard, is to make clear that the employee will not lose his or her exempt status just because he or she is subject to—or not actually experiencing—an improper reduction in pay.

Mr. President, we're making progress on this legislation—a bill that would help give American workers the flexibility they need and deserve as they confront the challenges of a dynamic new century.

This bill will strengthen America's families, by allowing millions of hourly workers to balance family and work. Let's move forward in a bipartisan way to get it passed.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 2:15 p.m.; whereupon, the Senate resembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, I call for the regular order with respect to S. 717.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 717) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JEFFORDS. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I would like to take just a couple of minutes to rise in support of the Individuals With Disabilities Education Act. I have a particular interest in this bill in that I have been involved for a very long time with disabilities, chairman of the disabilities council in Wyoming, my wife teaching special kids, and so I wanted to comment very briefly.

I rise in support of the current bill to reauthorize IDEA, the Individuals With Disabilities Education Act. The Federal Government, in my view, should and does play a rather limited role in elementary and secondary education. This is the responsibility generally of communities, those of us who live there. State and local control, I think, is the strength of our educational system, and yet I believe strongly that this is an appropriate Federal responsibility. This is dealing with that kind of a special problem which exists in all places to ensure that every child has the opportunity to be the best that he or she can be.

IDEA helps local schools meet their constitutional responsibilities to educate everyone, and that is what we want to do. Today nearly twice as many students with disabilities drop

out of school compared to students without disabilities, and that is what it is about, to have a program that helps keep students in school.

S. 717 does not have as much punch as legislation considered in the last Congress. Some issues about discipline and litigation were impossible to resolve last year, and therefore there was no reauthorization. This bill, as I understand it, represents a consensus. It is a product of negotiation. No party involved, as usual, received all they had hoped for, but nevertheless it is a fair approach. It is a step in the right direction. This bill has had a very long journey. We owe it to our local school districts to pass this reauthorization legislation that has been stymied for several years.

Education is clearly an issue that is on the minds of all of us. It is on the minds of Wyomingites. There is a great deal of uncertainty regarding the future and shape of secondary and elementary schools in Wyoming. State legislators currently are scrambling to provide a solution to a Supreme Court ruling that funding and opportunities must be allocated more uniformly and fairly across districts in Wyoming. I am hopeful that Congress can pass this IDEA legislation and eliminate at least one of the sources of uncertainty for educators and, more particularly, for parents in my State.

Since its original passage in 1975, it has become clear that there are improvements that are necessary to IDEA. Wyoming teachers and administrators have contacted me expressing concern about the endless paper trail. I hear that every night, as a matter of fact, at home; as I mentioned, my wife teaches special kids and spends, unfortunately, as much time in paperwork as she does with kids. That is too bad.

They complain the current law is unclear and places too much emphasis on paperwork and process rather than actually working hands-on with children. The bill we have before us today attempts to reduce paperwork associated with the individualized educational plan. Teachers and administrators also write to me, and I am sure to my fellow Senators, to ask for strengthening of the discipline and school safety provisions of the law. They want power to take steps necessary to assure that schools are safe for all children. S. 717 would give the power to school officials to remove disabled students who bring weapons or drugs to school and keep them out for as long as 45 days pending a final decision. This will give educators a clearer understanding of how they are able to exercise discipline with disabled children, as they should be able to.

IDEA has also proved to be a highly litigated area of law. This bill will require that mediation be made available in all States as an alternative to the more expensive court hearings. Mediation has been shown effective in resolving most of these kinds of disputes. Meeting with the mediator will help