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Senate

The Senate met at 5 p.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Only You, Lord, are a mighty rock. Be our strong refuge, for we trust Your loving providence.

Guide our Senators. Show them the tasks that need to be done, enabling them to order their priorities with Your wisdom. Direct them to common ground so that united they can accomplish Your purposes. Inspire them to serve You with passion, for You are the author and finisher of their destinies. Strengthen them with the zest, verve, and vitality of authentic hope.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 23, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

ORDER OF PROCEDURE

Mr. REID. Mr. President, under the rules of the Senate, 1 hour after we come in there is an automatic cloture vote. Tonight, it is on H.R. 2831, the Lilly Ledbetter Fair Pay Act. I ask unanimous consent that both sides have a full half hour. I designate Senator KENNEDY to appropriate the time however he feels appropriate. Following the usage of that 1 hour, I ask unanimous consent that Senator MCCONNELL, if he wishes to speak, be recognized using leader time and following his remarks, that I be recognized in leader time prior to the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I say to all Senators within the sound of my voice, after we complete work on this legislation, Senator MCCONNELL and I are trying to work to inform everyone what the schedule will be in the future—that is, this evening, tomorrow, Friday, and the beginning of next week. We do not have that worked out yet, but we are getting very close.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

LILLY LEDBETTER FAIR PAY ACT OF 2007—MOTION TO PROCEED—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 6 p.m. is equally divided and controlled between the two leaders or their designees. Each side will have a full 30 minutes.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, our Nation was founded on the basic principle of fairness, justice, and equality. Over the years, a continuing march of progress has brought these shared ideals to ever more Americans. The ''Whites only'' signs that were a stain on America are a thing of the past. We have opened the door of opportunity to African Americans, Latinos, Asians, and Native Americans. Glass ceilings that limited the opportunities of women and persons with disabilities are shattered. We have improved protections for persons of faith who suffer discrimination and intolerance because of their beliefs. Opportunities for older workers are greater now than perhaps at any previous time in our history. The march of progress represents America at its best. It has brought us ever closer to the ideal of Dr. Martin Luther King that Americans will one day be measured not by the color of their skin, their gender, their national origin, their race, their religion, or their disability, but by the content of their character.

The Senate has been an important part of the progress in guaranteeing fairness and opportunity. We passed strong bipartisan laws to protect basic civil rights, and we must not turn back the clock again. Time and again, the Senate has gone on record in favor of fairness and against discrimination, and we have done so by overwhelming majorities. We will have an opportunity in a few moments to do so again.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This chart shows the record of the Senate in ensuring pay equity for those whose skin is a different color, on the basis of age, disability, gender, religion, or national origin. Here it is: The Equal Pay Act was passed on a voice vote. An overwhelming majority in the Senate, Democrats and Republicans, said equal pay, equal work should be the law of the land. It was passed in 1963.

The Civil Rights Act of 1964, title VII, equal pay for equal work, passed 73 to 27.

Age discrimination that says you will not discriminate on the basis of age passed the Senate under President Johnson by a voice vote.

The Rehabilitation Act of 1973 provided the same kind of protections for disabled individuals, individuals who have some disability but are otherwise qualified to do work. You cannot discriminate against them. That was passed on a voice vote under President Nixon. And this was repeated in the Civil Rights Restoration Act of 1988, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991.

Look at the Presidents: Kennedy, Johnson, Johnson, Nixon, Reagan, Bush, Bush. And now in the Senate our Republican friends want to say: Oh, no, we are going to permit discrimination against women because they did not have adequate notice that the discrimination was taking place because the employer did not give them that notice when they gave them a paycheck that was unequal to their male counterparts. That was a 5-to-4 decision.

We have an opportunity to go back on the right track that Republican and Democratic Presidents and Congress led us down. Let's restore the fairness, the equity, the decency, and the humanity this Senate of the United States has gone on record with regard to equal pay for women, disabled, and the elderly in our society. Let's do that. We have a chance to do so in just 45 minutes.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I ask that I be recognized for up to 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, the distinguished Senator from Massachusetts makes an eloquent and passionate statement, but everyone within the sound of my voice needs to understand something. This debate today is not about allowing, favoring, or supporting discrimination. It is about preserving the Civil Rights Act to which the distinguished Senator just referred, because the Civil Rights Act stated clearly that if a complaint was filed, it needed to be filed within 180 days of the act of discrimination, or as, as current EEOC practice allows, 180 days from the date which a reasonable person should have known.

Let's make sure everyone understands all this. Since 1964, 44 years ago, that has been the provision in the statute. No one is trying to keep that from happening.

Secondly, everybody needs to understand this: It is very important to people, regardless of whether they are a woman, a man, a Methodist, African American, Latino, whatever, if they are discriminated against, we need to make sure there is timely evidence so the handling of these claims can be completed thoroughly and completely.

The Ledbetter Fair Pay Act changes the civil rights law provisions from 180 days from the time a discriminatory act was made or a reasonable person should have known they had been discriminated against to 180 days from any ''economic effect.'' This means that someone can work for a company for 30 years, go on retirement and pension, get a pension check, declare the 180 days just started, and file a complaint from 30 years ago.

We are about having integrity in the system so we have timely complaints, we have timely evidence, and the parties who are there can quickly be remedied.

I would like my staff to put up a chart because I would like to review the history of the Ledbetter case.

In 1982, Mrs. Ledbetter filed a complaint for sexual harassment against her supervisor. That complaint was settled between her and the company, Goodyear, in a timely fashion, and she was satisfied.

In 1992, Mrs. Ledbetter, under testimony, testified that she became aware she was being paid less than her peers, but she filed no complaint.

In 1993, she did not file a complaint.

In 1994, she did not file a complaint.

In 1995, Mrs. Ledbetter said:

I told him at that time that I knew definitely that they were all making a thousand at least more per month than I was and that I would like to get in line.

But she did not file a complaint.

In 1996, she did not file a complaint.

In 1997, she did not file a complaint.

And then on July 21, 1998, a complaint was filed, shortly after her supervisor died. That is the reason for the statute of limitations on the complaint to begin with—to ensure you have contemporary and timely information and the parties who might have committed the act of discrimination are alive and can be held accountable.

No less than Justice John Paul Stevens, the first time this particular provision of statute of limitations was taken to the Court, in a 7-to-2 decision in 1977 said the following:

A discrimination act which has not made the basis for a time charge is merely an unfortunate event in history which has no present legal consequence.

Some will argue—and I am sure Senator KENNEDY will—about hidden, or concealed, discrimination, whereby a person might not become aware they are being victimized. Essentially, you can rope-a-dope someone and fool them. Current EEOC practice clearly states that it is 180 days from the time a reasonable person should have known or would have known they were discriminated against.

It is very important for us to understand that we have a case, the Ledbetter case, where the individual testified under oath in deposition that she was aware she was being underpaid and did not file. We also have a person in 1982, a decade before the alleged act, who did file a case for sex discrimination. So it was not ignorance of the system, ignorance of the law, or ignorance of the court; it was violation of the time provided.

Just to make sure the record is clear, in a deposition of Mrs. Ledbetter on July 18, 2000:

Question: So you had this conversation with Mike Tucker about the 1995 evaluation. You told him then that you wanted to try to get your pay more in line with your peers?

Mrs. Ledbetter: That is correct.

Question: How did you know that your peers were earning more?

Mrs. Ledbetter: Different people I worked for along the way had always told me my pay was extremely low.

Again in a deposition later on:

Question: And so you knew in 1992 that you were paid less than your peers.

Mrs. Ledbetter: Yes, sir.

Mr. President, I abhor discrimination. I share the reverence of the quote of Martin Luther King, a citizen of my home State, quoted by Senator KENNEDY, that we all yearn for the day that a man will be judged by the content of his character and not the color of his skin. We respect that today. That is why the Civil Rights Act we discuss today was passed. That is why, when they passed the Civil Rights Act, Congress put in a standard of 180 days from the date of discrimination to ensure the evidence was there, the supervisors were there. That way an aggrieved person could take action to remedy quickly this situation could. The Lilly Ledbetter Fair Pay Act changes that to a distant time in the future when people could have passed away, records could have been destroyed, and the ability to prove the allegation would be impossible.

I submit, in an environment in 2008 in the United States of America where equity, nondiscrimination, and freedom are available to all Americans, that it is this timeliness is important so that anybody who is injured and anybody who is aggrieved gets a swift and just action in the courts of the United States of America.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take 30 seconds.

We are attempting to restore the law prior to the Supreme Court decision. That is all we are trying to do. The law before the Supreme Court's decision is that when the paycheck reflects discrimination the time to file starts.

Here is a chart. All light green and dark green. That was the law of the

land. That was the law of the land, Mr. President. That is what our bill does. Let's not confuse the facts. We want to go back to what the law of the land was—that and only that.

Mr. President, I yield 3 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank Senator KENNEDY for his brilliant leadership on this and so many other issues.

First, I have to say that I sat and listened to my good friend from Georgia, and I noted that Lilly Ledbetter is in the gallery, and I was just thinking of having her listen to all of this talk, a lot of it sort of legalese and parsing hairs. Just think of who she is—a hardworking woman from Gadsden, AL, a supervisor in a tire plant working just as hard as the men alongside her and every day and every week and every year not getting paid the same as they simply because she was a woman. It was not because she did a worse job, not because of any other reason. She has had to listen first to the Supreme Court and then to some of my colleagues parse hairs, and it is just not fair, it is not right, and it is un-American.

Now, let me say this: As a male, this is something that is very difficult for men to understand, and yet women, whether they make $20,000 or $70,000 or $200,000, they know it and live with it every single day. It is not a surprise that Ruth Bader Ginsburg was so upset at this decision—a mean decision, a decision that makes people dislike the law—that she read her entire dissent from the bench, a highly unusual practice on the U.S. Supreme Court.

Equal pay for equal work is as American as it comes. Equal pay for equal work is as American as apple pie. And to have a bunch of lawyers, whether they are Senators or Supreme Court Justices, parse hairs and deny simple, plain justice is as un-American as can be as well.

So I hope this body will rise to the occasion. This is not a decision where you need a Harvard law degree to understand how backward it is. All you have to do is know who Mrs. Ledbetter is and who the millions of other American women are who are put in the same position as she is, and you know the cry for justice, justice, justice should ring from these Halls.

So I hope we in this body, again, will rise to the occasion. I hope this body will do right by Mrs. Ledbetter in her long struggle to right this wrong, and to the millions of American women, our wives, our daughters, our friends, our relatives, and the many others we all do not know who are working hard, by the sweat of their brow, trying to support their family, trying to move up the ladder of decency and honor and success so that they, too, when they work, will be treated like their male counterpart.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I yield myself 30 seconds.

The distinguished Senator from Massachusetts referred to restoring the law to pre-2002. The Supreme Court, in 1977, through John Paul Stevens' majority opinion, 7 to 2; 1980 and 1986, in all three of those rulings they upheld the 180-day provision of the Civil Rights Act of the United States of America. That was the law prior to Ledbetter, and that is what the court reaffirmed in Ledbetter.

Mr. President, I yield up to 10 minutes to the distinguished Senator from Wyoming, Mr. ENZI.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from Georgia.

Mr. President, I rise today to voice my strong opposition to both the substance of H.R. 2831, the so-called Ledbetter Fair Pay Act, as well as the process—or more accurately, the lack of process—that has brought this matter to the Senate floor today.

Welcome to ''gotcha politics 2008.'' When we really are intending to pass a bill, particularly with our Health, Education, Labor and Pension Committee, this is not the way we do it. We sit down, we talk about the principle, we list the mechanisms for solving that principle, and we work together to come up with a solution. That is not the case on this one. There has been a lack of any meaningful legislative process regarding this bill.

Earlier in this session, the Supreme Court upheld a Circuit Court decision regarding the limitations period for filing claims under the discrimination statutes I have noted. In my view, this decision was unquestionably correct and completely consistent with the intent of those statutes. However, even for those who might ultimately disagree with that view, there can be no debate Congress's subsequent action was a slapdash response and a transparent attempt to score political points at the expense of responsible legislating.

No sooner was the ink dry on the decision from the Supreme Court, than this legislation was introduced in the House. It was rushed through committee without change and rammed through the House on an essentially party-line vote just 5 days later. The bill was debated under a rule that allowed only 1 hour of debate and no amendments. Does that seem a little familiar? Yesterday, we heard a diatribe on the Senate floor about how Republicans are holding up everything and insisting on these motions to proceed being brought up. Then, after cloture was approved 94 to 0 on a veterans bill, we weren't allowed to vote on it again anytime that day, and we didn't even go into session until 5 o'clock tonight. That was to keep any discussion or any votes from happening and to limit any debate on this issue.

That is not the way the Senate is supposed to operate, but it is the way we are operating on this bill, just as they did in the House—not going through the normal process of making sure that concerns were being solved. That is the only way anything ever makes it through this body. A look at the House vote reveals this was not the result of any groundswell of unanimity in that body. The margin was razor thin. The bill was then sent to the Senate, where by regular order it is supposed to come before the appropriate committee for debate and amendments, but that hasn't happened. This body has consistently and rightfully taken pride in the care and thorough negotiation of its deliberative process.

Now, despite the deceptive name, this legislation doesn't restore anything. Quite to the contrary, it completely destroys a vital provision of title VII of the Civil Rights Act that was intentionally included by the drafters of that legislation. Employment discrimination based on race, sex, age, national origin, religion, or disability is intolerable, and the drafters wanted to ensure any claims of sex discrimination could be promptly addressed.

Beyond this consideration, the drafters of those laws also recognized two practical realities: First, in the employment context, unaddressed claims of discrimination are particularly corrosive. Federal discrimination policy must ensure that bias is rooted out and remedied as quickly as possible. And, second, it is virtually impossible to discover the truth with respect to such claims based on events in the distant past. With the passage of time, memories fade, critical witnesses become unavailable for one reason or another, and records, documents, and other physical evidence are destroyed or otherwise not available. Under this bill, that claim can go until the time of retirement and then be claimed back to the time of whenever this supposed discrimination was, where the witnesses aren't available. But, most importantly, the accounting records aren't available anymore. How can you go back and figure that amount without the records?

It is for these reasons that all statutes granting the right to take legal action contain a limitation period for commencing such actions. These general considerations of discrimination in the workplace led the drafters of title VII to intentionally establish a relatively short period with respect to such claims. They selected a period of 180 days from the discriminatory act, a period that, depending upon the State where the claim arises, could extend to 300 days.

This bill doesn't restore this well-reasoned and plainly intended limitation period and policy; it would eliminate it in virtually all employment discrimination cases. Under this bill, an individual could file a timely charge of discrimination based on an event or act that occurred years, even decades before.

We are told, however, that such a change is necessary because employees may not know they are being discriminated against, or that employers will hide the fact from employees in order to prevent the timely filing of a claim. These appear on their face to be appealing arguments; however, they ignore and they misrepresent the actual state of the law. The law already provides remedies in these instances. The limitations period for filing employment discrimination claims is not nearly as inflexible as the proponents of this bill would lead people to believe.

What about individuals who simply don't know the facts that would lead a reasonable person to conclude they have been discriminated against? Would they be barred from bringing a claim with the Equal Employment Opportunity Commission? If an employee doesn't know the facts, wouldn't their employer just get a free pass on discrimination? The EEOC has addressed this directly. Here is what the EEOC's own compliance manual says:

> Sometimes a charging party will be unaware of a possible EEO claim at the time of the alleged violation. Under such circumstances, the filing period should be tolled until the individual has, or should have, enough information to support a reasonable suspicion of discrimination.

Under the well-recognized doctrine of a continuing violation, all that the law requires is that there be a single act of discrimination within the applicable filing period, and the other context is properly swept into the charge from the reasonable time of knowing it.

Now, this flawed legislation also hides another vast expansion of workplace discrimination laws that must not go unmentioned. Since 1968, the law has been that the individual who is discriminated against is the person with the standing to file a lawsuit. But under this bill, any individual affected by application of a discriminatory compensation decision or other practice has standing to sue. So now it isn't just at retirement or death when the person can bring this up, it is other family members or other dependents who can bring it up, long after the last paycheck.

Practitioners we have consulted agree that this incredibly broad language would easily cover dependents, such as spouses and children benefiting from pension payments and family health care coverage. It could also be construed by courts to extend liability long after pension payments are completed, if the money is invested in an annuity, for example. This is a huge expansion that we have never talked about in committee.

And, before I close, I want to mention my greatest concern in dealing with the legislation. If we were really concerned about helping the greatest number of workers, we wouldn't be focused on changing the law to help improve their chances of a successful lawsuit. Instead, we would be extending a helping hand and providing a source for them to obtain the training they need to keep their current jobs and work toward better ones—the flexibility to move.

Such a change would come if we were able to convince the majority to finish the job we started on the Workforce Investment Act. It is 5 years overdue for reauthorization, and we passed it through the Senate twice, but we have never been able to have a conference committee. This legislation would mean 900,000 people a year could have better job training. So our inability to get this bill signed into law is a shame.

Again, I say this has not gone through the proper process here in the Senate and it was rushed through the House. I guess some think it is always easy to be able to catch a little publicity based on some articles in the paper and try to push something along, but if you actually want to pass a bill it doesn't work. It has to go through a normal process to pass the Senate, and that is what I am sure will happen on this bill.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I take this opportunity to thank the Senator from Massachusetts, Mr. KENNEDY, for his leadership on this issue and for the way his staff worked with the women in the Senate to overcome what we thought was a flagrant abuse of power.

In May of last year, the Supreme Court issued a decision called the Ledbetter case that was basically sexist and biased. It didn't reflect the spirit of the civil rights law on discrimination. It didn't reflect the reality of the workplace or the reality of women's lives. The Supreme Court overturned the opinions that had been given by the appellate court, by precedent, by history, and so on.

What did the Supreme Court say? That it was OK to discriminate, unless you knew 180 days from the time you were discriminated against and brought an action or brought this to the attention of your employer. Well, it just doesn't work that way. Anyone who knows the reality of the workplace knows that you don't know if you are being discriminated against.

What is the reality of the workplace? You can talk about sex at the water cooler, you can talk about religion by your computer, you can talk politics in the lunchroom, but if you open your mouth about your pay and whether you have gotten a raise, you are in trouble. If a woman begins to go and ask: Hey, George, what do you get paid, mum's the word.

If, then, Bill gets a raise, the guys are sitting around at the ball game downing a few beers and they say: Hey, George, you have done a great job, we are going to give you a promotion, how do you know about this? The only way you know about it is over time.

What we are doing in this legislation, led by Senator KENNEDY—we have a bipartisan bill—is to right the Supreme Court decision. We are doing this at the urging of Justice Ginsburg. The Supreme Court decision was so bad that Ruth Bader Ginsburg, the only woman on the Supreme Court, took the unusual step of reading her dissent from the bench, and she said:

> In our view the Court does not comprehend or is indifferent to the insidious way in which women can be victims of pay discrimination.

She said this needed to be fixed by Congress, and Congress has a remedy we are voting on today.

I was appalled to read that not only was the Supreme Court decision bad, but now the President has issued a veto threat. He said this bill is going to ''impede justice.'' That is baloney. This bill doesn't impede justice, it restores justice. It reinstates a fair rule for both workers and employers. He said it is going to mess up the process. This bill does not slow down the process, it gives people a way of getting into the process if you can't bring a claim in more than 6 months after you have been hired.

President Bush also says he wants to veto this because this bill would eliminate the statute of limitation in wage discrimination cases. That is not true. This bill does not change the 180-day time limit. It only changes when the clock starts to run. The bill restarts the clock with each time you get a paycheck that discriminates, so each time you get a paycheck that discriminates, the 180-day clock starts to run again. This is critical. How many people, as I said, know the salary of their coworkers? If you are hired at an equal rate with your male counterpart but he gets a raise in a few months and you don't, what should you do?

This is what Lilly Ledbetter found. She was a faithful employee at the Goodyear Company, Over time and with great risk she had to fight in her workplace, she had to fight in her courtroom.

The ACTING PRESIDENT pro tempore. The Senator has used 5 minutes.

Ms. MIKULSKI. Now it is time to fight for Lilly Ledbetter and the 150 million women in her position. The CBS poll on women says the No. 1 issue they face is equal pay for equal or comparable work. If in fact this is not a problem, why does every woman in every poll make this a No. 1 issue?

I ask that we make it a No. 1 issue in the Senate. We are now on a vote, as we faced with Anita Hill. I have a terrible feeling that tonight the Senate will not get it, but the women will get it and we are going to start a revolution as Abigail Adams asked us to do.

Mr. KENNEDY. I yield 2 minutes to the Senator from Washington.

Ms. CANTWELL. Mr. President, I am surprised that my colleagues say this is all about publicity. How can it be about publicity when, in reality, women make less than men in their everyday jobs? Last week in Pittsburg I

attended an equal pay forum and found young children carrying handmade signs about justice: Gussie, a young girl, said, ''I will work for justice;'' Sofia, another young girl, said, ''I will work for justice;'' Leo, who wanted to join in with these young ladies, said, ''I will work for change and for justice.'' The children planned to walk around and collect 23 cents on street corners, begging for an amount of change that represents the difference between what men and women get paid.

This young generation of Americans wants to know that they are going to grow up in a world where they are going to get equal pay for equal work.

Women, on average, make 77 cents per every dollar their male counterparts make and stand to lose $250,000 dollars in income over their lifetime. We are talking about real dollars. The pay gap follows women into retirement. A single woman in retirement, making less pay in her career, could receive $8,000 dollars less in retirement income annually than a man—this is an issue of justice.

I appreciate that the Senator from Massachusetts has led the charge on this. I want to remind my colleagues that we had a similar Supreme Court decision on identity theft, which passed by a 9–0 vote, that limited a victim's ability to recover when it is held that the statute of limitations begins at the time of the initial violation, rather than when the victim discovers the injury. It was the same issue. You did not know that your identity had been stolen, but the courts maintained a very narrow definition of how long you had to recover. What did we do? We acted. Congress extended the statute of limitations to two years after the individual knew their identity had been stolen or 5 years after the violation. That is what Congress did. We corrected that. That is what we need to do to give equal justice to women so they can have equal pay.

The ACTING PRESIDENT pro tempore. The Senator has used 2 minutes.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

If I could have the attention of the Senator from Maryland, can the Senator explain to me why there would be reluctance in this body to vote for equal pay for equal work? We voted on this now more than five times in a 40-year period, to knock down the prejudice and discrimination to women, to minorities, to the disabled, and to the elderly. Under the Supreme Court decision, that discrimination can take place in the United States of America today. This legislation can halt it. Can the Senator possibly think about why we should hesitate in taking the action to restore the law to what it was prior to the Supreme Court decision?

Ms. MIKULSKI. First, I believe in this matter the Senate would be out of touch with the American people. The American people want fairness, they want justice, and they believe women should be paid equal pay for equal or comparable work.

I also believe, though, there is opposition to the bill because people make profits off of discrimination. If you pay women less, you make more.

Also I believe when they talk about when the law was passed—the workplace has changed. There are now more women in the workplace than there were when the original laws were passed. But as the Senator from Washington State said, my gosh, this adds up to real money. You know, 20 cents an hour that we make less than the guy next to us—unless we are in the Senate; we do have equal pay here—this, over a lifetime, adds up to over a quarter of a million or a million dollars. When we look at its impact on Social Security, it is tremendous. Then if we look at its impact on a 401(k), if you have one, it adds up.

I believe discrimination is profitable, but I think it is time that justice is done.

Mr. KENNEDY. I yield myself 1 minute.

If I can ask the Senator from Washington, in this downturn in our economy we find that women have less savings, they are participating less in pension plans, they are subject to more foreclosures in housing. At a time when women are under more pressure, can the Senator possibly explain why there should be reluctance in this body to restore fairness?

Ms. CANTWELL. It is quite simple to correct this issue today. We are asking that more women be a part of the math and science and engineering workforce, be part of the information technology age. But if they cannot ask how much their male counterparts are making and find out later that they are only making 77 cents per every dollar their male counterparts make, that is not fair.

We could correct that by now by not only allowing people to come forward at the first instance of unequal pay—but every instance.

It is critical that we address this simple correction. This body has corrected other Supreme Court decisions on these same statute of limitations issues. This is the least we can do.

I see my colleague from New York has come to the floor. We ought to get this bill passed and get on to her legislation that is even more robust—to make sure that employers are treating women fairly and giving them information. This is basic. We should pass it and make sure we send this to the President's desk.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. Who yields time?

The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I owe the distinguished Senator from Massachusetts an answer to the rhetorical questions he has asked. Everybody within the sound of my voice should understand we are not debating whether anybody in here believes in discrimination. We have voted over and over in this body for 44 years. We have the Equal Pay Act, as the Senator had on his chart there. That passed the Senate on voice vote. That is not the issue. The issue in this case is the tolling provisions of the 1967 Civil Rights Act, Title VII, which dealt with discrimination in wages based on race, religion, sex, or national origin. I will debate what tolling period is appropriate, but I am not going to stand here and allow this to be described as a debate over one side being for discrimination and another being against it. We are for the timely reporting of claimants and the ability of people to be remedied expeditiously if they have been discriminated against.

How much time is left on our side?

The ACTING PRESIDENT pro tempore. There is 13 minutes.

Mr. ISAKSON. I yield the distinguished Senator from Utah, Senator HATCH, 11 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise today in opposition to the bill that would overturn the Supreme Court's ruling in Ledbetter v. Goodyear Tire. At the outset, let me be perfectly clear about the basis for my opposition to the so-called Fair Pay Restoration Act. I know of no one on either side of the aisle in this Senate who condones any form of unlawful employment discrimination, including pay discrimination.

Indeed, all forms of unlawful employment discrimination under Title VII of the 1964 Civil Rights Act, including pay discrimination, should be confronted promptly, efficiently, fairly and forthrightly, consistent with the enforcement scheme provided for by the Congress which enacted that law.

Yet, once again we open debate on another of the magnificently misnamed and misleading bills—the so-called Fair Pay Act which its proponents claim will ''restore'' the intent of Congress in enacting the 1964 Civil Rights Act.

In fact, this bill does not restore anything, certainly not the rights of individuals under the Civil Rights Act and clearly not the statute of limitations set by Congress for the timely filing of unlawful employment discrimination charges, including pay discrimination charges, with the U.S. Equal Employment Opportunity Commission, the EEOC, or similar State agencies.

In fact, Congress fully intended the charge-filing period to be 180 days, or 300 days where there are similar State agencies, so as to encourage prompt, effective investigation, conciliation, and resolution of pay discrimination charges and charges of other forms of unlawful employment discrimination.

It was for that reason that Congress carefully chose and designed the current enforcement scheme, which has been consistently upheld by the Supreme Court for over 40 years.

Over that time, Congress and the courts have wisely and consistently encouraged cooperation and voluntary

compliance, in the first instance, by the parties themselves and with the timely assistance of the EEOC or similar State agencies, as the preferred method for addressing alleged unlawful employment discrimination.

Where voluntary compliance and conciliation are unsuccessful, title VII provides for vigorous enforcement by the private parties and the EEOC through litigation.

In other words, voluntary compliance and conciliation first, litigation thereafter whenever necessary.

So, in fact, the so-called Fair Pay Act does not restore the intent of Congress or the original statute of limitations for the filing of pay discrimination charges, and neither does it restore lost rights under the 1964 Civil Rights Act.

In fact, this bill dramatically expands the charge filing beyond all recognition and expectations of the Congress which passed the 1964 Civil Rights Act. If this bill were to become law there would be no statute of limitations, no time limit for the filing of alleged pay discrimination charges. Not 180 days, not 300 days, not years or even decades, as in the Ledbetter case, or even after the employee has long since retired and is receiving pension checks.

This bill not only expands the statute of limitations for filing charges of alleged unlawful pay discrimination, it also expands the class of individuals who can file such charges. And, beyond reversing the Supreme Court's Ledbetter decision, which was an intentional discrimination case, this bill expands the time for filing the type of unintentional, disparate impact, or adverse impact, charges involving pay practices which are facially neutral but could have some type of unintended consequences adverse to women or other protected groups.

As to the expansion of charge filing under the 1964 Civil Rights Act to individuals outside the protected groups, the so-called Fair Pay Act would eliminate the existing requirement that to have standing there must be an employer-employee or employer-applicant relationship. This bill expands the standing to sue requirements to include individuals affected by application of a discriminatory compensation decision or other practice. This language would appear to include spouse and other relatives, as well as anyone else affected indirectly.

I am not imagining this. In fact, when questioned about whether such a radical expansion of the law's standing requirements was intended by the bill's proponents, they responded that it was their intention to do so.

Thus, under this bill, not only could employees and retirees file charges of pay discrimination at any time, years or decades after the current statute of limitations, but so too could anyone affected by alleged pay discrimination file charges, presumably even after the employee is dead since the relatives or others were affected.

Let's also be candid about the type of pay discrimination alleged. The Ledbetter case involved only claims of intentional discrimination or disparate treatment of individuals in a protected group. This bill would apply also to unintentional discrimination—so-called disparate impact, or adverse impact, discrimination. Those are cases where the pay practices are neural and nondiscriminatory on their face, but through statistical analysis such pay practices may have an unintended, attenuated disparate impact on a protected group, such as women. Indeed, the challenged pay practices may not have been intentionally discriminatory treatment, or even have had a disparate impact at the time of their enactment, but sometime later a social scientist or statistician may assert that the pay practices subsequently may have had an adverse impact on one group or another.

Thus, in fact this bill goes well beyond simply reversing the Supreme Court's decision in Ledbetter as its proponents claim.

I am also convinced that the so-called Fair Pay Act which we are debating today would turn the system of enforcement established by Congress in 1964 on its head in a way that is most unfair.

At the heart of title VII and every other employment nondiscrimination statute—indeed, at the heart of every civil law enacted in this country—there is a statute of limitations within which claims and charges must be brought. Actions brought outside those statutory time periods are time barred.

The Supreme Court has consistently held in a long line of well-settled and well-recognized case law that under title VII the statutory period for filing a charge begins to run when the alleged discriminatory decision is made and communicated, not when the complaining party feels the consequences of that decision.

Proponents of this act are, in essence, permitting an open-ended period for filing charges of pay discrimination with every paycheck and every decision that contributed to current pay, or even with receipt of pension or other retirement checks. The so-called Fair Pay Act would result in a litigation ''gotcha'' strategy, or a ''litigation first and ask questions later'' enforcement scheme which is directly contrary to congressional intent in enacting title VII.

The current statutory charge-filing period for allegations of employment discrimination, including pay discrimination, did not suddenly pop up under the current Supreme Court's Ledbetter decision.

In fact, the Supreme Court has long upheld that the current statute of limitations for filing charges under title VII. In an often quoted passage from the 1974 Supreme Court decision American Pipe v. Utah, the title VII statutory limitation on the filing of charges beyond the 180- or 300-day period ''promote(s) justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared.''

In its 1979 decision in United States v. Kubrick, the Supreme Court said that the charge-filing period under title VII is ''balanced'' and ''fair'' to both employers and employees.

The current 180- or 300-day charge filing period allows the employer and the EEOC (1) to investigate the pay discrimination charge: (2) to seek compromise, conciliation, settlement and fair resolution of the charge; and (3) to allow both parties to prepare for litigation, if necessary, by gathering and preserving evidence for trial where resolution is not possible outside of litigation.

Now let's look at how the current system would change under the so-called Fair Pay Act.

The plaintiff's charges of pay discrimination could be brought years, decades, or even after the plaintiff's retirement from the company, or as I have stated earlier, by charges filed by relatives or other affected parties even after the employee's death. The employer's ability to defend its actions or decisions will have dissipated. Managers and decision-makers may no longer be available. Business units may have been reorganized, dissolved, or sold, and operations may have changed or been eliminated. Relevant documents and records which are not required to be preserved by law might have been disposed of, or are otherwise unavailable. In effect, as the Supreme Court stated in defending the current charge-filing period under title VII, unless an employer receives prompt notice of allegations of employment discrimination it will have no ''opportunity to gather and preserve the evidence with which to sustain (itself). . . .''

I am convinced that the only beneficiaries of the so-called Fair Pay Act—the only ones who will see an increase in pay—are the trial lawyers.

So, if the so-called Fair Pay Act:

(1) does not restore lost rights under the 1964 Civil Rights Act and other employment non-discrimination statutes it amends, but greatly expands them;

(2) does not restore the statute of limitations under title VII but eliminates any statute of limitations creating open-ended, unlimited liability;

(3) does not further the intent of Congress in title VII of the 1964 Civil Rights Act to encourage prompt investigation, conciliation and resolution of unlawful discriminatory pay practices; and

(4) does not result in increased pay except for the plaintiff's trial lawyers who will gain an unfair advantage when the employer's witnesses are unavailable, memories have faded, records are long gone, and the jury trial becomes a ''he said, she said'' based solely on the word of a corporation against that of an individual plaintiff;

Then what does the bill do?

I believe this bill undermines one of the bedrock principles of all Judeo-Christian jurisprudence—the statute of limitations. Frankly, I may be mistaken, but I know of no other civil statute that allows an unlimited, open-ended time for filing an action. Criminal statutes, of course, may be open-ended in bringing indictments for such felony crimes as murder, but even criminal misdemeanors generally have a statutory period within which prosecutions must be brought.

For all these reasons, I suggest that this largely political vote on this misnamed and misunderstood bill is one that is designed to place opponents of the bill in a false light of being unsympathetic to victims of pay discrimination. That is simply untrue.

I urge a ''no'' vote on cloture on the motion to proceed to this bill.

Mrs. HUTCHISON. Mr. President, I have always supported efforts to ensure fair pay and fair process. I would support a longer statute of limitation for gender discrimination in the workplace, but the bill before us eliminates any statute of limitation. A reasonable statute might be 1 or 2 years after the discovery of the inequity. The purpose of statutes of limitation is to ensure that witnesses are available and defendants have records to defend themselves fairly. That is the reason that statutes of limitation are an integral part of our legal system.

Mr. TESTER. Mr. President, I rise today to offer my support for protecting American workers from willful pay discrimination. To show my support, I will support cloture on the Lilly Ledbetter Fair Pay Act of 2007, H.R. 2831. I appreciate Chairman KENNEDY and the bipartisan coalition he has built around this legislation to ensure equal pay for equal work.

Every employee deserves to earn the same pay for doing the same work.

Our country was founded on the principle that all men and women are created equal.

Our workers should be paid equally for doing the same job.

As President Kennedy stated when he signed the original Equal Pay Act in 1963, protecting American workers against pay discrimination is ''basic to democracy''. We owe our workers the same protection today that President Kennedy did in the 1960s.

Despite our obligation to this issue, our work is far from complete. Forty-five years after he signed that historic piece of bipartisan legislation, American women still only make 77 cents for every dollar a man makes for doing the same work. African-American workers make 18 percent less than white workers for doing the same work and Latinos make 28 percent less for doing the same work. Unfortunately for all of us, American Indians make even less for doing the same work.

Congress cannot ignore this kind of discrimination. We have a duty to support this bill and speak out against pay discrimination.

This bill will merely restore the law to what it was before the Supreme Court's decision in Ledbetter. This bill merely states that a pay discrimination claim accrues when a pay decision is made, when an employee is subject to that decision, or at any time they are injured by it.

Lilly Ledbetter had worked at Goodyear for 19 years when she discovered she was being paid significantly less than her male counterparts for doing the exact same work. A jury agreed and awarded her $223,776 in back pay, and over $3 million in punitive damages. The United States Supreme Court however, interpreted the law to take away her jury award, saying that the 180-day filing limit had begun way back when her very first paycheck showed lesser pay, nearly 18 years earlier. So because too much time had elapsed the Court said, her claim was invalid. Despite Goodyear's willful wage discrimination, the Court offered her no protection. In fact, it reversed the protection the jury awarded her.

We are here today to undo this wrongheaded decision and clarify this law to make it fair to American workers.

Opponents will argue that this bill will lead to a flood of litigation, benefiting nobody but trial attorneys. They forget, however, that this bill merely returns the law to how the vast majority of States, including the great State of Montana, interpreted it before the Ledbetter decision. This bill will only change the way courts interpret the law in 7 States.

Opponents will also argue that this bill will punish businesses for acts of discrimination in some cases, decades ago, before management and corporate culture changed. The argument is hollow, however, because the bill contains a provision to limit claims filed to a 2-year maximum. In the spirit of negotiation, proponents had to limit potential awards. Take Lilly Ledbetter's case, for example. If this law would have been in effect for her, 16 out of the 18 years that she suffered pay discrimination would still go unpunished.

This bill is not perfect. We still have a long ways to go to protect American workers from pay discrimination. But this bill is a step in the right direction and the time is now. The House of Representatives passed this important bill last July, and It is time for this body to do the same. President Kennedy was absolutely right to support the Equal Pay Act in 1963. Forty-five years later, this bill will ensure that we turn the clock forward, not backward, on pay discrimination.

I hope my colleagues will join me in supporting this important legislation.

Mr. AKAKA. Mr. President, yesterday was Equal Pay Day in America. It is befitting that it was on a Tuesday because Tuesday is the day on which women's wages catch up to men's wages from the previous week. It is most unfortunate that women continue to be discriminated against by employers, in particular those who routinely pay lower wages for jobs that are dominated by women.

However, today my colleagues in the Senate will have an opportunity to begin the process to restore the intent of Congress as it relates to the fundamental fairness to millions of workers. We will have a chance to override a decision by the Supreme Court last June, in the case of Ledbetter v. Goodyear Tire & Rubber Company. In this case, the Court, in a 5-to-4 ruling, reversed a longstanding interpretation, used by nine Federal circuits and the Equal Employment Opportunity Commission, EEOC, under which the statute of limitations for pay discrimination begins to run each time an employee receives a paycheck or other form of compensation. Instead, the Court ruled that the 180-day statute of limitations on filing a discrimination claim with the EEOC begins to run when the original discriminatory decision is made and conveyed to the employee, regardless of whether the pay discrimination continues beyond the 180-day period. This is an unfair and unjust ruling. For employees who are prohibited from having access to data reflecting the wages of other employees, it is impossible for them to ascertain whether they have been a victim of wage discrimination—let alone, to know from the original time of the discriminatory act. In many cases, employees may not know until years later that they have been discriminated against on the basis of pay.

I urge my colleagues to support cloture on the motion to proceed to this important legislation, and to support enactment of this bill. The Lilly Ledbetter Fair Pay Act of 2007 will restore the interpretation that the statute of limitations begins to run each time an employee receives a paycheck or other form of compensation reflecting the discrimination, otherwise known as the ''paycheck accrual'' rule. It would ensure that employees who can prove pay discrimination based on race, color, religion, sex, national origin, age, or disability will not be forever barred from seeking redress because they did not learn that they were victims of pay discrimination within 6 months after the discrimination first occurred.

Although women still only earn 77 cents for every $1 earned by men, we should not be moving backwards. It is simple, this legislation will restore an employee's right to seek restitution against wage discrimination at the time the employee discovers it. In addition, it is important to note that this legislation is not just about gender pay discrimination. In 2007, EEOC received more than 7,000 pay discrimination charges. While some are on the basis of gender, others are on the basis of race, disability, national origin, and age.

Mr. President, I urge my colleagues to do what is right and support cloture and passage of the Lilly Ledbetter Fair Pay Act.

Mr. BINGAMAN. Mr. President, I rise today in support of the Fair Pay Restoration Act, which is currently before the Senate.

On May 29, 2007, the Supreme Court handed down a decision in the case of Ledbetter v. Goodyear Tire & Rubber Co., Inc. After her retirement from Goodyear in 1998, Lilly Ledbetter filed a sex discrimination case against her employer. Ms. Ledbetter claimed that she had been paid significantly less than her male counterparts during her work as one of the few female supervisors at Goodyear. Unfortunately, due to a company policy that prohibited employees from discussing their pay, Ms. Ledbetter couldn't confirm the discrimination until she received an anonymous note that detailed the salaries of three of the male managers. This note confirmed that Ms. Ledbetter had been paid 20 +percent to 40 percent less than the male managers throughout her employment with Goodyear. A jury found that this pay discrepancy was based, at least in part, on sex discrimination.

Ms. Ledbetter is an example of an employee who has done all that is expected of her. By all reports, she performed her job admirably, the same work being performed by her male counterparts. She raised concerns about her pay level and eventually brought suit against her employer.

Through this process came the Supreme Court decision which limits an employee's right to collect backpay to 180 days after the issuance of a discriminatory paycheck. This is true even if the employee was unaware of the discrimination or, as in the case of Ms. Ledbetter, was unable to discover proof of such discrimination through the deliberate efforts of her employer.

The Fair Pay Restoration Act is a return to the rational, reasonable approach that had been applied by Federal circuit courts in most States, including my home State of New Mexico, prior to the Ledbetter decision. Under the previous rule, an employee could bring a claim within 180 days of the last discriminatory paycheck. This bill would also implement a limitation on backpay claims to 2 years, providing businesses a protection against claims that are allowed to accumulate over years and encouraging employees to act with all due diligence in pursuing discrimination claims. The Congressional Budget Office has determined that the Fair Pay Act is unlikely to increase the number of claims brought in discrimination cases.

We must work to ensure that the courts remain a source of redress for employees many of whom are fighting much larger and better financed employers. Employees should not face unreasonable obstacles in their efforts to pursue a discrimination claim and to seek appropriate remedies. By placing an undue burden on employees to quickly prove discrimination, the Ledbetter decision has negatively altered the use of the courts as a remedy for discriminatory conduct by employers. Employers who are more successful at hampering their employees' efforts to prove discrimination and delay are now afforded more protection than those employers who treat their employees justly under the law. The Fair Pay Restoration Act seeks to restore this equity and to ensure that employees and employers have full and equal access to the courts.

Mr. FEINGOLD. Mr. President, I am a cosponsor of the Fair Pay Restoration Act, legislation that protects American workers from pay discrimination, and I am glad the Senate is debating it.

This bill is designed to overrule an incorrect court decision that cut off one woman's efforts to seek recourse for pay discrimination she experienced at the hands of her employer. As one of the few female supervisors at her company's plant, Lilly Ledbetter was paid substantially less than male employees in the same position who performed the same duties. This information about unequal pay was kept confidential. It was only after Ms. Ledbetter received an anonymous note revealing the higher salaries of other managers who were male that Ms. Ledbetter recognized that she was being paid less because she was a woman. Ms. Ledbetter's case went to trial and a jury awarded her full damages and back pay.

Last year, in a sharply divided opinion, the Supreme Court ruled that Ms. Ledbetter had filed her lawsuit too long after her employer originally decided to give her unequal pay. Under title VII of the Civil Rights Act of 1964, an individual must file a complaint of wage discrimination within 180 days of the alleged unlawful employment practice. Before the Ledbetter decision, each time an employee received a new paycheck, the 180-day clock was restarted because every paycheck was considered a new unlawful practice.

The Supreme Court changed this longstanding rule. It held that an employee must file a complaint within 180 days from when the original pay decision was made. Ms. Ledbetter found out about the decision to pay her less than her male colleagues well after 180 days from when the company had made the decision. Under the Supreme Court's decision, Ms. Ledbetter was just too late to get back what she had worked for. It did not matter that she only discovered that she was being paid less than her male counterparts many years after the inequality in pay had begun. And it did not matter that there was no way for her to find out she was being paid less until someone told her that was the case.

Mr. President, to put it simply, the Supreme Court got it wrong. It ignored the position of the Equal Employment Opportunity Commission and the decisions of the vast majority of lower courts that the issuance of each new paycheck constitutes a new act of discrimination. It ignored the fact that Congress had not sought to change this longstanding interpretation of the law.

The decision also ignores the workplace reality for millions of American workers just like Ms. Ledbetter. Workers often have no idea when they are not being compensated fairly because their companies do not disclose their employee's salaries. Because of the secrecy surrounding salaries, pay discrimination is one of the most difficult forms of discrimination to identify. Unlike a decision not to promote or hire, discrimination on the basis of pay can remain hidden for years. The Supreme Court's decision leaves victims of pay discrimination who do not learn about the discrimination within 6 months of its occurrence with no ability to seek justice. In the wake of this decision, employers can discriminate against employees by unfairly paying them less than what they are due, and as long as the employee does not learn about the discrimination and file a complaint within 6 months, the employer gets off scot free.

The financial impact of a late filing is felt for years, even into retirement. Even a small disparity in pay can add up to thousands of dollars over multiple years. This is because other forms of compensation such as raises, overtime payments, retirement benefits, and even Social Security payments are calculated according to an employee's base pay. Thus, the Supreme Court's decision harms American workers even after their careers are over.

The Fair Pay Restoration Act reestablishes a reasonable timeframe for filing pay discrimination claims. It returns us to where we were before the Court's decision, with the time limit for filing pay discrimination claims beginning when a new paycheck is received, rather than when an employer first decides to discriminate. Under this legislation, as long as workers file their claims within 180 days of a discriminatory paycheck, their complaints will be considered.

This bill also maintains the current limits on the amount employers owe once they have been found to have committed a discriminatory act. Current law limits backpay awards to 2 years before the worker filed a job discrimination claim. This bill retains this 2-year limit, and therefore does not make employers pay for salary inequalities that occurred many years ago. Workers thus have no reason to delay filing a claim. Doing so would only make proving their cases harder, especially because the burden of proof is on the employee, not the employer.

Opponents say that this bill will burden employers by requiring them to defend themselves in costly litigation. This is simply not the case. Most employers want to do right by their employees, and most employers pay their employees fair and equal wages. This legislation will only affect those employers who underpay and discriminate against their workers, hoping that employees, like Ms. Ledbetter, won't find out in time. The Congressional Budget

Office has also reported that restoring the law to where it was before the Ledbetter decision will not significantly affect the number of filings made with the EEOC, nor will it significantly increase the costs to the Commission or to the Federal courts.

Yesterday, individuals from across the country observed Equal Pay Day, a day which reminds us as a nation that a woman is still paid 77 cents for every dollar earned by a man. This disparity is all too real. Ending it will require commitment, and we can show that commitment by passing this bill. The last thing American women need is a Supreme Court decision that prevents them from seeking compensation from employers who have engaged in outright discrimination.

In addition to passing the Fair Pay Restoration Act, Congress needs to do more to ensure all of America's citizens receive equal pay for equal work. Wage discrimination costs families thousands of dollars each year. This is hard-earned money that working women and men simply cannot afford to lose. We should pass the Fair Pay Act introduced by Senator TOM HARKIN and the Paycheck Fairness Act introduced by Senator HILLARY RODHAM CLINTON. Senator HARKIN's legislation would amend the Fair Labor Standards Act to prohibit wage discrimination on account of sex, race, or national origin. Senator CLINTON's legislation would strengthen penalties for employers who violate the Equal Pay Act and require the Department of Labor to provide training to employers to help eliminate pay disparities. I can think of no better way to commemorate Equal Pay Day than to pass these three pieces of legislation now.

Wage discrimination is not just a women's issue. Individuals and organizations from every part of our country, of different political beliefs and racial backgrounds, men and women, older Americans, religious groups, and individuals with disabilities have come out in support of the Fair Pay Restoration Act. These supporters understand that this legislation not only assists female workers who are trying to fight discrimination based on their sex. Because the Ledbetter decision established a general rule for all title VII employment discrimination claims, they know that this legislation is needed to restore the ability of employees across the Nation to redress discrimination based on factors such as race, national origin, age, religion, and disability.

Congress has repeatedly passed landmark bipartisan legislation to eliminate discrimination in the workplace. These laws include the Equal Pay Act of 1963, title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991. Indeed, we have made great progress in securing equal pay rights, but we must continue to defend these rights. Justice Ginsburg, in her sharply worded dissent in the Ledbetter decision, called on Congress to do something to rectify the inequity that the Supreme Court's decision left to our country. The Fair Pay Restoration Act is our answer to Justice Ginsburg's call.

Lilly Ledbetter turned 70 years old this month. For almost two decades, Ms. Ledbetter worked hard for a company that discriminated against her by not paying her what it was legally required to pay. The Supreme Court, in its decision last year, ended Ms. Ledbetter's long quest for justice. She can no longer recover what was rightfully hers. Since the Ledbetter decision, other workers have already had their cases dismissed. These unjust outcomes will continue to mount until Congress acts. Each case is a new injustice, and it is an avoidable injustice because Congress can take steps right now to reverse the Supreme Court's erroneous decision.

Passing the Fair Pay Restoration Act is an essential step in the right direction—a step toward the day when the basic right of American workers to equal pay for equal work will be realized. I urge my colleagues to stand up for the rights of women and all American workers by voting for this vital legislation.

Mr. BROWN. Mr. President, our country has lost 230,000 jobs in just the first 3 months of this year. The unemployment rate has gone up to 5.1 percent. In Ohio, unemployment hovers around 6 percent.

Women are also disproportionately at risk in the current foreclosure crisis, since women are 32 percent more likely than men to have subprime mortgages. Existing pay disparities for women exacerbate the economic strain on women and on households run by women, since women earn only 77 cents for every dollar earned by men. Women have significantly fewer savings to fall back on in a time of economic hardship. Nonmarried women have a net worth 48 percent lower than nonmarried men, and women are less likely than men to participate in employer-sponsored retirement savings programs.

These facts make this bill—the Lilly Ledbetter Fair Pay Restoration Act—all the more timely. Lilly Ledbetter was one of just a handful of female supervisors in the Goodyear tire plant in Gadsden, AL. For years, she endured insults from her male bosses because she was a woman in a traditionally male job. She worked 12-hour shifts—which often stretched to 18 hours or more when another supervisor was absent. But she did not know she was being paid less than men until later in her career. She had no way of knowing how much her coworkers made.

Late in her career with the company, Lilly got an anonymous note in her mailbox informing her that Goodyear paid her male counterparts 20 to 40 percent more than she earned for doing the same job. She then filed a complaint with the Equal Employment Opportunity Commission. She also filed a lawsuit. In court, a jury found that Goodyear discriminated against Lilly Ledbetter. The jury awarded Ms. Ledbetter full damages, but the Supreme Court said she was entitled to nothing because she was too late in filing her claim.

The Court's Ledbetter decision reversed decades of precedent in the courts of appeals. It also overturned the policy of the EEOC under both Democratic and Republican administrations. The Bush EEOC was on the side of Lilly Ledbetter until the Solicitor General took over for the Bush administration. The Ledbetter decision leaves workers powerless to hold their employers accountable for their unlawful, unjust conduct. Employers who can hide discrimination from their workers for just 180 days get free rein to continue to discriminate.

The Fair Pay Act, of which I am a proud cosponsor, will allow workers to file a pay discrimination claim within 180 days of a discriminatory paycheck. It only makes sense that as long as the discrimination continues, a worker's ability to challenge it should continue also. This legislation would simply restore the law to what it was in almost every State in the country the day before the Ledbetter decision. We know it is workable and fair—it was the law of the land for decades.

Now, some in this Chamber will say this will result in more litigation. That is wrong. The Fair Pay Act restores the law to what it was before the Supreme Court decision. In fact, the Congressional Budget Office says the bill will not establish a new cause of action for claims of pay discrimination. Restore the Fair Pay Act. I urge my colleagues to support this bill.

Mr. LAUTENBERG. Mr. President, I want to express my strong support for the Lilly Ledbetter Fair Pay Act of 2007. I want to thank Senator KENNEDY for his leadership on this issue and on so many civil rights issues throughout his Senate career.

Earlier this week, we observed Equal Pay Day. Equal Pay Day is the day up until which a woman had to work past the end of 2007 to make as much money as a man made in 2007 alone. That means that a woman has to work almost 16 months to make what a man makes in 12.

Every day in this country, women get up and go to work, just like men. Women—who make up nearly 50 percent of the American workforce—put in 8, 10, 12 or more hours every day. And just like men, women go home each night to families that rely on the money they earn. In the millions of households led by single mothers, these women's paychecks are the only source of income.

But there is one day that looks very different for men and women—payday.

A woman makes only 77 cents for every dollar that a man makes. These

inequalities cut across educational divides. In my State of New Jersey, a college-educated woman makes only 72 cents for every dollar a college-educated man makes.

This wage gap costs working families $200 billion in income every year. And the strain on working families is only getting worse in today's struggling economy, which is hitting women especially hard. In 2007, women's wages fell 3 percent, while men's wages fell one-half of 1 percent. Unemployment for women also rose faster than for men during the past year.

Yet last year, the Supreme Court reached a decision that made it even harder for women.

After spending almost 20 years working long hours as a supervisor at a Goodyear plant in Alabama, Lilly Ledbetter discovered that she was making 20 percent less than the lowest paid male supervisor.

A jury awarded her back pay and damages, but the Supreme Court said that she filed her lawsuit against her employer too late. The Supreme Court said that she could not sue her employer more than 180 days after the discrimination first began.

That simply does not make sense. Every time a worker receives a discriminatory paycheck, the employer is discriminating against the worker. So every paycheck should start a new clock for challenging that discrimination.

That was the rule in all but four States up until the day that Ledbetter was decided. I am proud to say it was the rule in New Jersey. And it should be the rule again.

It is important to recognize that, although Ledbetter involved gender discrimination, its implications are much more far-reaching. The Ledbetter decision will have the same effect on cases brought for discrimination based on race, national origin, religion, disability, and age. In all of these cases, victims of pay discrimination will be without recourse as long as their employers can get away with it for 180 days.

The Lilly Ledbetter Fair Pay Act would simply restore the pre-Ledbetter rule that every paycheck is an act of ongoing discrimination. It would not create any new right or remedy.

I am proud to be a cosponsor of the Senate version of this bill, and I support it wholeheartedly. I hope that my colleagues will join me in voting for this important civil rights law. It is the right thing to do for America's working families.

Mr. SANDERS. Mr. President, yesterday was Equal Pay Day. Equal Pay Day is the day that marks the extra months into the next year that a woman needs to work in order to receive pay equal to what a man would make for the equivalent job in only 12 months. Yes, Mr. President, as astonishing as it is, in the year 2008, it takes nearly 4 extra months for a woman to bring home the same amount of money as her male counterpart. According to the U.S. Census Bureau and Bureau of Labor Statistics, women earn, on average, only 77 cents for every dollar earned by men in comparable jobs. What a truly unthinkable, and frankly disgraceful, circumstance—one that we must do everything within our power to change.

And today we can take a small but very significant step to make sure that Americans have the legal opportunity to challenge pay discrimination by supporting the Lilly Ledbetter Fair Pay Act. Before I begin, let me thank Senator KENNEDY for his efforts to ensure that we don't just stand by doing nothing, following an ill-advised Supreme Court ruling that takes us a step back in time by making it extraordinarily difficult for victims of pay discrimination to sue their employers.

This Congress must not stand by while the Court forces an unreasonable reading of the law. Through this decision, it tosses aside its own precedent and weakens protection provided by the Civil Rights Act to rule in favor of an employer that had underpaid a female employee for years. That is why I call on all of my colleagues, on a bipartisan basis, to stand together today to send a clear signal that pay discrimination is unacceptable and will not be tolerated by voting to move forward to debate the Lilly Ledbetter Fair Pay Act.

This legislation overturns the Court's decision in Ledbetter v. Goodyear Tire. The Court held employees who are subjected to pay discrimination must bring a complaint within 6 months of the discriminatory compensation decision, meaning the day the employer decides to pay her less, and that each paycheck that is lower because of such discrimination does not restart the clock. Under this decision it doesn't matter if the discrimination is still ongoing today or if the worker initially had no way of knowing that others were being paid more for the same work just because of age, race, gender or disability. Most inexplicably, the majority insisted it did not matter that Goodyear was still paying her far less than her male counterparts when she filed her complaint. Mr. President, if you asked anyone on the street, they would tell you that this decision simply defies common sense. In fact, it is so clearly contrary to Americans' sense of right and wrong that everyone should be outraged.

Lilly Ledbetter, a loyal employee for 19 years, discovered she was being paid significantly less than the men in her same job. At first, her salary was in line with that of her male colleagues, but over time she got smaller raises creating a significant pay gap. How was she to know that this discrimination was happening? Hardworking Americans do not have the time to sit around talking about their salaries. It is clearly not her fault she didn't discover this inequity sooner.

In closing, it is disturbing that the Court chose to gut a key part of the Civil Rights Act that has protected hardworking Americans from pay discrimination for the past 40 years. It is our duty to send a message to employers that this type of discrimination is unacceptable. Fortunately, Congress can amend the law to undo this damaging decision. And, it should do so without delay.

Mr. REED. Mr. President, I strongly support passage of H.R. 2831, the Lilly Ledbetter Fair Pay Act. We must continue to ensure that workers are protected from pay discrimination and treated fairly in the workplace.

As an original cosponsor of the Senate companion of this legislation, I am pleased that this bipartisan bill seeks to address and correct the Supreme Court's Ledbetter decision from last spring that required employees to file a pay discrimination claim within 180 days of when their employer initially decided to discriminate, even if the discrimination continues after the 180-day period. The Ledbetter decision overturned longstanding precedent in courts of appeals across the country and the policy of the Equal Employment Opportunity Commission under both Democratic and Republican administrations.

H.R. 2831 returns the law to the pre-Ledbetter precedent and would make clear that each discriminatory paycheck, not just the first pay-setting decision, will restart the 180-day period. This allows workers to demonstrate and detect a pattern or cumulative series of employer decisions or acts showing ongoing pay discrimination. As Justice Ginsburg noted in her Ledbetter dissent, such a law is ''more in tune with the realities of the workplace.'' The Supreme Court majority failed to recognize these realties, including that pay disparities typically occur incrementally and develop slowly over time, and they are not easily identifiable and are often kept hidden by employers. Many employees generally do not have knowledge of their fellow coworkers' salaries or how decisions on pay are made.

Yesterday was Equal Pay Day, an opportunity to recognize the progress we have made as a nation on ensuring fairness, justice, and equality in the workplace. But there are barriers still to be overcome to close the pay gap and make certain that an individual's gender, race, and age are not an impediment to their economic and employment growth. The Lilly Ledbetter Fair Pay Act is one step forward in the direction of ensuring this growth and I urge my colleagues to support it.

Mr. KERRY. Mr. President, Lilly Ledbetter was the only female manager working alongside 15 men at a Goodyear tire plant in Gadsden, AL. One day, she learned that, for no good reason, she had been receiving hundreds of dollars less per month than her male colleagues—even those with far less seniority.

Unfortunately, the wrongs done to Lilly Ledbetter are familiar to far too

many women who work every bit as hard as men do but take home a smaller paycheck.

We must continue to fight to guarantee equal pay for women everywhere and justice for those women who are discriminated against.

It is disgraceful that women still make just 77 cents for every dollar earned by men. In fact, yesterday marked Equal Pay Day—the symbolic day on which a woman's average pay catches up to a man's average earnings from the previous year. Think of all the hours of work done since January 1—those are hours that women have worked just to bring home the same amount of money as a man. It is equivalent to months of working with no pay—something I am sure the bosses doling out unequal paychecks wouldn't stand.

Unequal pay for women is an injustice whose poison works on multiple levels. Women aren't just paid less for doing the same work—they are also given a none-too-subtle message that their thoughts and efforts are less valued just because of their gender.

I have two wonderful daughters, Alex and Vanessa. Alex is a filmmaker and Vanessa is a doctor. If it weren't for the women who came and marched before them, they wouldn't have had the access to high school and college sports that made such a difference in their development. But that cause isn't yet complete. The progress isn't yet perfected. We are fighting today so that they are never told that a man deserves a penny more for doing the same hard work they have done.

In the face of injustice, Lilly Ledbetter and many women like her have had the courage to stand up to sexist bosses, demand her legal right to equal pay for equal work, and say ''enough is enough.'' The trial was difficult, but Lilly stood strong—and the jury awarded her a large legal settlement.

Then Lilly's case ran head-on into a group of men—and one woman—above whose heads she could not appeal: the U.S. Supreme Court. The Court's 5-to-4 ruling went against common sense and most people's sense of basic fairness. They ruled that the Equal Rights Act of 1964 requires an employee to file a discrimination claim within 180 days of a boss's decision to discriminate—rather than 180 days from the last discriminatory paycheck. Amazingly, Lilly Ledbetter didn't just lose her settlement and her standing to seek justice—she also lost future retirement benefits which will now be awarded according to decades of discriminatory pay.

The ruling goes against common sense and the practical realities of the workplace. It goes against our basic sense of fairness. People often don't know what their colleagues are being paid and thus don't find out for some time that they are being discriminated against. Many never find out at all that they have been discriminated against for a lifetime—and many who do choose to stay quiet rather than rock the boat, confront their bosses, or be perceived as angry when they have every right to be.

As Justice Ruth Bader Ginsburg wrote, ''In our view, the court does not comprehend, or is indifferent to, the insidious way in which women can be victims of pay discrimination.'' The Court's only woman took the rare and defiant step of delivering her eloquent dissent out loud.

Five male Justices denied justice to thousands of women who could now be denied legal standing in similar cases, not because these women hadn't been discriminated against but because too much time had passed between the moment when their bosses started discriminating against them and the moment they either found out about it or took action to stop it. In effect, it rewards bosses for stringing out their deceit.

One of these five male Justices was Samuel Alito—against whose hasty confirmation I waged a lonely filibuster battle for which I was widely criticized back in 2006. Back then, I worried and warned that Alito would create a 5-to-4 majority to deny hard-working Americans their day in court. Which is exactly what happened to Lilly Ledbetter. I don't regret my filibuster one bit—it was an important statement drawing a line in the sand against this administration's radical judicial nominees. I just wish we could have won that fight.

Would Sandra Day O'Connor, the woman Alito replaced, have voted this way? I strongly suspect not. And so, with Sam Alito's decisive vote, our judicial branch struck a major blow against justice, against fair treatment for all, and against women's rights. The good news is that Congress still makes the laws—and we have the opportunity to make clear the intent of our fair pay laws and ensure that female victims of pay discrimination have their day in court.

The Lilly Ledbetter Fair Pay Act clarifies what the Court ought to have known—that the laws against pay discrimination apply to every paycheck a worker receives—not to the moment a boss begins discriminating. A person only gets 180 days to file a discrimination claim—and the clock should be reset to zero every time a discriminatory paycheck goes out. We should make it easier for discrimination to be rooted out not harder.

Businesses have nothing to fear from this bill—unless they are acting disgracefully, in which case they should be afraid—they should be very afraid. But employers will not be asked to make up for salary difference from decades ago—current law, rightly or wrongly, limits backpay awards to 2 years before the worker filed a job discrimination claim. This bill wouldn't change that limit.

We should and must do whatever we can to chip away at discrepancies that still exist in pay between men and women. When the Equal Pay Act of 1963 passed, women were making 59 cents a dollar. Forty five years later, that number is 77 cents. In other words, women are narrowing the gap by less than half a penny a year. We must do better.

If I am lucky enough to have them, I don't want my future granddaughters and great-granddaughters to wait another 45 years for equal wages.

In so many ways, discriminatory pay contributes to our worst shortcomings as a society. It discriminates against children in poverty—who are far more likely than other children to be raised by single mothers. It also discriminates against women of color—who are more likely to live in households without a male income-earner.

Each paycheck and each discriminatory raise compounds injustice upon injustice. Unfortunately, the pay gap runs across industries and education levels. This isn't something that fixes itself at higher levels of income. Comparing men and women with comparable education, work title, and experience, over the course of their lives, women with a high school diploma earn $700,000 less. Women with a college diploma earn $1.2 million less. And women with advanced degrees earn $2 million less over time.

To our enduring shame, it was once true that American slaves were treated as three-fifths of a human being. But it remains true today that women are paid as just three-quarters of a man.

We can't unravel or erase hateful attitudes toward women in a single day or with a single vote. But we have a bill before us today that will restore women's right to seek equal justice under the law. We should pass the Lilly Ledbetter Fair Pay Act today and do all that we can to live according to the truth that, while self-evident to Thomas Jefferson, remains elusive to employers everywhere: that all of us are created equal.

Mr. BIDEN. Mr. President, America has come a long way in addressing discrimination in the workplace since the days my ancestors faced ''No Irish Need Apply'' signs. Yet discrimination today still exists. Even now, women still earn on average 77 cents for every dollar a man earns performing the same work. This is not fair. And with a record 70.2 million women in the workforce, this wage discrimination hurts American families across the country.

Since passage of title VII of the Civil Rights Act of 1964, working women have been able to challenge discriminatory pay. Most appellate courts, including the Third Circuit that incorporates Delaware, and the Equal Employment Opportunity Commission operated under a rule that gives workers a reasonable time limit to file complaints and receive a fair hearing in our country's courtrooms.

Last year, the Supreme Court in Ledbetter v. Goodyear Tire and Rubber

Co., ignored the basic reality of how—and indeed, when—workers discover that they have been the victim of paycheck discrimination. The Court ruled that employees must sue within 180 days of the employer's pay decision. That Supreme Court's ruling, in the words of Justice Ginsberg, is at best a ''cramped interpretation'' of title VII and at worst reverses the hard-won gains women have made in the workplace.

As a practical matter, employees often do not know what their peers earn, the amount of annual raises, or how wages are determined. Given the typical confidentiality rules covering pay issues, the Supreme Court's ruling means that women will in many instances be shut out from recovering what they are owed after years of unfair pay. This interpretation makes title VII of the Civil Rights Act an empty promise.

The Supreme Court's decision will hurt Americans from all walks of life. It perpetuates inequality by allowing workers to receive lower pay because of their age, gender, religion, ethnicity, or disability. It threatens to stop and reverse the steady progress we have made toward job equality by letting employers off the hook for prolonged discrimination. The House took the first step toward correcting this injustice when it passed the Lilly Ledbetter Fair Pay Act of 2007. The Senate now has the opportunity, and an obligation, to do the same. I am a cosponsor and strong supporter of this bill, which would simply clarify and restore the rule the country operated under before the Supreme Court's decision. That rule was strong and simple—each separate paycheck based on a previous discriminatory decision is itself an unlawful employment practice.

Mr. President, this Fair Pay Restoration Act isn't a radical change of direction. It is really nothing new. We know the consequences of the act because for years American businesses and their workers operated under the standards it restores. It will not open the floodgates for litigation or force employers to fork out exorbitant sums of money—it will just restore the rules of the game before the Court changed them. It gives Americans who are doing the same job as someone else—but for lower pay—access to courts and equality.

In today's economy, coping with a recession and a housing crisis, American workers need our help. The basic social compact that built our economy, that created our middle class, that provided opportunities for millions—that compact is breaking down. This is one small step to restore some fairness.

Mr. President, equal work should mean equal pay. I urge my colleagues to join me and restore that principle.

Mr. LEAHY. Mr. President, the Supreme Court's recent decision in Ledbetter v. Goodyear Tire struck a severe blow to the rights of working women in our country. More than 40 years ago, Congress acted to prevent discrimination in the workplace based on an employee's sex, race, color, national origin or religion. The Ledbetter decision is yet another example of the Supreme Court misinterpreting congressional intent and denying justice to a victim of discrimination.

For nearly two decades, Lilly Ledbetter, a supervisor at Goodyear Tire, was paid significantly less than her male counterparts. Nonetheless, a thin majority of Justices on the Supreme Court found that she was ineligible for title VII protection against discriminatory pay because she did not file her claim within 180 days of Goodyear's repeatedly discriminatory pay decisions.

The Supreme Court's ruling sent the message to employers that wage discrimination cannot be punished as long as it is kept under wraps. At a time when one third of private sector employers have rules prohibiting employees from discussing their pay with each other, the Court's decision ignores a reality of the workplace—pay discrimination is often intentionally concealed. Ms. Ledbetter only found out that she was earning as much as $15,000 less per year than a male coworker with the same job and seniority when an anonymous letter appeared on her desk weeks before her retirement. By the time she retired in 1997, Ms. Ledbetter's monthly salary, despite receiving several performance based awards, was almost $600 less than the lowest paid male manager and $1,500 less than the highest paid male manager.

Congress passed title VII of the Civil Rights Act to protect employees like Lilly Ledbetter from discrimination because of their sex, race, color, national origin or religion—however the Supreme Court's cramped interpretation guts the purpose and intent of the bipartisan and historic effort to root out discrimination. Ms. Ledbetter argued that her claim fell within the 180 day window provided under title VII for filing claims because she suffered continuing effects from her employer's discrimination. After filing a complaint with the Equal Employment Opportunity Commission, a Federal jury found that she was owed almost $225,000 in back pay. However, five Justices of the Supreme Court overturned the jury's decision, holding that Ms. Ledbetter was not protected under the law because she filed suit more than 180 days after her employer's discriminatory act.

This Supreme Court decision contradicts both the spirit and clear intent of title VII of the Civil Rights Act, which was created to protect workers from discriminatory pay. The Court's 5-to-4 decision undercuts enforcement against discrimination based on sex, race, color, religion, and national origin. In Justice Ginsburg's dissent, she wrote that the Court's decision ''is totally at odds with the robust protection against workplace discrimination Congress intended Title VII to secure.''

This October, my wife Marcelle and I will host Vermont's 12th annual Women's Economic Opportunity Conference, a chance for women to come together to learn new career skills. Thousands of women in my State have used these skills to advance their careers. It is a shame that despite such initiatives and years of hard work, women continue to suffer pay discrimination. I commend the Vermont Legislature for passing laws requiring equal pay for equal work and barring employers from retaliating against employees for disclosing the amount of their wages. Unfortunately, not all States offer these protections.

For all of the gains that women have made in the past century, there remains a troubling constant—women continue to earn less than men—on average, only 77 cents on the dollar. Discriminatory pay not only affects women it affects their children, their families, and all of us who believe in the words inscribed on the Vermont marble of the Supreme Court building ''Equal Justice Under Law.''

The Lilly Ledbetter Fair Pay Act would correct the unfortunate and cramped ruling of the Supreme Court which denied Ms. Ledbetter equal justice. It would amend the Civil Rights Act of 1964 to clarify that an unlawful employment practice occurs not only when that discriminatory decision first goes into effect but each time an individual is affected by it, such as each time compensation is paid.

The House of Representatives passed this bill in a bipartisan vote last summer. It also has bipartisan support here in the Senate, but unfortunately some Republicans have objected to even considering the bill. I hope their filibuster can be broken so that we can clarify that discrimination against hard-working men and women in their own workplaces is not the American way. The law and our justice system should protect working people when it happens. Our bill underscores this vital American principle against efforts to devalue it.

Mr. DODD. Mr. President, I wish to speak about an issue of economic fairness that affects the very dignity and the security of millions of Americans: the right to equal pay for equal work. Before I begin, let me thank the chairman of the HELP Committee for his leadership on this important issue. The Fair Pay Restoration Act goes a long way toward ensuring that right. In a perfect world, of course, we could take that right for granted; we could take it for granted that the value of work lies in a job well done, not in the race or gender of the person who is doing it. But we don't live in that world. We know that, even now, employers can cheat their employees out of equal pay, and equal work.

That is what happened to Lilly Ledbetter. For almost two decades, from 1979 to 1998, she was a hard-working supervisor at a Goodyear tire plant in Gadsden, AL. And it is telling

that she suffered from two types of discrimination at the same time. On the one hand, there was sexual harassment, from the manager who said to her face that women shouldn't work in a tire factory, to the supervisor who tried to use performance evaluations to extort sex. And on the other hand, there was pay discrimination: by the end of her career, as the salaries of her male coworkers were raised higher and faster than hers, she was making some $6,700 less per year than the lowest paid man in the same position.

Now, the two kinds of discrimination faced by Ms. Ledbetter have a good deal in common. Morally, they both amount to a kind of theft: the theft of dignity in work and the theft of the wages she fairly earned. Both send a clear message: that women don't belong in the workplace. But there is a clear difference between sexual harassment and pay discrimination. The former is blatant. The latter far too often stays insidiously hidden.

In fact, Lilly Ledbetter didn't even know she was being paid unfairly until long after the discrimination began, when an anonymous coworker gave her proof. Otherwise, she might be in the dark to this very day. And that is hardly surprising. How many of you know exactly how much your coworkers make? What would happen if you asked? At some companies, you could be fired.

Armed with proof of pay discrimination, Ms. Ledbetter asked the courts for her fair share. And they agreed with her: she had been discriminated against; she had been cheated; and she was entitled to her back pay.

Regrettably, the Supreme Court ruled against her, and took it all away. Yes, she had been discriminated against—but she had missed a very important technicality. She only had 180 days—6 months—to file her lawsuit. And the clock started running on the day Goodyear chose to discriminate against her. Never mind that she had no idea she was even the victim of pay discrimination until years later—figure it out in 180 days, or you are out of luck for a lifetime.

One can clearly see how this ruling harms so many Americans beyond Ms. Ledbetter. In setting an extremely difficult, arbitrary, and unfair hurdle, it stands in the way of many Americans fighting against discrimination. It flatly contradicts standard practice of the Equal Employment Opportunity Commission and flies in the face of years of legal precedent and clear congressional intent. As Justice Ginsburg put it in her strong dissent, the Court's Ledbetter ruling ignores the facts of discrimination in the real world: ''Pay disparities often occur in small increments; cause to suspect that discrimination is at work develops only over time. Comparative pay information, moreover, is often hidden from the employee's view . . . Small initial discrepancies may not be seen as meet for a federal case, particularly when the employee, trying to succeed in a nontraditional environment, is averse to making waves.''

''The ball,'' Ginsburg concluded, ''is in Congress's court . . . The legislature may act to correct this Court's parsimonious reading.''

That is precisely what we are here to do today. If the Fair Pay Restoration Act passes, employees will have a fair time limit to sue for pay discrimination. They will still have 180 days, but the clock will start with each discriminatory paycheck, not with the original decision to discriminate. After all, each unfair paycheck is in itself a decision to discriminate—it is ongoing discrimination. And if this legislation passes, employees like Ms. Ledbetter will no longer be blocked from seeking redress, through no fault of their own, except a failure to be more suspicious.

Mr. President, millions of Americans depend on the right to equal pay for equal work: to earn a livelihood, to feed their families, and to secure the dignity of their labor. We ought to make it easier for Americans to exercise that right, not harder. We ought to get unfair roadblocks, hurdles, and technicalities out of their way. We ought to pass this bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. I yield 4 minutes to the Senator from New York.

Mrs. CLINTON. Mr. President, I think it is important we go back to the facts and remind ourselves in this Chamber about the person, the real live woman, for whom this legislation is named, Lilly Ledbetter.

She was a supervisor at a Goodyear Tire and Rubber plant in Gadsden, AL, from 1979 until her retirement in 1998. For most of those years, she worked as an area manager, a position normally occupied by men.

Now, initially, Lilly Ledbetter's salary was in line with the salaries of men performing substantially similar work. Over time, however, her pay slipped in comparison. And it was slipping in comparison with men who had equal or less seniority. By the end of 1997, Lilly Ledbetter was the only woman working as an area manager, and the pay discrepancies between her and her 15 male counterparts were stark.

She was paid $3,727 a month. The lowest paid male area manager received $4,286 a month and the highest $5,236. In other words, Goodyear paid her male counterparts 25 to 40 percent more than she earned for doing the same job.

Now, when she discovered this, which she had not for years, because it is somewhat difficult, if not impossible, to obtain information about the salaries of your counterparts—and lots of times why would you ask? You are doing the same job; you show up at the same time; you have the same duties. Who would imagine that you would be paid less than the younger man who came on the job a year or two before, or the older man with whom you had worked for years?

So when she discovered that, she rightly sought to enforce her rights, and a jury agreed, a jury of her peers, that she had suffered discrimination on the basis of her gender.

And the district court awarded her $220,000 in backpay, and more than $3 million in punitive damages. The court of appeals reversed that, claiming she had not filed her charge of discrimination in a timely manner. The Supreme Court agreed.

Now Lilly Ledbetter is retired from her job. Nothing we do today will have any impact on her, but she has tirelessly campaigned across this country for basic fairness. We thought we had ended discrimination in the workplace against women when the Equal Pay Act was passed all those years ago.

In fact, yesterday was the day we commemorated the passage of the Equal Pay Act, but clearly we have not finished the business of guaranteeing equality in the workplace; fair and equal pay to those who do the same job. Nearly a century after women earned the right to vote, women still make 77 cents to every man's dollar.

The affect of the recession we are in right now in many parts of our country is affecting women worse than their male counterparts. This is not about the women themselves, it is about their families. I came from Indianapolis, where I was introduced at an event by a young single mom. I meet young single moms all over America who work hard for themselves and their children. So when they are discriminated against in the workplace, they bring less home to take care of those children whom they are responsible for. We can talk about what needs to be done, and there are, I am sure, all kinds of legal reasons it does not make sense to end discrimination; that it does not make sense finally to have our laws enforced. But this is the law we had until the Supreme Court changed it. Until the Supreme Court said: No, wait a minute, you are supposed to actually know you are being discriminated against to dispute the conditions in the workplace, and file whatever action, make whatever complaint you can at that moment.

Well, Lilly Ledbetter acted as soon as she knew. She did not know until that information was made available to her. I am hoping this Chamber will stand up for fundamental fairness for women in the workplace. I am hoping you will stand up and vote to make it clear that women who get up every single day and go to work deserve to be paid equally to their male counterparts.

That is all Lilly Ledbetter wanted. That is what we should deliver today.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I believe there is 5 minutes 45 seconds remaining?

The ACTING PRESIDENT pro tempore. There is 4 minutes 45 seconds remaining.

Mr. KENNEDY. I yield 4 minutes to the assistant majority leader.

Mr. DURBIN. I thank Senator KENNEDY, Senator MIKULSKI, and many others for bringing this measure before the Senate.

You remember when we debated Supreme Court Justices, and do you recall their testimony; you saw it on television. I can recall Justice Roberts, the Chief Justice, he told us he was similar to an umpire in baseball; all he did was call balls and strikes. He was not going to write the law or change the law, he was going to apply the law to the facts. Well, lo and behold, as soon as Justice Roberts and Justice Alito, the new Justices on the Supreme Court, arrived, they took a precedent, a law that had been followed for years by the Supreme Court and turned it upside down.

Lilly Ledbetter, 19 years serving as a manager in this Goodyear Tire facility in Gadsden, AL, was the only female manager in a group of 15; all the rest were men. It was not until she was about to retire that someone said to her: Incidentally, you are not being paid as much as the men who are doing the same job.

She did not realize it. How would she? Employers do not go around publishing how much they pay their employees in the newspaper, and they certainly do not post it on the bulletin board. So she had no way of knowing until the last minute. She filed a discrimination claim and said: I did the work, I deserve the pay.

It went all the way up to the Supreme Court, to new Supreme Court Chief Justice Roberts and Justice Alito. You know what they said? Your problem, Lilly Ledbetter, is you should have discovered how much they were paying the other employees at the time the initial discrimination began. That is physically impossible. They held her to a standard she could not live up to. They knew what they were doing. They were throwing out her case of wage discrimination and thousands of others. Those Justices were not calling balls and strikes, they were making new rules; and the rules were fundamentally unfair.

We have a chance today to straighten that out. I hope we have bipartisan support for it. We should be against pay discrimination for women, men, disabled, minorities. Every American deserves to be treated fairly.

The Chicago Tribune, not always a paragon of liberal ideas, said this about the Ledbetter decision by the Supreme Court:

> The majority's sterile reading of the statute ignores the realities on the ground. A woman who is fired on the basis of sex knows she has been fired. But a woman who suffers pay discrimination may not discover it until years later, because employers often keep pay scales confidential. The consequences of the ruling will be to let a lot of discrimination go unpunished.

Those who vote against this effort to bring the bill to the floor will allow a lot of discrimination to go unpunished in America.

We owe the workers of America, the women of America, all workers a lot more. I encourage colleagues to support Senator KENNEDY and the motion to invoke cloture.

I reserve the remainder of my time.

Mr. ISAKSON. How much time remains on our side?

The PRESIDING OFFICER (Ms. CANTWELL). There is 2 minutes 5 seconds.

Mr. ISAKSON. I yield myself the remainder of the time.

Madam President, with all due respect to the Senator from Illinois, as was said earlier, in this case, in each and every year from 1992 to 1997, Ms. Ledbetter testified that she knew she was being discriminated against but didn't file a claim.

Secondly, this is not about restoring the Civil Rights Act to its state before Ledbetter was decided last year. This is about amending title VII of the Civil Rights Act passed in 1964 in terms of its statute of limitations.

The fact is that every one of us in this body is for precisely the same thing: Discrimination against no one for race, sex, color, creed, national origin; equal pay for everyone. As the distinguished Senator from Massachusetts showed in his chart, we have over and over again reaffirmed this. This is not about the issue of discrimination. This is about the rule of law, the Civil Rights Act as it was passed in 1964 and amended in 1967, and its statute of limitations that has been upheld by the Supreme Court—not once, not twice, not three times, but four separate opinions in 1977, 1980, 1989, and 2002. Ledbetter simply reaffirmed these cases.

If we have a problem, let's address it in committee. Let's fix it after open debate. Let's not eviscerate the committee process and bring a flawed bill to the floor of the Senate.

I urge my colleagues to vote against the motion to invoke cloture on the motion to proceed and yield back the remainder of my time.

Mr. KENNEDY. Madam President, I yield the remainder of my time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute 30 seconds.

Mr. OBAMA. Madam President, today too many women are still earning less than men for doing the same work, making it harder not just for those women but for the families they help support to make ends meet. It is harder for single moms to climb out of poverty, harder for elderly women to afford their retirement. That kind of pay discrimination is wrong and has no place in the United States of America.

This evening, we have a chance to do something about it. Passing this bill is an important step in closing the pay gap, something I helped to do in Illinois and something I have fought to do since I arrived in the Senate. I have cosponsored legislation to ensure women receive equal pay for equal work and to require employers to disclose their pay scales for various kinds of jobs. It is this information which will allow women to determine whether they are being discriminated against, information they often lack now.

In addition to passing this bill, we need to strengthen enforcement of existing laws. In the end, closing the pay gap is essential, but it is not going to be enough to make sure that women and girls have an equal shot at the American dream, which is why we are also going to have to work on issues such as sick leave and prohibiting discrimination against caregivers. If you work hard and do a good job, you should be rewarded, no matter what you look like, where you come from, or what gender you are. That is what this bill is about. That is why I am supporting this legislation and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. All time has expired under time reserved for Senators ISAKSON and KENNEDY.

The Republican leader.

Mr. MCCONNELL. I yield myself leader time.

The PRESIDING OFFICER. The Senator has that right.

Mr. MCCONNELL. Madam President, I remind my colleagues that if we invoke cloture on this bill, we will actually be moving off the veterans bill. Let me repeat that. A vote to proceed to the Ledbetter bill is a vote to proceed away from the veterans bill. This is really highly ironic because my side was taking a pounding Monday and Tuesday for allegedly holding up, if you will, the veterans bill. Of course, that was not the case. We have ended up, in order to accommodate the schedules of those who are frequently not here—and understandably not here because they are running for President—we had the Senate, in effect, not in session until 5 o'clock this afternoon. While Americans are waiting for Congress to do something about the economy, jobs, and gas prices, our friends on the other side decided to close shop in order to accommodate the uncertainties of the campaign trail. Finding solutions for the concerns of all our constituents should be our top priority, not just accommodating the travel schedules of two of our Members.

The proper course of action is clear. We should vote to stay on the veterans bill and finish our work on behalf of American veterans. The best way to do that is to vote against cloture on the motion to proceed to the matter before us.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, first of all, for all Members, we are close to having agreement on the veterans bill when we get to it. Let me just say initially, I really like my counterpart, the Republican leader. But I have trouble understanding how he could stand on the floor and say that when we have been trying to do legislation on the veterans bill since last Thursday and

we have been prevented from doing that.

Understand, there is nothing we could do, unless by unanimous consent, to change this vote. It occurs automatically an hour after we come in. There is no secret. We have two Senators running for President of the United States—three, as a matter of fact. I am only concerned about two of them. Their schedules were very difficult recently. They could be here at 6 o'clock. So I made the suggestion, which I thought was reasonable—we haven't been able to legislate on the veterans bill since last Thursday; how about doing it on Wednesday, until 5 o'clock. That would be 6 hours more than we have done since last Thursday. There was a refusal to allow us to do that. To have my friend, the Republican leader, come here and say we haven't done anything today because we had a vote scheduled at their convenience—he didn't use the names, but Senators CLINTON and OBAMA—that is absolutely without any foundation. I have trouble understanding how my friend would have the gall to stand on the floor and make the comment he did, but he did.

Now to the issue at hand, Lilly Ledbetter. Put your mind to this. We have a woman who is working. She has worked for 20 years and worked hard, very hard, and after 20 years she comes to the realization that people are making a lot more money than she. They are men, and they are doing the same work as she is. That is what this is all about. As a foundation, understand that for a woman to make the same amount of money as a man in our country—that is, how much a man makes in our country for 1 year—for similar work, she must work not only that whole year but an additional 113 days. In fact, women who work full time earn about 77 cents for every dollar earned by a man who does the same work.

That is why yesterday, April 23, which was the 113th day of the year, was Equal Pay Day, to illustrate how women are treated unfairly in the workplace in America. I can think of no better way for us to honor Equal Pay Day than to pass the Lilly Ledbetter Fair Pay Act.

She was a manager at a Goodyear factory in Gadsden, AL. She worked there for 20 years. She was the only woman among 16 men at her same management level. She was paid at various times 20 percent less than some of her male colleagues doing the same work and as much as 40 percent less than other colleagues doing the same work. That included fellow workers who had a lot less seniority than she had. They got paid more because they were men.

At most jobsites, especially office work, salary is not a topic that you discuss. It is private. It wasn't until Ledbetter had been with the company for 20 years, as I have indicated, that Mrs. Ledbetter became aware of the disparity in her paycheck, and only then because someone anonymously tipped her off.

After she learned, after 20 years, that people were being paid more money than she was for doing the same work, she became concerned, and she did what we should do in a situation like that. She went to talk to a lawyer. She had been cheated for 20 years. A jury that was called in that court listened to what she had to say. They found she had been discriminated against. Why? Because she was a woman. The jury awarded her appropriate damages.

Her employer appealed all the way to the Supreme Court. No way are we going to let this happen. They overturned the lower court's verdict, claiming she was entitled to nothing because she waited too long. The statute of limitations had run. The Supreme Court upheld that decision. They upheld the reversal of the decision that she had gotten, the award by the jury that she had gotten. The Supreme Court held that the 180-day filing deadline for discrimination cases like hers should be calculated from the day of Ms. Ledbetter's first discriminatory paycheck. So using that faulty logic, this woman is only protected if, after the first 6 months, she had filed a lawsuit. Well, she didn't know. The ruling reversed the position that most courts had previously held—contrary to what my good friend Senator ISAKSON said—that each discriminatory paycheck represents a new case of discrimination and therefore the 180-day filing period applies to each subsequent paycheck.

The practical result of the Supreme Court decision is that women like Lilly Ledbetter must sue for discrimination no later than 6 months after their employment begins, 6 months after her first paycheck. The Supreme Court's ruling puts unfair conditions on legitimate discrimination claims, and it applies not only to millions of women in the workforce but also to those discriminated against on the basis of race, religion, age, or disability.

As Justice Ginsburg said—and rarely from the Supreme Court does one of the Justices read their opinion; she did that—she noted in her strong and compelling dissent that the Supreme Court's ruling is wrong because it overlooks the realities of the workplace and the realities of the world. Think about that. She had worked there 20 years. She had been cheated for 20 years. They are telling her she should have filed her lawsuit 19½ years ago.

Many employers explicitly or implicitly prohibit employees from discussing their salary with coworkers. Could Ms. Ledbetter be expected to have known the salaries of her male colleagues after just 6 months on the job? Of course not. And even if a new employee is aware of a discrepancy in pay, many choose not to make waves, preferring to hang on to their job, preferring to quietly build job security. But over the years, these initial discrepancies, which may start out small, will often widen considerably—in her case, to as much as 40 percent when compared to a man.

The Supreme Court's ruling ignores basic facts. As long as discrimination continues, an employee's right to challenge discrimination should continue as well. That is why the legislation now before us is so important. We can talk about court cases and hearings before the committee and doing things in regular order. Let's have some regular order of fairness. That is what this legislation is all about.

This legislation would restore the previously accepted interpretation of law: that each and every discriminatory paycheck constitutes a new act of discrimination and that restarts the 180-day clock.

By supporting this motion to proceed and voting in favor of this legislation, we have the opportunity to correct this important injustice for millions of women and millions of others who work hard but are unfairly deprived of compensation they deserve.

Some on the Republican side argue that this legislation would lead to a flood of litigation. Obviously, we know the Republicans are not excited about trial lawyers. We know their first attack to take care of the housing crisis was to lower taxes and do something about litigation. So it is no surprise they are concerned about litigation, even though they are wrong.

That argument has no basis in fact. The Congressional Budget Office has researched this issue and found no reason—no reason—to believe it would increase the number of discrimination cases.

Furthermore, this legislation maintains the current law's 2-year limit on back pay. Employers would not be liable for salary differences that occurred in years past. In her case, Ledbetter could sue, but she could only get 2 of the 20 years she had been cheated. That is what this legislation does. How much fairer could it be?

The U.S. Supreme Court is the highest Court in our country. But in this case, they simply got it wrong. I am sad to report, in my opinion, many times they have done the same thing since Justices Roberts and Alito have joined that Court.

Many of us have spoken against recent Supreme Court nominees for fear they would not uphold our Nation's proud tradition of civil rights and equal rights in law. This faulty judgment on the part of the Court, in a 5-to-4 decision, lends credence to our concerns that we must support judges with a reliable history of support for the values of equality that we cherish.

There is no reason for the Fair Pay Act to be a partisan issue.

I urge my Republican colleagues to join us in sending a strong and powerful message that in America, discrimination will never be tolerated and justice will always be blind. But no matter the result today, that message—and our commitment to those enduring values—will continue.

VETERANS' BENEFITS ENHANCEMENT ACT—MOTION TO PROCEED—Resumed

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S. 1315 is agreed to.

LILLY LEDBETTER FAIR PAY ACT OF 2007—MOTION TO PROCEED—Continued

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 325, H.R. 2831, the Fair Pay Act.

Harry Reid, Daniel K. Inouye, Barbara Boxer, Patty Murray, Byron L. Dorgan, Edward M. Kennedy, Christopher J. Dodd, Daniel K. Akaka, Benjamin L. Cardin, Patrick J. Leahy, Bernard Sanders, Sherrod Brown, Amy Klobuchar, Richard Durbin, Ken Salazar, Sheldon Whitehouse, Max Baucus.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 2831, the Fair Pay Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL) and the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 56, nays 42, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—56

Akaka	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Harkin	Obama
Biden	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kennedy	Rockefeller
Brown	Kerry	Salazar
Byrd	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Smith
Carper	Lautenberg	Snowe
Casey	Leahy	Specter
Clinton	Levin	Stabenow
Coleman	Lieberman	Sununu
Collins	Lincoln	Tester
Conrad	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murray	

NAYS—42

Alexander	Brownback	Cochran
Allard	Bunning	Corker
Barrasso	Burr	Cornyn
Bennett	Chambliss	Craig
Bond	Coburn	Crapo
DeMint	Hutchison	Roberts
Dole	Inhofe	Sessions
Domenici	Isakson	Shelby
Ensign	Kyl	Stevens
Enzi	Lugar	Thune
Graham	Martinez	Vitter
Grassley	McConnell	Voinovich
Gregg	Murkowski	Warner
Hatch	Reid	Wicker

NOT VOTING—2

Hagel McCain

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. REID. Madam President, I move to reconsider the vote by which cloture was not invoked on the motion to proceed to H.R. 2831.

Mr. REID. Madam President, we are within minutes of working out something to complete tomorrow's work. There will be no more votes tonight. We should have several votes tomorrow. Probably, if things work out right, we will have three votes tomorrow. We should finish before 2:30 tomorrow afternoon.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I am deeply disappointed we were not able to get the required 60 votes. With the majority leader's vote, we would have had 57 votes—57 votes. There is virtually unanimous opposition on the other side of the aisle to restore what had been fairness and decency and equity in our fair pay laws.

I think most of us who have been around this institution for some time and who have been involved in the civil rights issue understand if you don't have a remedy, you don't have a right. This debate was about restoring a right to Lilly Ledbetter, her right to be treated fairly in the workplace and the rights of millions of others too. Those who are disabled, elderly, people in our society of various national origins, those of particular religious faiths, and women all are threatened by the underlying Supreme Court decision. That has to be altered. It has to be changed.

I welcome the fact that our majority leader has sent a powerful signal by indicating that we will come back and revisit this issue. This issue is about fairness. It is about equity. If we are going to permit discrimination in the workplace, we shouldn't permit it to pay, and the best way to make sure it does not pay is to provide the remedy to ensure it will not.

This is an early skirmish in this battle toward true fairness and equity and equitable pay for women and all others in our society. I look forward to working with our colleagues in the ongoing battle. I am very hopeful and optimistic that the next time we will get the votes that are necessary to permit us to take final action on this legislation.

Again, I thank the majority leader for his addressing this issue and for his willingness to bring this back to the floor so we can have further debate and discussion on it.

And I would like to thank my staff—Charlotte Burrows, Sharon Block, and Portia Wu, who worked very hard on this important legislation. I would also like to thank Michael Myers, Scott Fay, and Kate Dowling from my staff for all of their help.

VETERANS' BENEFITS ENHANCEMENT ACT OF 2007

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1315) to amend Title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Enhancement Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—INSURANCE MATTERS

SEC. 101. LEVEL-PREMIUM TERM LIFE INSURANCE FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—Chapter 19 is amended by inserting after section 1922A the following new section:

"§ 1922B. Level-premium term life insurance for veterans with service-connected disabilities

''(a) IN GENERAL.—In accordance with the provisions of this section, the Secretary shall grant insurance to each eligible veteran who seeks such insurance against the death of such veteran occurring while such insurance is in force.

''(b) ELIGIBLE VETERANS.—For purposes of this section, an eligible veteran is any veteran less than 65 years of age who has a service-connected disability.

''(c) AMOUNT OF INSURANCE.—(1) Subject to paragraph (2), the amount of insurance granted an eligible veteran under this section shall be $50,000 or such lesser amount as the veteran shall elect. The amount of insurance so elected shall be evenly divisible by $10,000.

''(2) The aggregate amount of insurance of an eligible veteran under this section, section 1922 of this title, and section 1922A of this title may not exceed $50,000.

''(d) REDUCED AMOUNT FOR VETERANS AGE 70 OR OLDER.—In the case of a veteran insured under this section who turns age 70, the amount of insurance of such veteran under this section after the date such veteran turns age 70 shall be the amount equal to 20 percent of the amount of insurance of the veteran under this section as of the day before such date.

''(e) PREMIUMS.—(1) Premium rates for insurance under this section shall be based on the 2001 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 4.5 per centum per annum.

''(2) The amount of the premium charged a veteran for insurance under this section may not increase while such insurance is in force for such veteran.

''(3) The Secretary may not charge a premium for insurance under this section for a veteran as follows:

''(A) A veteran who has a service-connected disability rated as total and is eligible for a waiver of premiums under section 1912 of this title.

''(B) A veteran who is 70 years of age or older.

''(4) Insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized.

''(5) Administrative costs to the Government for the costs of the program of insurance under this section shall be paid from premiums credited to the fund under paragraph (4), and payments for claims against the fund under paragraph (4) for amounts in excess of amounts credited to such fund under that paragraph (after such administrative costs have been paid) shall be paid from appropriations to the fund.

''(f) APPLICATION REQUIRED.—An eligible veteran seeking insurance under this section shall file with the Secretary an application therefor. Such application shall be filed not later than the earlier of—

''(1) the end of the two-year period beginning on the date on which the Secretary notifies the veteran that the veteran has a service-connected disability; and

''(2) the end of the 10-year period beginning on the date of the separation of the veteran from the Armed Forces, whichever is earlier.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item related to section 1922A the following new item:

''1922B. Level-premium term life insurance for veterans with service-connected disabilities.''.

(c) EXCHANGE OF SERVICE DISABLED VETERANS' INSURANCE.—During the one-year period beginning on the effective date of this section under subsection (d), any veteran insured under section 1922 of title 38, United States Code, who is eligible for insurance under section 1922B of such title (as added by subsection (a)), may exchange insurance coverage under such section 1922 for insurance coverage under such section 1922B.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on June 1, 2008.

SEC. 102. ADMINISTRATIVE COSTS OF SERVICE DISABLED VETERANS' INSURANCE.

Section 1922(a) is amended by striking ''directly from such fund'' and inserting ''directly from such fund; and (5) administrative costs to the Government for the costs of the program of insurance under this section shall be paid from premiums credited to the fund under paragraph (4), and payments for claims against the fund under paragraph (4) for amounts in excess of amounts credited to such fund under that paragraph (after such administrative costs have been paid) shall be paid from appropriations to the fund''.

SEC. 103. MODIFICATION OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.

(a) EXPANSION OF SERVICEMEMBERS' GROUP LIFE INSURANCE TO INCLUDE CERTAIN MEMBERS OF INDIVIDUAL READY RESERVE.—

(1) IN GENERAL.—Paragraph (1)(C) of section 1967(a) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''.

(2) CONFORMING AMENDMENT.—Paragraph (5)(C) of such section 1967(a) is amended by striking ''section 1965(5)(B) of this title'' and inserting ''subparagraph (B) or (C) of section 1965(5) of this title''.

(b) REDUCTION IN PERIOD OF COVERAGE FOR DEPENDENTS AFTER MEMBER SEPARATES.—Section 1968(a)(5)(B)(ii) is amended by striking ''120 days after''.

SEC. 104. SUPPLEMENTAL INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Section 1922A(a) is amended by striking ''$20,000'' and inserting ''$30,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008.

SEC. 105. EXPANSION OF INDIVIDUALS QUALIFYING FOR RETROACTIVE BENEFITS FROM TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Paragraph (1) of section 501(b) of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (Public Law 109–233; 120 Stat. 414; 38 U.S.C. 1980A note) is amended by striking '', if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom''.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking ''IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008.

SEC. 106. CONSIDERATION OF LOSS DOMINANT HAND IN PRESCRIPTION OF SCHEDULE OF SEVERITY OF TRAUMATIC INJURY UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Section 1980A(d) is amended—

(1) by striking ''Payments under'' and inserting ''(1) Payments under''; and

(2) by adding at the end the following new paragraph:

''(2) As the Secretary considers appropriate, the schedule required by paragraph (1) may distinguish in specifying payments for qualifying losses between the severity of a qualifying loss of a dominant hand and a qualifying loss of a non-dominant hand.''.

(b) PAYMENTS FOR QUALIFYING LOSSES INCURRED BEFORE DATE OF ENACTMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall prescribe in regulations mechanisms for payments under section 1980A of title 38, United States Code, for qualifying losses incurred before the date of the enactment of this Act by reason of the requirements of paragraph (2) of subsection (d) of such section (as amended by subsection (a)(2) of this section).

(2) QUALIFYING LOSS DEFINED.—In this subsection, the term ''qualifying loss'' means—

(A) a loss specified in the second sentence of subsection (b)(1) of section 1980A of title 38, United States Code; and

(B) any other loss specified by the Secretary of Veterans Affairs pursuant to the first sentence of that subsection.

SEC. 107. DESIGNATION OF FIDUCIARY FOR TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE IN CASE OF LOST MENTAL CAPACITY OR EXTENDED LOSS OF CONSCIOUSNESS.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, develop a form for the designation of a recipient for the funds distributed under section 1980A of title 38, United States Code, as the fiduciary of a member of the Armed Forces in cases where the member is mentally incapacitated (as determined by the Secretary of Defense in consultation with the Secretary of Veterans Affairs) or experiencing an extended loss of consciousness.

(b) ELEMENTS.—The form under subsection (a) shall require that a member may elect that—

(1) an individual designated by the member be the recipient as the fiduciary of the member; or

(2) a court of proper jurisdiction determine the recipient as the fiduciary of the member for purposes of this subsection.

(c) COMPLETION AND UPDATE.—The form under subsection (a) shall be completed by an individual at the time of entry into the Armed Forces and updated periodically thereafter.

SEC. 108. ENHANCEMENT OF VETERANS' MORTGAGE LIFE INSURANCE.

Section 2106(b) is amended by striking ''$90,000'' and inserting ''$150,000, or $200,000 after January 1, 2012,''.

TITLE II—HOUSING MATTERS

SEC. 201. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS FOR TOTALLY DISABLED MEMBERS OF THE ARMED FORCES BEFORE DISCHARGE OR RELEASE FROM THE ARMED FORCES.

Section 1717 is amended by adding at the end the following new subsection:

''(d)(1) In the case of a member of the Armed Forces who, as determined by the Secretary, has a disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service, the Secretary may furnish improvements and structural alterations for such member for such disability or as otherwise described in subsection (a)(2) while such member is hospitalized or receiving outpatient medical care, services, or treatment for such disability if the Secretary determines that such member is likely to be discharged or released from the Armed Forces for such disability.

''(2) The furnishing of improvements and alterations under paragraph (1) in connection with the furnishing of medical services described in subparagraph (A) or (B) of subsection (a)(2) shall be subject to the limitation specified in the applicable subparagraph.''.

SEC. 202. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES AND INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.

(a) ELIGIBILITY.—Chapter 21 is amended by inserting after section 2101 the following new section:

''§ 2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States

''(a) MEMBERS WITH SERVICE-CONNECTED DISABILITIES.—(1) The Secretary may provide assistance under this chapter to a member of the Armed Forces serving on active duty who is suffering from a disability that meets applicable criteria for benefits under this chapter if the disability is incurred or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under this chapter to veterans eligible for assistance under this chapter and subject to the same requirements as veterans under this chapter.

''(2) For purposes of this chapter, any reference to a veteran or eligible individual shall be treated as a reference to a member of the Armed Forces described in subsection (a) who is similarly situated to the veteran or other eligible individual so referred to.

''(b) BENEFITS AND ASSISTANCE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—(1) Subject to paragraph (2), the Secretary may, at the Secretary's discretion, provide benefits and assistance under this chapter (other than benefits under section 2106 of this title) to any individual otherwise eligible for such benefits and assistance who resides outside the United States.

''(2) The Secretary may provide benefits and assistance to an individual under paragraph (1) only if—

''(A) the country or political subdivision in which the housing or residence involved is or will be located permits the individual to have or acquire a beneficial property interest (as determined by the Secretary) in such housing or residence; and

''(B) the individual has or will acquire a beneficial property interest (as so determined) in such housing or residence.

''(c) REGULATIONS.—Benefits and assistance under this chapter by reason of this section shall be provided in accordance with such regulations as the Secretary may prescribe.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUPERSEDED AUTHORITY.—Section 2101 is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) LIMITATIONS ON ASSISTANCE.—Section 2102 is amended—

(A) in subsection (a)—

(i) by striking ''veteran'' each place it appears and inserting ''individual''; and

(ii) in paragraph (3), by striking ''veteran's'' and inserting ''individual's'';

(B) in subsection (b)(1), by striking ''a veteran'' and inserting ''an individual'';

(C) in subsection (c)—

(i) by striking ''a veteran'' and inserting ''an individual''; and

(ii) by striking ''the veteran'' each place it appears and inserting ''the individual''; and

(D) in subsection (d), by striking ''a veteran'' each place it appears and inserting ''an individual''.

(3) ASSISTANCE FOR INDIVIDUALS TEMPORARILY RESIDING IN HOUSING OF FAMILY MEMBER.—Section 2102A is amended—

(A) by striking ''veteran'' each place it appears (other than in subsection (b)) and inserting ''individual'';

(B) in subsection (a), by striking ''veteran's'' each place it appears and inserting ''individual's''; and

(C) in subsection (b), by striking ''a veteran'' each place it appears and inserting ''an individual''.

(4) FURNISHING OF PLANS AND SPECIFICATIONS.—Section 2103 is amended by striking ''veterans'' both places it appears and inserting ''individuals''.

(5) CONSTRUCTION OF BENEFITS.—Section 2104 is amended—

(A) in subsection (a), by striking ''veteran'' each place it appears and inserting ''individual''; and

(B) in subsection (b)—

(i) in the first sentence, by striking ''A veteran'' and inserting ''An individual'';

(ii) in the second sentence, by striking ''a veteran'' and inserting ''an individual''; and

(iii) by striking ''such veteran'' each place it appears and inserting ''such individual''.

(6) VETERANS' MORTGAGE LIFE INSURANCE.—Section 2106 is amended—

(A) in subsection (a)—

(i) by striking ''any eligible veteran'' and inserting ''any eligible individual''; and

(ii) by striking ''the veterans'' '' and inserting ''the individual's'';

(B) in subsection (b), by striking ''an eligible veteran'' and inserting ''an eligible individual'';

(C) in subsection (e), by striking ''an eligible veteran'' and inserting ''an individual'';

(D) in subsection (h), by striking ''each veteran'' and inserting ''each individual'';

(E) in subsection (i), by striking ''the veteran's'' each place it appears and inserting ''the individual's'';

(F) by striking ''the veteran'' each place it appears and inserting ''the individual''; and

(G) by striking ''a veteran'' each place it appears and inserting ''an individual''.

(7) HEADING AMENDMENTS.—(A) The heading of section 2101 is amended to read as follows:

''§ 2101. Acquisition and adaptation of housing: eligible veterans''.

(B) The heading of section 2102A is amended to read as follows:

''§ 2102A. Assistance for individuals residing temporarily in housing owned by a family member''.

(8) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 21 is amended—

(A) by striking the item relating to section 2101 and inserting the following new item:

''2101. Acquisition and adaptation of housing: eligible veterans.'';

(B) by inserting after the item relating to section 2101, as so amended, the following new item:

''2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States.'';

and

(C) by striking the item relating to section 2102A and inserting the following new item:

''2102A. Assistance for individuals residing temporarily in housing owned by a family member.''.

SEC. 203. SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WITH SEVERE BURN INJURIES.

Section 2101 is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

''(E) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).''; and

(2) in subsection (b)(2)—

(A) by striking ''either'' and inserting ''any''; and

(B) by adding at the end the following new subparagraph:

''(C) The disability is due to a severe burn injury (as so determined).''.

SEC. 204. EXTENSION OF ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.

Section 2102A(e) is amended by striking ''after the end of the five-year period that begins on the date of the enactment of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006'' and inserting ''after December 31, 2011''.

SEC. 205. SUPPLEMENTAL SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.

(a) IN GENERAL.—Chapter 21 is amended by inserting after section 2102A the following new section:

''§ 2102B. Supplemental assistance

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment in accordance with section 2102 of this title to an individual authorized to receive such assistance under section 2101 of this title for the acquisition of housing with special features or for special adaptations to a residence, the Secretary is also authorized and directed to pay such individual supplemental assistance under this section for such acquisition or adaptation.

''(2) No supplemental assistance payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT OF SUPPLEMENTAL ASSISTANCE.—(1) In the case of a payment made in accordance with section 2102(a) of this title, supplemental assistance required by subsection (a) is equal to the excess of—

''(A) the payment which would be determined under section 2102(a) of this title, and 2102A of this title if applicable, if the amount described in section 2102(d)(1) of this title were increased to the adjusted amount described in subsection (c)(1), over

''(B) the payment determined without regard to this section.

''(2) In the case of a payment made in accordance with section 2102(b) of this title, supplemental assistance required by subsection (a) is equal to the excess of—

''(A) the payment which would be determined under section 2102(b) of this title, and 2102A of this title if applicable, if the amount described in section 2102(b)(2) of this title and section 2102(d)(2) of this title were increased to the adjusted amount described in subsection (c)(2), over

''(B) the payment determined without regard to this section.

''(c) ADJUSTED AMOUNT.—(1) In the case of a payment made in accordance with section 2102(a) of this title, the adjusted amount is $60,000 (as adjusted from time to time under subsection (d)).

''(2) In the case of a payment made in accordance with section 2102(b) of this title, the adjusted amount is $12,000 (as adjusted from time to time under subsection (d)).

''(d) ADJUSTMENT.—(1) Effective on October 1 of each year (beginning in 2008), the Secretary shall increase the adjusted amounts described in subsection (c) in accordance with this subsection.

''(2) The increase in amounts under paragraph (1) to take effect on October 1 of any year shall be the percentage by which (A) the residential home cost-of-construction index for the preceding calendar year exceeds (B) the residential home cost-of-construction index for the year preceding that year.

''(3) The Secretary shall establish a residential home cost-of-construction index for the purposes of this subsection. The index shall reflect a uniform, national average increase in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.

''(e) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental assistance under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental assistance under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2102A the following new item:

''2102B. Supplemental assistance.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2102B of title 38, United States Code (as added by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007, and shall apply with respect to payments made in accordance with section 2102 of title 38, United States Code, on or after that date.

SEC. 206. REPORT ON SPECIALLY ADAPTED HOUSING FOR DISABLED INDIVIDUALS.

(a) IN GENERAL.—Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report that contains an assessment of the adequacy of the authorities available to the Secretary under law to assist eligible disabled individuals in acquiring—

(1) suitable housing units with special fixtures or movable facilities required for their disabilities, and necessary land therefor;

(2) such adaptations to their residences as are reasonably necessary because of their disabilities; and

(3) residences already adapted with special features determined by the Secretary to be reasonably necessary as a result of their disabilities.

(b) FOCUS ON PARTICULAR DISABILITIES.—The report required by subsection (a) shall set forth a specific assessment of the needs of—

(1) veterans who have disabilities that are not described in subsections (a)(2) and (b)(2) of section 2101 of title 38, United States Code; and

(2) other disabled individuals eligible for specially adapted housing under chapter 21 of such title by reason of section 2101A of such title (as added by section 202(a) of this Act) who have disabilities that are not described in such subsections.

SEC. 207. REPORT ON SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WHO RESIDE IN HOUSING OWNED BY A FAMILY MEMBER ON PERMANENT BASIS.

Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the advisability of providing assistance under section 2102A of title 38, United States Code, to veterans described in subsection (a) of such section, and to members of the Armed Forces covered by such section 2102A by reason of section 2101A of title 38, United States Code (as added by section 202(a) of this Act), who reside with family members on a permanent basis.

TITLE III—LABOR AND EDUCATION MATTERS

SEC. 301. COORDINATION OF APPROVAL ACTIVITIES IN THE ADMINISTRATION OF EDUCATION BENEFITS.

(a) COORDINATION.—

(1) IN GENERAL.—Section 3673 is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection (b):

''(b) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure the coordination of approval activities performed by State approving agencies under this chapter and chapters 34 and 35 of this title and approval activities performed by the Department of Labor, the Department of Education, and other entities in order to reduce overlap and improve efficiency in the performance of such activities.''.

(2) CONFORMING AND CLERICAL AMENDMENTS.—(A) The heading of such section is amended to read as follows:

''§ 3673. Approval activities: cooperation and coordination of activities''.

(B) The table of sections at the beginning of chapter 36 is amended by striking the item relating to section 3673 and inserting the following new item:

''3673. Approval activities: cooperation and coordination of activities.''.

(3) STYLISTIC AMENDMENTS.—Such section is further amended—

(A) in subsection (a), by inserting ''COOPERATION IN ACTIVITIES.—'' after ''(a)''; and

(B) in subsection (c), as redesignated by paragraph (1)(A) of this subsection, by inserting ''AVAILABILITY OF INFORMATION MATERIAL.—'' after ''(c)''.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report setting forth the following:

(1) The actions taken to establish outcome-oriented performance standards for State approving agencies created or designated under section 3671 of title 38, United States Code, including a description of any plans for, and the status of the implementation of, such standards as part of the evaluations of State approving agencies required by section 3674A of title 38, United States Code.

(2) The actions taken to implement a tracking and reporting system for resources expended for

approval and outreach activities by such agencies.

(3) Any recommendations for legislative action that the Secretary considers appropriate to achieve the complete implementation of the standards described in paragraph (1).

SEC. 302. MODIFICATION OF RATE OF REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS.

Section 3674(a)(4) is amended by striking ''$13,000,000'' and all that follows through ''fiscal year 2007,''.

SEC. 303. WAIVER OF RESIDENCY REQUIREMENT FOR DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.

Section 4103(a)(2) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following new subparagraph:

''(B) The Secretary may waive the requirement in subparagraph (A) with respect to a Director for Veterans' Employment and Training if the Secretary determines that the waiver is in the public interest. Any such waiver shall be made on a case-by-case basis.''.

SEC. 304. MODIFICATION OF SPECIAL UNEMPLOYMENT STUDY TO COVER VETERANS OF POST 9/11 GLOBAL OPERATIONS.

(a) MODIFICATION OF STUDY.—Subsection (a)(1) of section 4110A is amended—

(1) in the matter before subparagraph (A), by striking ''a study every two years'' and inserting ''an annual study'';

(2) by redesignating subparagraph (A) as subparagraph (F);

(3) by striking subparagraph (B) and inserting the following new subparagraphs:

''(A) Veterans who were called to active duty while members of the National Guard or a Reserve Component.

''(B) Veterans who served in combat or in a war zone in the Post 9/11 Global Operations theaters.''; and

(4) in subparagraph (C)—

(A) by striking ''Vietnam era'' and inserting ''Post 9/11 Global Operations period''; and

(B) by striking ''the Vietnam theater of operations'' and inserting ''the Post 9/11 Global Operations theaters''.

(b) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

''(c) In this section:

''(1) The term 'Post 9/11 Global Operations period' means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or law.

''(2) The term 'Post 9/11 Global Operations theaters' means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.''.

SEC. 305. EXTENSION OF INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING.

Section 103 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3600) is amended by striking ''2008'' each place it appears and inserting ''2010''.

TITLE IV—FILIPINO WORLD WAR II VETERANS MATTERS

SEC. 401. EXPANSION OF ELIGIBILITY FOR BENEFITS PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS FOR CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE COMMONWEALTH OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS.

(a) MODIFICATION OF STATUS OF CERTAIN SERVICE.—

(1) IN GENERAL.—Section 107 is amended to read as follows:

''§ 107. Certain service with Philippine forces deemed to be active service

''(a) IN GENERAL.—Service described in subsection (b) shall be deemed to have been active military, naval, or air service for purposes of any law of the United States conferring rights, privileges, or benefits upon any individual by reason of the service of such individual or the service of any other individual in the Armed Forces.

''(b) SERVICE DESCRIBED.—Service described in this subsection is service—

''(1) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

''(2) in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 538).

''(c) DEPENDENCY AND INDEMNITY COMPENSATION FOR CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.—(1) Dependency and indemnity compensation provided under chapter 13 of this title to an individual described in paragraph (2) shall be made at a rate of $0.50 for each dollar authorized.

''(2) An individual described in this paragraph is an individual who resides outside the United States and is entitled to dependency and indemnity compensation under chapter 13 of this title based on service described in subsection (b).

''(d) MODIFIED PENSION AND DEATH PENSION FOR CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.—(1) Any pension provided under subchapter II or III of chapter 15 of this title to an individual described in paragraph (2) shall be made only as specified in section 1514 of this title.

''(2) An individual described in this paragraph is an individual who resides outside the United States and is entitled to a pension provided under subchapter II or III of chapter 15 of this title based on service described in subsection (b).

''(e) UNITED STATES DEFINED.—In this section, the term 'United States' means the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 is amended by striking the item related to section 107 and inserting the following new item:

''107. Certain service with Philippine forces deemed to be active service.''.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to the payment or provision of benefits on or after the date of the enactment of this Act. No benefits are payable or are required to be provided by reason of such amendment for any period before such date.

(b) PENSION AND DEATH PENSION FOR CERTAIN SERVICE.—

(1) IN GENERAL.—Subchapter II of chapter 15 is amended by adding at the end the following new section:

''§ 1514. Certain recipients residing outside the United States

''(a) SPECIAL RATES FOR PENSION BENEFITS FOR INDIVIDUALS SERVING WITH PHILIPPINE FORCES AND SURVIVORS.—(1) Payment under this subchapter to an individual who resides outside the United States and is eligible for such payment because of service described in section 107(b) of this title shall be made as follows:

''(A) For such an individual who is married, at a rate of $4,500 per year (as increased from time to time under section 5312 of this title).

''(B) For such an individual who is not married, at a rate of $3,600 per year (as increased from time to time under section 5312 of this title).

''(2) Payment under subchapter III of this chapter to an individual who resides outside the United States and is eligible for such payment because of service described in section 107(b) of this title shall be made at a rate of $2,400 per year (as increased from time to time under section 5312 of this title).

''(3) An individual who is otherwise entitled to benefits under this chapter and resides outside the United States, and receives or would otherwise be eligible to receive a monetary benefit from a foreign government, may not receive benefits under this chapter for service described in section 107(b) of this title if receipt of such benefits under this chapter would reduce such monetary benefit from such foreign government.

''(4) The provisions of sections 1503(a), 1506, 1522, and 1543 of this title shall not apply to benefits paid under this section.

''(b) INDIVIDUALS LIVING OUTSIDE THE UNITED STATES ENTITLED TO CERTAIN SOCIAL SECURITY BENEFITS INELIGIBLE.—An individual residing outside the United States who is receiving or is eligible to receive benefits under title VIII of the Social Security Act (42 U.S.C. 1001 et seq.) may not receive benefits under this chapter.

''(c) UNITED STATES DEFINED.—In this section, the term 'United States' means the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 15 is amended by inserting after the item related to section 1513 the following new item:

''1514. Certain recipients residing outside the United States.''.

(3) FREQUENCY OF PAYMENT.—Section 1508 is amended by inserting ''1514,'' before ''1521,'' each place it appears.

(4) ROUNDING DOWN OF RATES.—Section 5123 is amended by inserting ''1514,'' before ''1521''.

(5) ANNUAL ADJUSTMENT OF BENEFIT RATES.—Section 5312 is amended—

(A) in subsection (a), by inserting ''1514,'' before ''1521,'' the first place it appears; and

(B) in subsection (c)(1), by inserting ''1514,'' before ''1521,''.

(6) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to applications for benefits filed on or after May 1, 2008. The amendments made by paragraphs (3), (4), and (5) shall take effect on May 1, 2008.

(c) PENSION AND DEATH PENSION BENEFIT PROTECTION.—Notwithstanding any other provision of law, a veteran with service described in section 107(b) of title 38, United States Code (as added by subsection (a)), who is receiving benefits under a Federal or federally assisted program as of the date of the enactment of this Act, or a survivor of such veteran who is receiving such benefits as of the date of the enactment of this Act, may not be required to apply for or receive benefits under chapter 15 of such title if the receipt of such benefits would—

(1) make such veteran or survivor ineligible for any Federal or federally assisted program for which such veteran or survivor qualifies; or

(2) reduce the amount of benefit such veteran or survivor would receive from any Federal or federally assisted program for which such veteran or survivor qualifies.

SEC. 402. ELIGIBILITY OF CHILDREN OF CERTAIN PHILIPPINE VETERANS FOR EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (b) of section 3565 is amended by striking ''except that—'' and all that follows and inserting ''except that a reference to a State approving agency shall be deemed to refer to the Secretary.''.

(b) REPEAL OF OBSOLETE PROVISION.—Such section is further amended by striking subsection (c).

TITLE V—COURT MATTERS

SEC. 501. RECALL OF RETIRED JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REPEAL OF LIMIT ON SERVICE OF RECALLED RETIRED JUDGES WHO VOLUNTARILY SERVE MORE THAN 90 DAYS.—Section 7257(b)(2) is amended by striking ''or for more than a total of 180 days (or the equivalent) during any calendar year''.

(b) NEW JUDGES RECALLED AFTER RETIREMENT RECEIVE PAY OF CURRENT JUDGES ONLY DURING PERIOD OF RECALL.—

(1) IN GENERAL.—Section 7296(c) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1)(A) A judge who is appointed on or after the date of the enactment of the Veterans' Benefits Enhancement Act of 2007 and who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection shall (except as provided in paragraph (2)) receive retired pay as follows:

''(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title, the retired pay of the judge shall (subject to section 7257(d)(2) of this title) be the rate of pay applicable to that judge at the time of retirement, as adjusted from time to time under subsection (f)(3).

''(ii) In the case of a judge other than a recall-eligible retired judge, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

''(B) A judge who retired before the date of the enactment of the Veterans' Benefits Enhancement Act of 2007 and elected under subsection (d) to receive retired pay under this subsection, or a judge who retires under subsection (b) and elects under subsection (d) to receive retired pay under this subsection, shall (except as provided in paragraph (2)) receive retired pay as follows:

''(i) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court.

''(ii) In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

''(iii) In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.''.

(2) COST-OF-LIVING ADJUSTMENT FOR RETIRED PAY OF NEW JUDGES WHO ARE RECALL-ELIGIBLE.—Section 7296(f)(3)(A) is amended by striking ''paragraph (2) of subsection (c)'' and inserting ''paragraph (1)(A)(i) or (2) of subsection (c)''.

(3) PAY DURING PERIOD OF RECALL.—Subsection (d) of section 7257 is amended to read as follows:

''(d)(1) The pay of a recall-eligible retired judge to whom section 7296(c)(1)(B) of this title applies is the pay specified in that section.

''(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 or to whom section 7296(c)(1)(A) of this title applies shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5 or the judge's annuity under section 7296(c)(1)(A) of this title, whichever is applicable.''.

(4) NOTICE.—The last sentence of section 7257(a)(1) is amended to read as follows: ''Such a notice provided by a retired judge to whom section 7296(c)(1)(B) of this title applies is irrevocable.''.

(c) LIMITATION ON INVOLUNTARY RECALLS.—Section 7257(b)(3) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to a judge to whom section 7296(c)(1)(A) or 7296(c)(1)(B) of this title applies and who has, in the aggregate, served at least five years of recalled service on the Court under this section.''.

SEC. 502. ADDITIONAL DISCRETION IN IMPOSITION OF PRACTICE AND REGISTRATION FEES.

Section 7285(a) is amended—

(1) in the first sentence, by inserting ''reasonable'' after ''impose a'';

(2) in the second sentence, by striking '', except that such amount may not exceed $30 per year''; and

(3) in the third sentence, by inserting ''reasonable'' after ''impose a''.

SEC. 503. ANNUAL REPORTS ON WORKLOAD OF UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) IN GENERAL.—Subchapter III of chapter 72 is amended by adding at the end the following new section:

''§ 7288. Annual report

''(a) IN GENERAL.—The chief judge of the Court shall submit annually to the appropriate committees of Congress a report summarizing the workload of the Court for the last fiscal year that ended before the submission of such report. Such report shall include, with respect to such fiscal year, the following information:

''(1) The number of appeals filed.

''(2) The number of petitions filed.

''(3) The number of applications filed under section 2412 of title 28.

''(4) The number and type of dispositions.

''(5) The median time from filing to disposition.

''(6) The number of oral arguments.

''(7) The number and status of pending appeals and petitions and of applications described in paragraph (3).

''(8) A summary of any service performed by recalled retired judges during the fiscal year.

''(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 is amended by inserting after the item related to section 7287 the following new item:

''7288. Annual report.''.

SEC. 504. REPORT ON EXPANSION OF FACILITIES FOR UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States Court of Appeals for Veterans Claims is currently located in the District of Columbia in a commercial office building that is also occupied by other Federal tenants.

(2) In February 2006, the General Services Administration provided Congress with a preliminary feasibility analysis of a dedicated Veterans Courthouse and Justice Center that would house the Court and other entities that work with the Court.

(3) In February 2007, the Court notified Congress that the ''most cost-effective alternative appears to be leasing substantial additional space in the current location'', which would ''require relocating other current government tenants'' from that building.

(4) The February 2006 feasibility report of the General Services Administration does not include an analysis of whether it would be feasible or desirable to locate a Veterans Courthouse and Justice Center at the current location of the Court.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Court of Appeals for Veterans Claims should be provided with appropriate office space to meet its needs, as well as to provide the image, security, and stature befitting a court that provides justice to the veterans of the United States; and

(2) in providing that space, Congress should avoid undue disruption, inconvenience, or cost to other Federal entities.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator of General Services shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the feasibility of—

(A) leasing additional space for the United States Court of Appeals for Veterans Claims within the building where the Court was located on the date of the enactment of this Act; and

(B) using the entirety of such building as a Veterans Courthouse and Justice Center.

(2) CONTENTS.—The report required by paragraph (1) shall include a detailed analysis of the following:

(A) The impact that the matter analyzed in accordance with paragraph (1) would have on Federal tenants of the building used by the Court.

(B) Whether it would be feasible to relocate such Federal tenants into office space that offers similar or preferable cost, convenience, and usable square footage.

(C) If relocation of such Federal tenants is found to be feasible and desirable, an analysis of what steps should be taken to convert the building into a Veterans Courthouse and Justice Center and a timeline for such conversion.

(3) COMMENT PERIOD.—The Administrator shall provide an opportunity to such Federal tenants—

(A) before the completion of the report required by paragraph (1), to comment on the subject of the report required by such paragraph; and

(B) before the Administrator submits the report required by paragraph (1) to the congressional committees specified in such paragraph, to comment on a draft of such report.

TITLE VI—COMPENSATION AND PENSION MATTERS

SEC. 601. ADDITION OF OSTEOPOROSIS TO DISABILITIES PRESUMED TO BE SERVICE-CONNECTED IN FORMER PRISONERS OF WAR WITH POST-TRAUMATIC STRESS DISORDER.

Section 1112(b)(2) is amended by adding at the end the following new subparagraph:

''(F) Osteoporosis, if the Secretary determines that the veteran was diagnosed with post-traumatic stress disorder (PTSD).''.

SEC. 602. COST-OF-LIVING INCREASE FOR TEMPORARY DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN UNDER THE AGE OF 18.

Section 1311(f) is amended by adding at the end the following new paragraph:

''(5) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.''.

SEC. 603. CLARIFICATION OF ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR SERVICE PENSION FOR A PERIOD OF WAR.

Section 1513 is amended—

(1) in subsection (a), by striking ''by section 1521'' and all that follows and inserting ''by subsection (b), (c), (f)(1), (f)(5), or (g) of that section, as the case may be and as increased from time to time under section 5312 of this title.'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) The conditions in subsections (h) and (i) of section 1521 of this title shall apply to determinations of income and maximum payments of pension for purposes of this section.''.

TITLE VII—BURIAL AND MEMORIAL MATTERS

SEC. 701. SUPPLEMENTAL BENEFITS FOR VETERANS FOR FUNERAL AND BURIAL EXPENSES.

(a) FUNERAL EXPENSES.—

(1) IN GENERAL.—Chapter 23 is amended by inserting after section 2302 the following new section:

''§ 2302A. Funeral expenses: supplemental benefits

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2302(a) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $900 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2008, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2302(a) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2302 the following new item:

''2302A. Funeral expenses: supplemental benefits.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2302A of title 38, United States Code (as added by this subsection).

(b) DEATH FROM SERVICE-CONNECTED DISABILITY.—

(1) IN GENERAL.—Chapter 23 is amended by inserting after section 2307 the following new section:

''§ 2307A. Death from service-connected disability: supplemental benefits for burial and funeral expenses

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2307(1) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $2,100 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2008, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2307(1) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2307 the following new item:

''2307A. Death from service-connected disability: supplemental benefits for burial and funeral expenses.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2307A of title 38, United States Code (as added by this subsection).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007, and shall apply with respect to deaths occurring on or after that date.

SEC. 702. SUPPLEMENTAL PLOT ALLOWANCES.

(a) IN GENERAL.—Chapter 23 is amended by inserting after section 2303 the following new section:

''§ 2303A. Supplemental plot allowance

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2303(a)(1)(A) of this title, or for the burial of a veteran under paragraph (1) or (2) of section 2303(b) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral or burial, as applicable.

''(2) No supplemental plot allowance payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $445 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2008, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2303(a)(1)(A) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental plot allowance payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients

with supplemental plot allowance payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2303 the following new item:

''2303A. Supplemental plot allowance.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007, and shall apply with respect to deaths occurring on or after that date.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2303A of title 38, United States Code (as added by subsection (a)).

TITLE VIII—OTHER MATTERS

SEC. 801. ELIGIBILITY OF DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES WITH SEVERE BURN INJURIES FOR AUTOMOBILES AND ADAPTIVE EQUIPMENT.

(a) ELIGIBILITY.—Paragraph (1) of section 3901 is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''or (iii) below'' and inserting ''(iii), or (iv)''; and

(B) by adding at the end the following new clause:

''(iv) A severe burn injury (as determined pursuant to regulations prescribed by the Secretary).''; and

(2) in subparagraph (B), by striking ''or (iii)'' and inserting ''(iii), or (iv)''.

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking ''chapter—'' and inserting ''chapter:'';

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''means—'' and inserting ''means the following:'';

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking ''any veteran'' and inserting ''Any veteran'';

(ii) in clauses (i) and (ii), by striking the semicolon at the end and inserting a period; and

(iii) in clause (iii), by striking ''or'' and inserting a period; and

(C) in subparagraph (B), by striking ''any member'' and inserting ''Any member''.

SEC. 802. SUPPLEMENTAL ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES TO CERTAIN DISABLED VETERANS.

(a) IN GENERAL.—Chapter 39 is amended by inserting after section 3902 the following new section:

''§ 3902A. Supplemental assistance for providing automobiles or other conveyances

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the purchase of an automobile or other conveyance for an eligible person under section 3902 of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such purchase.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT OF SUPPLEMENTAL PAYMENT.—Supplemental payment required by subsection (a) is equal to the excess of—

''(1) the payment which would be determined under section 3902 of this title if the amount described in section 3902 of this title were increased to the adjusted amount described in subsection (c), over

''(2) the payment determined under section 3902 of this title without regard to this section.

''(c) ADJUSTED AMOUNT.—The adjusted amount is $22,484 (as adjusted from time to time under subsection (d)).

''(d) ADJUSTMENT.—(1) Effective on October 1 of each year (beginning in 2008), the Secretary shall increase the adjusted amount described in subsection (c) to an amount equal to 80 percent of the average retail cost of new automobiles for the preceding calendar year.

''(2) The Secretary shall establish the method for determining the average retail cost of new automobiles for purposes of this subsection. The Secretary may use data developed in the private sector if the Secretary determines the data is appropriate for purposes of this subsection.

''(e) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payment under this section for every eligible person for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide every eligible person with supplemental payment under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 3902 the following new item:

''3902A. Supplemental assistance for providing automobiles or other conveyances.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 3902A of title 38, United States Code (as added by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007, and shall apply with respect to payments made in accordance with section 3902 of title 38, United States Code, on or after that date.

SEC. 803. CLARIFICATION OF PURPOSE OF THE OUTREACH SERVICES PROGRAM OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) CLARIFICATION OF INCLUSION OF MEMBERS OF THE NATIONAL GUARD AND RESERVE IN PROGRAM.—Subsection (a)(1) of section 6301 is amended by inserting '', or from the National Guard or Reserve,'' after ''active military, naval, or air service''.

(b) DEFINITION OF OUTREACH.—Subsection (b) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) the following new paragraph (1):

''(1) the term 'outreach' means the act or process of reaching out in a systematic manner to proactively provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws;''.

SEC. 804. TERMINATION OR SUSPENSION OF CONTRACTS FOR CELLULAR TELEPHONE SERVICE FOR SERVICEMEMBERS UNDERGOING DEPLOYMENT OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Title III of the Servicemembers Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended by inserting after section 305 the following new section:

''SEC. 305A. TERMINATION OR SUSPENSION OF CONTRACTS FOR CELLULAR TELEPHONE SERVICE.

''(a) IN GENERAL.—A servicemember who receives orders to deploy outside of the continental United States for not less than 90 days may request the termination or suspension of any contract for cellular telephone service entered into by the servicemember before that date if the servicemember's ability to satisfy the contract or to utilize the service will be materially affected by that period of deployment. The request shall include a copy of the servicemember's military orders.

''(b) RELIEF.—Upon receiving the request of a servicemember under subsection (a), the cellular telephone service contractor concerned shall, at the election of the contractor—

''(1) grant the requested relief without imposition of an early termination fee for termination of the contract or a reactivation fee for suspension of the contract; or

''(2) permit the servicemember to suspend the contract at no charge until the end of the deployment without requiring, whether as a condition of suspension or otherwise, that the contract be extended.''.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 305 the following new item:

''Sec. 305A. Termination or suspension of contracts for cellular telephone service.''.

SEC. 805. MAINTENANCE, MANAGEMENT, AND AVAILABILITY FOR RESEARCH OF ASSETS OF AIR FORCE HEALTH STUDY.

(a) PURPOSE.—The purpose of this section is to ensure that the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study are maintained, managed, and made available as a resource for future research for the benefit of veterans and their families, and for other humanitarian purposes.

(b) ASSETS FROM AIR FORCE HEALTH STUDY.—For purposes of this section, the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study are the assets of the Air Force Health Study transferred to the Medical Follow-Up Agency under section 714 of the John Warner National Defense Authorization

Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2290), including electronic data files and biological specimens on all participants in the study (including control subjects).

(c) MAINTENANCE AND MANAGEMENT OF TRANSFERRED ASSETS.—The Medical Follow-Up Agency shall maintain and manage the assets transferred to the Agency from the Air Force Health Study.

(d) ADDITIONAL NEAR-TERM RESEARCH.—

(1) IN GENERAL.—The Medical Follow-Up Agency may, during the period beginning on October 1, 2007, and ending on September 30, 2011, conduct such additional research on the assets transferred to the Agency from the Air Force Health Study as the Agency considers appropriate toward the goal of understanding the determinants of health, and promoting wellness, in veterans.

(2) RESEARCH.—In carrying out research authorized by this subsection, the Medical Follow-Up Agency may, utilizing amounts available under subsection (f)(1)(B), make grants for such pilot studies for or in connection with such research as the Agency considers appropriate.

(e) ADDITIONAL MEDIUM-TERM RESEARCH.—

(1) REPORT.—Not later than March 31, 2011, the Medical Follow-Up Agency shall submit to Congress a report assessing the feasability and advisability of conducting additional research on the assets transferred to the Agency from the Air Force Health Study after September 30, 2011.

(2) DISPOSITION OF ASSETS.—If the report required by paragraph (1) includes an assessment that the research described in that paragraph would be feasible and advisable, the Agency shall, utilizing amounts available under subsection (f)(2), make any disposition of the assets transferred to the Agency from the Air Force Health Study as the Agency considers appropriate in preparation for such research.

(f) FUNDING.—

(1) IN GENERAL.—From amounts available for each of fiscal years 2008 through 2011 for the Department of Veterans Affairs for Medical and Prosthetic Research, amounts shall be available as follows:

(A) $1,200,000 shall be available in each such fiscal year for maintenance, management, and operation (including maintenance of biological specimens) of the assets transferred to the Medical Follow-Up Agency from the Air Force Health Study.

(B) $250,000 shall be available in each such fiscal year for the conduct of additional research authorized by subsection (d), including the funding of pilot studies authorized by paragraph (2) of that subsection.

(2) MEDIUM-TERM RESEARCH.—From amounts available for fiscal year 2011 for the Department of Veterans Affairs for Medical and Prosthetic Research, $200,000 shall be available for the preparation of the report required by subsection (e)(1) and for the disposition, if any, of assets authorized by subsection (e)(2).

SEC. 806. NATIONAL ACADEMIES STUDY ON RISK OF DEVELOPING MULTIPLE SCLEROSIS AS A RESULT OF CERTAIN SERVICE IN THE PERSIAN GULF WAR AND POST 9/11 GLOBAL OPERATIONS THEATERS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall enter into a contract with the Institute of Medicine of the National Academies to conduct a comprehensive epidemiological study for purposes of identifying any increased risk of developing multiple sclerosis as a result of service in the Armed Forces during the Persian Gulf War in the Southwest Asia theater of operations or in the Post 9/11 Global Operations theaters.

(b) ELEMENTS.—In conducting the study required under subsection (a), the Institute of Medicine shall do the following:

(1) Determine whether service in the Armed Forces during the Persian Gulf War in the Southwest Asia theater of operations, or in the Post 9/11 Global Operations theaters, increased the risk of developing multiple sclerosis.

(2) Identify the incidence and prevalence of diagnosed neurological diseases, including multiple sclerosis, Parkinson's disease, amyotrophic lateral sclerosis, and brain cancers, as well as central nervous system abnormalities that are difficult to precisely diagnose, in each group as follows:

(A) Members of the Armed Forces who served during the Persian Gulf War in the Southwest Asia theater of operations.

(B) Members of the Armed Forces who served in the Post 9/11 Global Operations theaters.

(C) A non-deployed comparison group for those who served in the Persian Gulf War in the Southwest Asia theater of operations and the Post 9/11 Global Operations theaters.

(3) Compare the incidence and prevalence of the named diagnosed neurological diseases and undiagnosed central nervous system abnormalities among veterans who served during the Persian Gulf War in the Southwest Asia theater of operations, or in the Post 9/11 Global Operations theaters, in various locations during such periods, as determined by the Institute of Medicine.

(4) Collect information on risk factors, such as pesticide and other toxic exposures, to which veterans were exposed while serving during the Persian Gulf War in the Southwest Asia theater of operations or the Post 9/11 Global Operations theaters, or thereafter.

(c) REPORTS.—

(1) INTERIM REPORT.—The contract required by subsection (a) shall require the Institute of Medicine to submit to the Secretary, and to appropriate committees of Congress, interim progress reports on the study required under subsection (a). Such reports shall not be required to include a description of interim results on the work under the study.

(2) FINAL REPORT.—The contract shall require the Institute of Medicine to submit to the Secretary, and to appropriate committees of Congress, a final report on the study by not later than December 31, 2010. The final report shall include such recommendations for legislative or administrative action as the Institute considers appropriate in light of the results of the study.

(d) FUNDING.—The Secretary shall provide the Institute of Medicine with such funds as are necessary to ensure the timely completion of the study required under subsection (a).

(e) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committee on Veterans' Affairs of the Senate; and

(B) the Committee on Veterans' Affairs of the House of Representatives.

(2) The term ''Persian Gulf War'' has the meaning given that term in section 101(33) of title 38, United States Code.

(3) The term ''Post 9/11 Global Operations theaters'' means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

SEC. 807. COMPTROLLER GENERAL REPORT ON ADEQUACY OF DEPENDENCY AND INDEMNITY COMPENSATION TO MAINTAIN SURVIVORS OF VETERANS WHO DIE FROM SERVICE-CONNECTED DISABILITIES.

(a) REPORT REQUIRED.—Not later than 10 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the Committees on Veterans' Affairs and Appropriations of the House of Representatives a report on the adequacy of dependency and indemnity compensation payable under chapter 13 of title 38, United States Code, to surviving spouses and dependents of veterans who die as a result of a service-connected disability in replacing the deceased veteran's income.

(b) ELEMENTS.—The report required by subsection (a) shall include—

(1) a description of the current system for the payment of dependency and indemnity compensation to surviving spouses and dependents described in subsection (a), including a statement of the rates of such compensation so payable;

(2) an assessment of the adequacy of such payments in replacing the deceased veteran's income; and

(3) such recommendations as the Comptroller General considers appropriate in order to improve or enhance the effects of such payments in replacing the deceased veteran's income.

Amend the title so as to read: ''To amend title 38, United States Code, to enhance veterans' insurance and housing benefits, to improve benefits and services for transitioning servicemembers, and for other purposes.''.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—H.R. 493

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 125, H.R. 493, the Genetic Nondiscrimination Act, on tomorrow, Thursday, April 24, and that when the bill is considered, the only amendment in order be a substitute amendment offered by Senators SNOWE, KENNEDY, and ENZI; that there be a total of 2 hours for debate on the bill and substitute amendment, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of all time, the substitute amendment be agreed to, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, it has taken a long time to get where we are now. I express my appreciation to Senator KENNEDY and Senator ENZI and others who worked very hard on this. We have said it before, but you can't say it enough: Senator KENNEDY and Senator ENZI have different political philosophies, but there are no two Senators who work better together on the committee than they do. They always act as gentlemen. They work very hard. But for their good work, we would not be where we are on this issue. I extend my appreciation to them and others who worked hard, but especially those two fine Senators.

VETERANS' BENEFITS ENHANCEMENT ACT—Continued

Mr. REID. Madam President, I ask unanimous consent that when the Senate begins consideration of S. 1315 today, the Burr amendment relating to a striking provision be the only amendment in order, other than the committee-reported substitute, the title amendment, and a managers' technical amendment that has been cleared by the managers and leaders; that there be a time limit of 60 minutes for debate with respect to the Burr amendment on tomorrow, Thursday, with the time equally divided and controlled in the

usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Burr amendment; that upon disposition of the Burr amendment and a managers' technical amendment, if cleared, the substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill; that upon passage, the title amendment be agreed to and the motion to reconsider laid upon the table; that upon passage of S. 1315, the Senate then proceed to Calendar No. 125, H.R. 493, and consider it under the parameters of a previous order which was entered a few minutes ago.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, I ask unanimous consent to speak for 5 minutes as in morning business.

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

Mr. REID. Madam President, reluctantly, I ask the Senator to withhold. We want to lay down the amendment pursuant to the order. The Senator can regain the floor.

Ms. MIKULSKI. I am happy to do that.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 4572

Mr. BURR. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR], for himself, Mr. VITTER, Mr. ISAKSON, and Mr. CRAIG, proposes an amendment numbered 4572.

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

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

The amendment is as follows:

(Purpose: To increase benefits for disabled U.S. veterans and provide a fair benefit to World War II Filipino Veterans for their service to U.S.)

Strike section 401 and insert the following:

SEC. 401. EXPANSION OF ELIGIBILITY FOR BENEFITS PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS FOR CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE COMMONWEALTH OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS.

(a) MODIFICATION OF STATUS OF CERTAIN SERVICE.—

(1) IN GENERAL.—Section 107 is amended to read as follows:

"§ 107. Certain service with Philippine forces deemed to be active service

''(a) IN GENERAL.—Service described in subsection (b) shall be deemed to have been active military, naval, or air service for purposes of any law of the United States conferring rights, privileges, or benefits upon any individual by reason of the service of such individual or the service of any other individual in the Armed Forces.

''(b) SERVICE DESCRIBED.—Service described in this subsection is service—

''(1) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

''(2) in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 538).

''(c) DEPENDENCY AND INDEMNITY COMPENSATION FOR CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.—(1) Dependency and indemnity compensation provided under chapter 13 of this title to an individual described in paragraph (2) shall be made at a rate of $0.50 for each dollar authorized.

''(2) An individual described in this paragraph is an individual who resides outside the United States and is entitled to dependency and indemnity compensation under chapter 13 of this title based on service described in subsection (b).

''(d) EXCEPTION ON PENSION AND DEATH PENSION FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—An individual who resides outside the United States shall not, while so residing, be entitled to a pension under subchapter II or III of chapter 15 of this title based on service described in subsection (b).

''(e) UNITED STATES DEFINED.—In this section, the term 'United States' means the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 is amended by striking the item related to section 107 and inserting the following new item:

''107. Certain service with Philippine forces deemed to be active service.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the payment or provision of benefits on or April 1, 2009. No benefits are payable or are required to be provided by reason of such amendment for any period before such date.

(b) PENSION AND DEATH PENSION BENEFIT PROTECTION.—Notwithstanding any other provision of law, a veteran with service described in section 107(b) of title 38, United States Code (as added by subsection (a)), who is receiving benefits under a Federal or federally assisted program as of April 1, 2009, or a survivor of such veteran who is receiving such benefits as that date, may not be required to apply for or receive benefits under chapter 15 of such title if the receipt of such benefits would—

(1) make such veteran or survivor ineligible for any Federal or federally assisted program for which such veteran or survivor qualifies; or

(2) reduce the amount of benefit such veteran or survivor would receive from any Federal or federally assisted program for which such veteran or survivor qualifies.

(c) INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.—

(1) IN GENERAL.—Section 2102 is amended—

(A) in subsection (b)(2), by striking ''$10,000'' and inserting ''$11,000'';

(B) in subsection (d)—

(i) in paragraph (1), by striking ''$50,000'' and inserting ''$55,000''; and

(ii) in paragraph (2), by striking ''$10,000'' and inserting ''$11,000''; and

(C) by adding at the end the following new subsection:

''(e)(1) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amounts described in subsection (b)(2) and paragraphs (1) and (2) of subsection (d) in accordance with this subsection.

''(2) The increase in amounts under paragraph (1) to take effect on October 1 of a year shall be by an amount of such amounts equal to the percentage by which—

''(A) the residential home cost-of-construction index for the preceding calendar year, exceeds

''(B) the residential home cost-of-construction index for the year preceding the year described in subparagraph (A).

''(3) The Secretary shall establish a residential home cost-of-construction index for the purposes of this subsection. The index shall reflect a uniform, national average change in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009, and shall apply with respect to payments made in accordance with section 2102 of title 38, United States Code, on or after that date.

(d) ANNUAL ADJUSTMENT OF AMOUNT OF BURIAL AND FUNERAL EXPENSES FOR DEATHS FROM SERVICE-CONNECTED DISABILITY.—Section 2307 is amended—

(1) by inserting ''(a)'' before ''In any case''; and

(2) by adding at the end the following new subsection:

''(b) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the amount authorized by subsection (a)(1) by the amount equal to the percentage of such amount by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(e) INCREASE IN ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES TO CERTAIN DISABLED VETERANS.—

(1) IN GENERAL.—Section 3902 is amended—

(A) in subsection (a), by striking ''$11,000'' and inserting ''$15,000''; and

(B) by adding at the end the following new subsection:

''(e) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amount described in subsection (a) by a percentage of such amount equal to the percentage by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009, and shall apply with respect to payments made in accordance with section 3902 of title 38, United States Code, on or after that date.

Mr. BURR. Madam President, I will wait until tomorrow during the 1 hour of debate to take up the amendment.

MORNING BUSINESS

Mr. REID. Madam President, I now ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes each, and that Senator MIKULSKI be the first to be recognized.

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

The Senator from Maryland is recognized.

FAIR PAY RESTORATION ACT

Ms. MIKULSKI. Madam President, I am deeply disappointed about the fact that we did not get the necessary votes to move the Fair Pay Restoration Act forward. We fell three votes short of what we needed to do to get the job done. This fight for equal pay for equal comparable work, however, will go on.

As the senior woman in the Senate, I take the floor tonight to say we will fight on. This was the first step forward. It will not be the only step we will take. But what we will not tolerate is another step backward.

We are going to continue to bring this fight. We will look for opportunities to bring this legislation back to the Senate floor. What is it we want to do? It is to end discrimination against women in their personal paychecks. In order to end that, we need to change the lawbooks so they can experience fairness in their personal checkbook.

This is the year 2008. You would think that in the year 2008, on the 40th anniversary of the passage of so many historic civil rights bills, we would finally have legislation that would guarantee fairness in terms of pay.

So we regret we didn't get the votes, but we will move on. Many people have been mesmerized by the John Adams miniseries. I like John Adams, but I really liked Abigail. While John Adams was down in Philadelphia with Thomas Jefferson, Benjamin Franklin, and a bunch of the other guys writing the Declaration of Independence and laying the groundwork for the Constitution and inventing America, Abigail Adams wrote her husband from the farm—while raising the four children and keeping the family going. She said: As you write those documents, do not forget the ladies, for we will foment a revolution of our own.

I stand here today to say: Do not forget the ladies because we will foment a revolution of our own. I was here in 1992 when we didn't get it on Anita Hill. I am here in 2008 when we didn't get it in pay equity.

In 1992, we had a revolution that went on. We got six new women in the Senate. There are now 16 of us. The majority of us voted for this bill. I am telling you we are ready for an ''Abigail Adams'' effort here. If they don't want to put us in the lawbooks so we can have fairness in the checkbooks, we will do a revolution. What do I mean by that? We will take it out to the voting booths. We will go on the Internet. We are going to go on TV, on the blogs. And we are going to tell everybody about this ignominious vote that occurred. When we tell it, we are going to say: Call to arms, women of America, put your lipstick on, square your shoulders, suit up, we have a hell of a fight coming, but, boy, are we ready. The revolution starts tonight.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FILIPINO VETERANS

Mr. SALAZAR. Madam President, I come to the floor this afternoon to speak again on behalf of S. 1315, the Veterans' Benefits Enhancement Act.

At the outset, I wish to commend Senator AKAKA for his leadership in the Committee on Veterans' Affairs, as well as the ranking member, Senator BURR, for having brought together a package, which is a good one, which is now on the floor of the Senate. I hope our colleagues come together tomorrow to pass this important legislation for the veterans of America.

The bill expands eligibility for traumatic injury insurance; extends eligibility for specially adapted housing benefits for veterans with severe burns; increases benefits for veterans pursuing apprenticeships or on-job training programs; and a whole host of other benefits that are needed for the veterans of America. It is especially crucial at this time because of the fact that we have so many returning veterans from Operation Iraqi Freedom and Operation Enduring Freedom.

This is legislation that will help not only those veterans but the 25 million veterans we have here in America. I am proud to be a cosponsor of this legislation. I urge my colleagues to fully support it.

The issue of debate, which has, frankly, kept this legislation from receiving a unanimous consent vote in the Senate has been the issue of the treatment for veterans benefits of the Filipino warriors from World War II. I wish to remind our colleagues there were 470,000 Filipino veterans that volunteered and served to preserve the freedoms of the world during World War II; that approximately 200,000 of them were with the Philippine Commonwealth Army, with the Philippine Army Air Corps, and the Philippine Army Offshore Patrol.

Today, there are about 18,000 of those warriors who now live in the United States of America. In my view, we cannot forget the sacrifices these Filipino warriors made as they fought side by side with American troops in World War II. They constituted the vast majority of the 80,000 soldiers who defended the Bataan Peninsula during the Japanese invasion. They constituted the vast majority of the soldiers who were forced on the Bataan Death March. The provisions in this legislation that deal with the benefits for Filipino veterans—and most of them are in their late seventies and eighties—are provisions we should support in the Senate.

I ask unanimous consent to have printed in the RECORD the order from President Franklin Roosevelt, dated July 26, 1941, concerning his order placing the Philippine Army under the control of the United States Department of Defense.

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

THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT

Military Order Placing Land and Sea Forces of Philippines Under United States Commands, July 26, 1941

Under and by virtue of the authority vested in me by the Constitution of the United States, by section 2(a)(12) of the Philippine Independence Act of March 24, 1934 (48 Stat. 457), and by the corresponding provision of the Ordinance appended to the Constitution of the Commonwealth of the Philippines, and as Commander in Chief of the Army and Navy of the United States, I hereby call and order into the service of the armed forces of the United States for the period of the existing emergency, and place under the command of a General Officer, United States Army, to be designated by the Secretary of War from time to time, all of the organized military forces of the Government of the Commonwealth of the Philippines: *Provided*, that all naval components thereof shall be placed under the command of the Commandant of the Sixteenth Naval District, United States Navy.

This order shall take effect with relation to all units and personnel of the organized military forces of the Government of the Commonwealth of the Philippines, from and after the dates and hours, respectively, indicated in orders to be issued from time to time by the General Officer, United States Army, designated by the Secretary of War.

Mr. SALAZAR. Madam President, in that statement and order by President Roosevelt, this is what he said, on July 26, 1941:

Under and by virtue of the authority vested in me by the Constitution of the United States, [by the corresponding laws concerning the Constitution] . . . of the Commonwealth of the Philippines, and as Commander in Chief of the Army and the Navy of the United States, I hereby call and order into the service of the Armed Forces of the United States for the period of the existing emergency, and place under the command of a General Officer, United States Army . . . all of the organized military forces of the Government of the Commonwealth of the Philippines . . .

This order shall take effect with relation to all units and personnel of the organized military forces of the Government of the Commonwealth of the Philippines. . . .

By this order, President Roosevelt harnessed the men and women of the Philippines, who served in the Armed Forces and helped our forces during

that great conflict, to be part of our warrior force that defended and preserved the freedoms of America during that great world war.

So I honor and I appreciate the leadership of Senator AKAKA and Senator INOUYE and Senator STEVENS, who have come to the floor and have spoken, from their unique historical perspective, about this being a matter of justice for the Filipino veterans who so helped secure the place of America across the world as a beacon of hope and freedom for generations to come.

I think we, as a Senate body, can do no less than to honor the sacrifice of these great veterans—part of the greatest generation—by making sure we adopt the provisions of this bill as they have been presented by Senator AKAKA in his bill.

Mr. CARDIN. Madam President, I speak today in support of S. 1315, the Veterans' Benefits Enhancement Act of 2007.

Our service men and women as well as their families make enormous sacrifices for our freedom. In return, Congress has an obligation to spend the money and create the programs necessary to provide quality, comprehensive health care services, mental health counseling, disability compensation, pay increases, better education benefits, and more. That responsibility grows daily with so many of our troops fighting overseas.

I am proud of what this Congress has accomplished to date. We passed a Defense authorization bill that will enhance wounded soldiers' health care and rehabilitation benefits as well as streamline the physical evaluation process. Last year, this Congress provided the largest increase in veterans' spending in this country's history. This February, the Senate passed and President Bush signed the economic stimulus package that would provide stimulus checks to more than 250,000 disabled veterans and to the survivors of disabled veterans. We passed a housing stimulus package on April 10 that had several benefits for veterans including increased limits on the VA Home Loan program and authorization for the VA to provide increased adapted housing grants to disabled veterans.

As a member of the Budget Committee, I am happy to report that this year's budget puts us on track to provide our veterans adequate support in the coming fiscal year. The resolution would provide $48.2 billion to help ensure that the Veterans Health Administration within the Department of Veterans Affairs can provide the highest quality care for all veterans.

But our work is far from done. S. 1315 contains several critical benefits improvements to ensure that veterans young and old have what they need to provide for their families and lead full, productive lives. Provisions in S. 1315 would improve life insurance programs for disabled veterans, expand the traumatic injury protection program for active duty servicemembers, extend for 2 years the monthly educational assistance allowance for apprenticeship or other on-the-job training, and provide individuals with severe burns specially adapted housing benefits. These are important benefits and services that mean a great deal to the nearly 500,000 veterans living in Maryland and to veterans around this country.

But, for 8 months now, members of the minority party have kept the Senate from even debating S. 1315 because they oppose a provision in the bill that would extend certain VA benefits to elderly Filipino veterans, residing in the Philippines, who fought alongside U.S. troops during World War II. Drafted by our Government, hundreds of thousands of Filipino soldiers served with honor in some of the most dire circumstances of the war. These Filipino veterans were promised veterans' status and were even considered United States veterans until that status was taken from them by Congress in 1946. Restoration of that status rights a wrong committed decades ago. And it is a correction we don't have many more years to make. We should grant these former soldiers full status and the limited pension rights contained in this bill so that they can live out their remaining years in dignity and peace.

I know that some Senators may disagree with me on this issue. That is their right. But I regret that they have made it so hard for us to consider this important bill. I hope the Senate will be able to vote on final passage soon. We owe that much and so much more to this Nation's veterans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Wyoming is recognized.

EQUAL PAY

Mr. ENZI. A few minutes ago, we concluded the vote on H.R. 2831 that came after a very short debate. It was a clever use of the rules by the majority, I have to hand them that. There is a requirement that there can be only 1 hour of debate before the cloture vote. So we didn't have any session today until 5 p.m. The Senate was closed. That is an interesting way to limit debate. As I noted in my earlier remarks, the bill we voted on also didn't come to committee and follow the regular order.

I am very proud of the fact that Senator KENNEDY and I are able to work out a lot of things on a lot of bills. In fact, I think we hold the record for major bill passage. The way we were able to do that is to work in a very bipartisan way. We have worked out difficulties and sometimes we have compromised and sometimes we have left things out so things could get done. On this bill, we never had that opportunity. We never had that courtesy. We never got to debate this for 1 minute in committee mark-up, let alone on the floor.

The debate was kind of fascinating to listen to because there is equal pay, which all of us are in favor of; and there is the pay gap, which all of us want to close. But the discussion ranged between the two, making them sound like they were the same thing. I want people to be clear that they are not. When we talk about women as a whole in the United States getting 23 cents per hour less than men do, we are not talking about equal pay for equal jobs; we are talking about pay for jobs that are not equal. We have held some hearings in our committee on this, and they have been very enlightening. If a person takes what is considered a traditional job—if a woman takes a traditional job—the jobs don't pay very well. If a woman takes a nontraditional job, they pay very well, just like the men who are doing that job. But they are not traditional jobs for women. Somehow, we have to move women from those traditional jobs, where there is overemployment, to some of the nontraditional jobs where there is underemployment.

One of the fascinating people who spoke at our committee was a young lady who became a mason. She puts rocks on buildings, and she was proud of the work she does, and she should be. She started out paving, then later adding some marble steps, then adding pieces to buildings, and then doing high-altitude work. And I want to tell you, she makes more than I do because she does something different than most people do, and it pays well.

We have this thing in America where we say there is this kind of job, and these are the people who ought to take those; and there are these other jobs, and you are probably not qualified for those. Well, when does that qualification happen? Throughout life. We have to be training people and encouraging people to do better things.

In order to encourage that kind of training we had the America COMPETES Act which we passed last year. It puts an emphasis on science, technology, engineering and math so that people can become doctors and engineers, and other high-paying jobs. We ought to get more people into these fields, but what we are getting now is fewer and fewer people into them. We are facing a shortage in those fields, except for the fact that we can bring people in from other countries who can do those because they are turning out a lot of people with the necessary skills.

I have asked the reason for that, and the answer is that they do some things we are never going to do in this country. I went to India recently and learned a lot about their education system. They promise that every kid gets an education through sixth grade, but they do not follow that promise. Only 20 percent of the girls get an education at all. They also have this little review at fourth grade to see if people are interested in education, and if they determine that you aren't they kick you out of school. Now, that is before sixth grade. That is fourth grade. They kick them out of school. Those people will

make $1 a day for the rest of their lives. At sixth grade, they have another purge and even more people are kicked out of school. We would never stand for that. Those people will make $2 a day the rest of their lives. Now, in most of the world, poverty is $1 a day, so they are above the poverty line, although they wouldn't be in the United States. So India only lets 7 percent of the kids go to college—just 7 percent. Again, we would never stand for that. We keep trying to figure out how to get more and more people into post-high school education, and that includes career and vocational education. And we need to do that. But in India, part of people's incentive to get into science, technology, engineering, and math is that those are the jobs that pay well. One person in India told me: We don't have professional sports teams, so there aren't any kids out there who are bouncing a basketball or throwing a pass or doing any of the other things that a lot of American kids are doing and thinking they are going to get to go pro. Some American kids think they are going to go pro and think they will make about $18 million a year. It is not going to happen for most of them.

I really appreciate the NCAA's ads running now that show a whole bunch of people in different professional sports, and they say there are 380,000 young people who are in college sports, and every one of them will go pro but not in their sport. That is the important line on it: not in their sport.

Somehow, we have to get more people involved in the sciences so they have the basic knowledge in grade school, which will allow them to excel in high school, which will allow them to do well in college and then allow them to get into the higher paying jobs. Men and women have equal talent in all of those areas. What we have to do is encourage that equal talent equally.

I have been trying to get the Workforce Investment Act through here, and I have gotten it through the Senate twice unanimously, but there hasn't been a willingness to go to conference committee with the House. I asked why, and I was told: Well, we are afraid of where the conference committee might go. There is no reason for that fear right now because the same people who were afraid of where it might go would be in charge of the conference committee now. If they are in charge of it, they could make sure it doesn't go anywhere they do not want it to go.

If we can pass that bill, it will provide the flexibility that will allow 900,000 people a year to train for higher skilled jobs. For many women, that will narrow the pay gap. They can go into other kinds of jobs that they may have been precluded by other events in their lives from ever getting into. If we want to narrow the wage gap, there are a number of ways to do that, but it means we have to get women into areas they haven't been traditionally working in before. That is the best solution to the wage gap argument.

Part of the difficulty in passing a bill around here is having a chance to work on the bill. The bill that came before us earlier today passed the House after being allowed only one hour of debate. Using their rules, the majority made sure no one was allowed to amend it. Now, it comes over here and bypasses the committee. The way we usually work a bill is for the chairman of the committee and the ranking member, Senator KENNEDY and myself, to sit down and list out some principles that we have to check with the rest of the committee to see if they match the problem we are trying to solve. After we have those principles, we plug in details and see if we have the details right. Then we call in the stakeholders, which is really anybody interested in that issue, and we see if they agree with it.

We have found that when we can get agreements with the people on the committee and the stakeholders, we have the answer right. And most people in this body agree we have it right because most of the bills that get worked out this way get passed unanimously. A long debate for a bill that comes out of our committee is probably 2 hours.

We are going to have one of those tomorrow. It will be genetic nondiscrimination, a very important bill which, first of all, allows people to take advantage of the Genome Project. For example, if you are having your blood checked you can find out your genetic framework, which can tell you things that could happen to you in the future. And if you know they could happen to you in the future, you can take actions to keep them from ever happening.

This bill requires that if you have a genetic marker indicating that something could happen to you, your insurer is not allowed to make it a preexisting condition and your employer is not allowed to fire you over it. The bill will offer real protection that can ultimately help people live healthier longer.

The Genetic Non-Discrimination bill went through the whole process that I have described. It has even been preconferenced with the House side. So we are pretty sure that once it finishes here it will go right over to the House and the House will take care of it too. That doesn't mean we left the House and the House committee out of the process. We let them into the process. We let them into the process early so that everybody would know what was happening. But that hasn't been the case on H.R. 2831.

I am disappointed that there wasn't the need, the courage, the desire to see what the principles are on this issue and see if we could actually solve the problem. We can build a good case for equal employment because we have always voted for equal employment. We will all vote for equal employment. We all want to close the pay gap. That is a bit tougher to do, but we can do it if we work together. If we don't work together and use issues like this to score political points, it will be like so many bills that come over here and get debated for long periods of time and nothing ever happens to address the issue. The most productive place to address tough issues is the committee. In the committee, you can have a couple of people interested in one part of the issue go off by themselves and come up with a solution. Quite often, it isn't the polarized one the Republicans have or the polarized one the Democrats had. What it becomes is the third way, and that eliminates the clash of the two polarized sides.

There are so many things around here that have been debated so long that if you mention a term from that issue, you get instant rebellion from both sides. I have watched that so many times, people hear a word and jump into the weeds arguing about the broader application of that word and keeping the discussion from actually getting to the principle that is trying to be solved.

So there is a way to get these bills done, but it isn't through ''gotcha'' politics. It isn't by just bringing things here without consulting the other side to see if there are any small corrections or maybe even big corrections that can be made. And, as I said before, I happen to be disappointed that after all the cooperation we have had in the committee on other difficult issues, that there wasn't even an opportunity for cooperation in the committee on this one.

I believe there are some solutions out there, but they are not going to be arrived at on the floor of the Senate. What happens here on the floor is that both sides bring a series of amendments that we think will put the other side in a bad light if they vote against it. It isn't just one side that will do it, both sides will do it. So we need to have a little more civil way of solving this problem, and I have confidence it can be done.

I thank the Chair, and I yield the floor.

COCONUT ROAD INVESTIGATION

Mr. KYL. Mr. President, I rise today to comment on the competing Coburn and Boxer amendments that were offered last Thursday to the highway technical corrections bill. I voted in favor of the Coburn amendment. That amendment would establish a bipartisan, bicameral committee of Congress to investigate the circumstances surrounding the changes that were made to the provisions of the 2005 highway bill relating to the Coconut Road project between the time that the bill passed the House and Senate and the time that it was enrolled.

However, I voted against the Boxer amendment, which purports to command the Justice Department to commence a criminal investigation of this same matter. Whether to initiate a criminal investigation is a decision

that our Constitution vests exclusively in the executive branch. It is not a decision that the Constitution allows to be made through legislative enactments. Although the Boxer amendment's mandate to the executive was modified to state that the criminal investigation shall only commence ''under applicable standards and procedures,'' this change does not cure the amendment's constitutional infirmity. There are no ''applicable standards and procedures'' for a legislative mandate to the executive to initiate a criminal investigation. Whether to initiate such an investigation is a matter of prosecutorial discretion and is a decision entrusted firmly and solely to the executive branch. To the extent that the Boxer amendment purports to commandeer this function, it is a dead letter and will surely be ignored as unconstitutional legislative interference in an executive function.

I would finally note that by insisting on replacing Senator COBURN's amendment with a me-too amendment of their own, the Democratic majority has undercut the likelihood that there will be any investigation of the Coconut Road matter. Senator COBURN's proposal to create a committee of Congress to investigate this matter was perfectly constitutional and would have gotten to the bottom of this issue. The Boxer amendment is an unconstitutional nullity. And even if that amendment weren't unconstitutional, or if the Justice Department undertook an investigation of this affair on its own initiative, such an investigation would only answer whether a Federal crime has been committed. Congress and the people deserve to know the circumstances and potential ethical violations raised by this matter regardless of whether a criminal offense occurred.

I regret that the Coburn amendment was not adopted and was replaced by the Boxer amendment. By taking these actions, the Senate has crossed a constitutional line and has reduced the likelihood that the underlying matter will be adequately investigated.

ARMENIAN GENOCIDE

Mrs. BOXER. Mr. President, I take this opportunity today to solemnly observe the 93rd anniversary of the Armenian Genocide.

The Armenian genocide was the first genocide of the 20th century. From 1915 until 1923, 1.5 million Armenians were brutally killed by the Ottoman Turks in a systematic effort to eradicate the Armenian people. There were unbearable acts of torture; men were separated from their families and murdered; women and children were put on a forced march across the Syrian desert without food or water.

Henry Morgenthau, the U.S. Ambassador to the Ottoman Empire from 1913 to 1916, recalled:

> When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact . . . I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

Tragically, 1915 was just the beginning. We saw the horrors of genocide in World War II when Jews were subjected to systematic extermination at the hands of Adolf Hitler and his followers. Indeed, Hitler remarked at the outset of this unbridled evil, ''Who, after all, speaks today of the annihilation of the Armenians?'' Unfortunately, the phrase ''never again'' turned out to be a hollow slogan. In the later half of the last century, countries like Cambodia and Rwanda were ravaged while the world was silent. And even now, in this new century, Darfur is the latest place to experience such brutality and inhumanity as the world stands idly by, either incapable or unwilling to do what is necessary to stop the devastation and murder.

Today, the Turkish Government denies what happened in the dying days of the Ottoman Empire and thus this scar on history cannot be healed until history is accurately spoken, written, and recalled. These are lessons that must be told and repeated to each and every generation.

In order for democracy and human rights to flourish, we must not support efforts to rewrite and deny history. In the United States, we strive to make human rights a fundamental component of our democracy. It is long overdue for our Nation to demand that the truth be told. We must recognize the Armenian genocide in the name of democracy, fairness, and human rights.

To that end, I am proud to be an original cosponsor of Senator RICHARD DURBIN's S. Res. 106, calling on the President to accurately characterize the Armenian Genocide in his annual message around April 24 and to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

It is important that we recognize the Armenian Genocide while its survivors are still with us to tell their stories. We must recognize the genocide for the survivors. We must recognize the genocide because it's the right thing to do. We must recognize the Armenian Genocide to help shed light on the darkness and move toward a more humane world.

ADDITIONAL STATEMENTS

TRIBUTE TO ROY E. JUNE

• Mr. BAUCUS. Mr. President, I wish to recognize a distinguished and decorated World War II U.S. Army Air Corps veteran from my home State of Montana. Born in the small, humble town of Forsyth, 1LT Roy E. June comes as an inspiration to those who wish to lead a life of service to their country and their communities.

From the tragedy of Pearl Harbor on December 7, 1941, came America's greatest generation responding to the certain urgency of that era. Like many young men of that generation, Roy and his buddies enlisted in the Armed Forces to defend their country and to advance the just cause of freedom. In the U.S. Army Air Corps, Roy's bravery and skills as a fighter pilot set him above the rest. As a P–51 Mustang fighter pilot, Roy escorted B–29 bombers to Japan, strafed and dive-bombed strategic military installations on Chi Chi Jima. For his heroism in the Pacific Theater, Roy earned an Air Medal with Oak Leaf Cluster and the Distinguished Flying Cross. His 15th Fighter Group, the 47th Fighter Squadron was awarded a Distinguished Unit Citation.

A fellow returning from Hawaii brought news about the end of the war. ''Atomic Bomb Dropped On Japan'' read the headline of the Honolulu Daily Advertiser. After 11 missions over Japan and more than 500 combat hours in the P–51s, Roy returned home to Missoula in January 1946.

Having grown up in the great State of Montana, Roy could recall many fond memories from his youth in his hometown of Forsyth. Roy was a Boy Scout and played center on the high school football team. Summers meant Huck Finn adventures and odd jobs; winters, though harsh, saw skating parties on the Yellowstone and ice hockey using sticks and tin cans. Before he joined the Air Corps, Roy studied engineering at the Montana State College in Bozeman.

And like all Montanans who believe a good education is a lifelong process, Roy went back to school after his return from war. With degrees in journalism and business administration from the University of Montana in Missoula, Roy entered law school in 1949. There he met his wife Laura Jane Brautigam, also a native of Montana.

Receiving his law degree in 1952, Roy went on to practice law in Helena where he helped to draft bills for State senators during the 1953 session. In Billings, he became an associate in the law firm of Sanders, Cresap and Koch representing groups such as the National Beef Council and the National Livestock Auction Markets. A few years later, Roy moved to California to serve as the city attorney for Costa Mesa. He took with him the spirit of Montana generosity and incorporated several nonprofit companies pro bono as his contribution to his community.

Even after his retirement in December 1996, Roy continues to give back to his community by volunteering at the Palm Springs Air Museum. Armed with firsthand knowledge of World War II aviation and the conflicts in the Pacific Theater, Roy shares his vivid

experience with all, much to the delight of visitors, young and old.

Mr. President, 1LT Roy June is a testament to the Montana spirit. We believe in courage, sacrifice, and service. From Montana to the Japanese Islands of Iwo Jima and Chi Chi Jima, wherever Roy was, he put up his best for his community and more importantly, his country. My fellow Montanans and I are extremely proud of Roy and his contributions to our State and Nation. A son of Montana from America's greatest generation, Roy reminds all of us that commitment and service to this country never end.●

COMMEMORATION OF THE ARMY RESERVE CENTENNIAL

● Mr. BINGAMAN. Mr. President, today I join the citizens of New Mexico and the United States in celebrating the 100th anniversary of the United States Army Reserve. In 1916 Congress passed the National Defense Act, creating the Officers' Reserve Corps, later named the Organized Reserve Corps, all of which are forerunners of the current Army Reserve.

The Army Reserve has been an integral part of numerous conflicts. In both World Wars, Army Reserve soldiers answered the call of duty. In World War I, 89,500 reserve officers were mobilized and during World War II, 200,000 members of the Organized Reserve Corps served, with reserve officers providing 29 percent of the Army's officers. More than 70 Army Reserve units were deployed to the Korean Peninsula providing combat support and combat service. Army Reserve members have also participated in Operation Desert Shield/Storm, Somalia, Haiti, Bosnia, Kosovo, Operation Enduring Freedom, and Operation Iraqi Freedom.

The Army Reserve mission has changed over time. Today, the Army Reserve has partnered with FEMA, State, and local agencies in defending the American homeland against terrorist attacks, providing resources and training to ''first responder'' organizations across the Nation.

New Mexico started deploying Army Reserve soldiers after September 11, 2001; in fact, as early as December 2001, in support of Operation Enduring Freedom, OEF. New Mexico Army Reserve soldiers are currently deployed in Operation Iraqi Freedom, OIF. Over 50 percent of New Mexico's Army Reserve force have deployed in support of both campaigns.

Once again I would like to congratulate the Army Reserve on their centennial. I wish them continued success as they help protect our Nation.●

TRIBUTE TO DR. MICHAEL DEBAKEY

● Mr. CORNYN. Mr. President, today I wish to acknowledge the accomplishments of a Texan—Dr. Michael DeBakey—who changed the world. I am proud we are honoring Dr. DeBakey with the Congressional Gold Medal.

Dr. DeBakey's accomplishments are legendary. His lifelong commitment to the medical field and helping others has impacted the lives of countless Texans and, indeed, people around the world.

Dr. DeBakey, now 99 years old, is the son of Lebanese immigrants. He was born and educated in Louisiana, but has been a Texan for nearly 60 years. His accomplishments as a researcher, surgeon, and teacher have impacted the entire world, and may never be duplicated.

As Dr. DeBakey once said: ''I take pride in the outstanding surgeons I've trained who have returned to their homes throughout the world to provide the best available health care for their patients.''

He is especially recognized for his revolutionary contributions to cardiovascular medicine. Including two important inventions, the roller pump—an essential component of the heart-lung machine—and the DeBakey Ventricular Assist Device, an apparatus implanted into the heart to increase blood flow. Dr. DeBakey also designed countless medical devices now considered basic tools, such as specialty clamps, and wrote the book on numerous surgical procedures that have become standard practice in the operating room.

Dr. DeBakey was an innovator from the start of his medical career. During World War II, he helped develop the concept of the Mobile Army Surgical Hospital M.A.S.H. units, a concept that saved thousands of lives during the Korean and Vietnam wars. Dr. DeBakey later helped create a medical and surgical center system for the Veterans Administration and improved the care of thousands of returning service personnel.

But Dr. DeBakey will always be best known as a pioneer in cardiovascular surgery. He became head of surgery at the Baylor University College of Medicine in Houston in 1948, and helped lead the Texas Medical Center to the position of international prominence it enjoys today.

He was one of the first surgeons to undertake coronary artery bypass surgery. And the first to successfully perform a carotid endarterectomy. And although generations have passed, his medical students, inspired by his example, have made countless additional breakthroughs.

In 1996, Russian President Boris Yeltsin had a heart attack during his re-election campaign. His doctors told him he could not survive surgery. But Yeltsin called in Dr. DeBakey for a consultation and later asked him to oversee his coronary bypass, which proved successful. It was a tacit acknowledgment of U.S. medical leadership and Dr. DeBakey's international reputation.

Dr. DeBakey's worldwide fame has even translated into a few humorous medical anecdotes. It seems that an auto mechanic, working on a car, good-naturedly compared his job to DeBakey's: ''I also take valves out, grind them and put in new parts. So how come you get the big bucks?''

According to the tale, Dr. DeBakey quietly replied, ''Yes, but I do it with the engine running.''

On the last day of 2005, a sharp pain in his upper torso told Dr. DeBakey he was suffering an aortic aneurysm—the very condition that his research had addressed years before. Initially, Dr. DeBakey chose to wait out the situation in hopes that it would heal itself.

It didn't. After a 7-hour surgery and 9 months of touch-and-go recuperation, Dr. DeBakey went back to work.

Over the years, as he helped establish Houston as an internationally known center of medical excellence, Dr. DeBakey would always be best remembered for the broader humanitarian aspects of his work. He dedicated countless hours to advising developing nations, and training doctors and medical authorities to establish stronger and more efficient health care systems.

Dr. DeBakey has been honored by a multitude of organizations, governments and medical institutions. He has received the Library of Congress Living Legends Award, the American Heart Association Gold Heart Award, the National Medal of Science and the Presidential Medal of Freedom, to name a few. Today, Dr. DeBakey will be awarded the Congressional Gold Medal—the highest civilian award Congress can bestow.

Dr. Michael DeBakey has helped millions of people to live longer and more productive lives. He is a Texan who has helped change the world, and a Texan worthy of this honor.●

TRIBUTE TO LOUISIANA WORLD WAR II VETERANS

● Ms. LANDRIEU. Mr. President, I am proud to honor a group of 99 World War II veterans from Louisiana who are traveling to Washington, DC, this weekend to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

Louisiana HonorAir, a group based in Lafayette, LA, is sponsoring this Saturday's trip to the Nation's Capital. The organization is honoring each surviving World War II Louisiana veteran by giving them an opportunity to see the memorials dedicated to their service. On this trip, the veterans will visit the World War II, Korea, Vietnam, and Iwo Jima memorials. They will also travel to Arlington National Cemetery to lay a wreath on the Tomb of the Unknowns.

This is the seventh flight Louisiana HonorAir has made to Washington, DC, and there will be two additional flights this spring.

World War II was one of America's greatest triumphs, but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people

worldwide were killed, including 40 million civilians, and more than 400,000 American servicemembers were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen, and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 40,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. Veterans in this HonorAir group began their service in 1938, before the bombing of Pearl Harbor, and served in the European and Pacific theaters, as well as stateside. Some members of this group served as late as 1970. They served in various branches of the military—28 members in the Army; 18 in the Army Air Corps; 37 in the Navy, including three SeaBees; three in the Naval Reserves; eight in the Marines; one in the Merchant Marines; and four nurses from various branches.

Several of our heroes fought at Iwo Jima and others at Guadalcanal. Many of these veterans earned Purple Hearts, Bronze Star Medals, and Silver Stars. Some participated in the Battle of the Bulge and the D–day invasion of France at Omaha Beach. Others defended the Atlantic, Pacific, and Asiatic-Pacific Seas. As a soldier with the Army 1st Calvary Division, one of our heroes was part of the liberation of Santo Tomas Prison Camp in Manila.

I ask the Senate to join me in honoring these 99 veterans, all Louisiana heroes, that we welcome to Washington this weekend and Louisiana HonorAir for making these trips a reality.●

SMALL BUSINESS WEEK

● Mr. REED. Mr. President, this week we celebrate the 45th annual Small Business Week organized by the U.S. Small Business Administration. I would like to recognize the accomplishments of a small business owner who is a leader in his field and a contributor to Rhode Island's vital hospitality and tourism industry.

Today, the SBA will present the 2008 National Jeffrey H. Butland Family-Owned Business of the Year award to Robert Antignano of Angelo's Civita Farnese in Providence. This national award, which will go to a Rhode Islander for the first time, honors a family owned and operated business that has passed from one generation to another.

Angelo's Restaurant opened in 1924 and has become a landmark on Providence's Federal Hill as the State's longest operating family-owned restaurant. The founder and namesake of the restaurant, Angelo Mastrodicasa, envisioned a place where the working people of the neighborhood could find good food at affordable prices. Mr. Antignano, who is the third generation of his family to run the restaurant, has continued to pursue this mission with great success. Since assuming ownership of Angelo's in 1988, Mr. Antignano has tripled the number of employees and increased revenues by more than 300 percent.

From Hollywood stars, New England sports legends, and national political figures to the family who comes in for Sunday dinner, Angelo's is the backdrop for so many memorable occasions. This restaurant is more than a place to eat; it is a slice of Americana where people from all walks of life sit elbow to elbow at the same white marble tables their grandparents and other family members may have shared over the years. The Butland award recognizes Angelo's legacy and its prominent place in our hearts.

I am proud of Mr. Antignano, his hard-working, committed staff, and all small business owners in Rhode Island, who together form an essential part of Rhode Island's economy. According to the SBA, small businesses comprise 96 percent of all businesses in the State. Time and again, small businesses, by virtue of their size, have proven their ability to be innovative and flexible, meeting emerging needs for new products and services and improving on those that already exist.

Once again, I congratulate Mr. Antignano and his family on their success and wish them many more generations of good customers, food, and spirits.●

COMMENDING MORRISON CHEVROLET

● Ms. SNOWE. Mr. President, today during National Small Business Week I wish to commend a local auto dealership from Downeast Maine that recently won the Top Drawer Award from the Ellsworth Area Chamber of Commerce. Morrison Chevrolet of Ellsworth has been selling automobiles in Hancock County for nearly 80 years, and it shows no signs of slowing down.

The Top Drawer Award is presented annually to either a business or person that makes a lasting contribution to the development and improvement of the greater Ellsworth region. The award was founded in 1980 to commemorate the late Tom Caruso, who established Bar Harbor Airlines to ''Link Maine With The World.'' It is clear that, through Morrison's solid and intelligent commitment to the customer and the community, it is highly worthy of this recognition.

Founded in 1930 by the present coowner Bud Morrison's grandfather, Harry, Morrison Chevrolet began its storied history in Winter Harbor, about 25 miles east of its present location. The dealership has moved over time first to Bar Harbor and then to several locations in Ellsworth, finally settling on a new 23,000-square-foot facility on Route 1 in Ellsworth in 2005. Although it may have relocated, the company has always been owned and run by a member of the Morrison family. Morrison Chevrolet has always stayed on the cutting edge, positioning itself to best survive in a competitive industry.

To keep current in providing the best possible service to their customers, Morrison's technicians attend training and certification classes, frequently via the Internet. Workers often use the company's conference room to link in to classes online. Morrison's also makes use of technology to augment its sales by continually increasing its Internet advertising. In fact, Mr. Morrison says that roughly one-third of his sales leads come from the Internet, and the firm ships cars—even Corvettes—across the country. Additionally, the dealership's Web site is a handy tool for the consumer, allowing clients to search available new and used automobiles, schedule service and maintenance requests, prequalify for purchasing a car, and calculate whether it is wiser for them to buy or lease a vehicle.

In addition to providing their customers with convenient options and caring service, Morrison's employees always find time for community involvement. Dave Keep, the used car sales manager, serves as an officer of the Ellsworth Masons, and P.J. Davis, who works in the sales department, is a member of the chamber of commerce's board. And Morrison's general manager Clyde Lewis is a member of the board of directors of the James Russell Wiggins Downeast Family YMCA, which has been assisting Ellsworth area families since 1961.

A staple of the local business scene for decades, Morrison Chevrolet is most deserving of the immense honor of the Top Drawer Award. By serving the customer and the community at the same time, Morrison's 47 employees exhibit the generosity and kindness of Downeast Mainers. Furthermore, by continuing to innovate its business practices, Morrison Chevrolet is well-positioned for future success and additional accolades. I commend Bud Morrison and everyone at Morrison Chevrolet for their accomplishments and wish them well in their continuing endeavors.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 5:38 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 831. An act to provide for the conveyance of certain Forest Service land to the city of Coffman Cove, Alaska.

H.R. 3513. An act to amend the Oregon Wilderness Act of 1984 to designate the Copper Salmon Wilderness and to amend the Wild and Scenic Rivers Act to designate segments of the North and South Forks of the Elk River in the State of Oregon as wild or scenic rivers, and for other purposes.

H.R. 3734. An act to rename the Snake River Birds of Prey National conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes.

H.R. 5151. An act to designate as wilderness additional National Forest System lands in the Monongahela National Forest in the State of West Virginia, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 323. Concurrent resolution expressing Congressional support for the goals and ideals of National Health Care Decisions Day.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5151. An act to designate as wilderness additional National Forest System lands in the Monongahela National Forest in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 831. An act to provide for the conveyance of certain Forest Service land to the city of Coffman Cove, Alaska.

H.R. 3513. An act to amend the Oregon Wilderness Act of 1984 to designate the Copper Salmon Wilderness and to amend the Wild and Scenic Rivers Act to designate segments of the North and South Forks of the Elk River in the State of Oregon as wild or scenic rivers, and for other purposes.

H.R. 3734. An act to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 323. Concurrent resolution expressing Congressional support for the goals and ideals of National Health Care Decisions Day.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. Res. 494. A resolution expressing the sense of the Senate on the need for Iraq's neighbors and other international partners to fulfill their pledges to provide reconstruction assistance to Iraq.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 523. A resolution expressing the strong support of the Senate for the declaration of the North Atlantic Treaty Organization at the Bucharest Summit that Ukraine and Georgia will become members of the alliance.

S. Con. Res. 74. A concurrent resolution honoring the Prime Minister of Ireland, Bertie Ahern, for his service to the people of Ireland and to the world and welcoming the Prime Minister to the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 2901. A bill to encourage residential mortgage loan modifications and workout plans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE (for herself and Mr. PRYOR):

S. 2902. A bill to ensure the independent operation of the Office of Advocacy of the Small Business Administration, ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself and Mr. CASEY):

S. Res. 529. A resolution commemorating the 110th anniversary of the founding of the Greater Philadelphia Association of Realtors; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 351

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 351, a bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions.

S. 400

At the request of Mr. SUNUNU, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 400, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

S. 522

At the request of Mr. BAYH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 522, a bill to safeguard the economic health of the United States and the health and safety of the United States citizens by improving the management, coordination, and effectiveness of domestic and international intellectual property rights enforcement, and for other purposes.

S. 582

At the request of Mr. SMITH, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 582, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 605

At the request of Ms. CANTWELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 605, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 661

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 661, a bill to establish kinship navigator programs, to establish guardianship assistance payments for children, and for other purposes.

S. 678

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 678, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier and are not unnecessarily held on a grounded air carrier before or after a flight, and for other purposes.

S. 771

At the request of Mr. HARKIN, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 771, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 911

At the request of Mr. REED, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 911, a bill to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments

and information regarding pediatric cancers, establish a population-based national childhood cancer database, and promote public awareness of pediatric cancers.

S. 989

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 989, a bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program.

S. 1605

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1605, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1675

At the request of Ms. CANTWELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1675, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 1694

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1694, a bill to authorize resources for sustained research and analysis to address colony collapse disorder and the decline of North American pollinators.

S. 1760

At the request of Mr. BROWN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1760, a bill to amend the Public Health Service Act with respect to the Healthy Start Initiative.

S. 1924

At the request of Mr. CARPER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1924, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

S. 2069

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2069, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 2314

At the request of Mr. SALAZAR, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2314, a bill to amend the Internal Revenue Code of 1986 to make geothermal heat pump systems eligible for the energy credit and the residential energy efficient property credit, and for other purposes.

S. 2320

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2320, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 2444

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2444, a bill to direct the Secretary of Education to provide grants to establish and evaluate sustainability programs, charged with developing and implementing integrated environmental, economic, and social sustainability initiatives, and to direct the Secretary of Education to convene a summit of higher education experts in the area of sustainability.

S. 2523

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2523, a bill to establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the construction, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families.

S. 2533

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2533, a bill to enact a safe, fair, and responsible state secrets privilege Act.

S. 2585

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2585, a bill to provide for the enhancement of the suicide prevention programs of the Department of Defense, and for other purposes.

S. 2702

At the request of Mr. SALAZAR, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2702, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B Program.

S. 2715

At the request of Mr. INHOFE, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2715, a bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes.

S. 2775

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2775, a bill to amend the Internal Revenue Code of 1986 and the Social Security Act to treat certain domestically controlled foreign persons performing services under contract with the United States Government as American employers for purposes of certain employment taxes and benefits.

S. 2786

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2786, a bill to amend title XVIII of the Social Security Act to improve access to health care under the Medicare program for beneficiaries residing in rural areas.

S. 2819

At the request of Mr. ROCKEFELLER, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Missouri (Mrs. MCCASKILL), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Illinois (Mr. OBAMA) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2819, a bill to preserve access to Medicaid and the State Children's Health Insurance Program during an economic downturn, and for other purposes.

S. 2829

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2829, a bill to make technical corrections to section 1244 of the National Defense Authorization Act for Fiscal Year 2008, which provides special immigrant status for certain Iraqis, and for other purposes.

S. 2840

At the request of Mr. SCHUMER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2840, a bill to establish a liaison with the Federal Bureau of Investigation in United States Citizenship and Immigration Services to expedite naturalization applications filed by members of the Armed Forces and to establish a deadline for processing such applications.

S. 2844

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2844, a bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

S. 2860

At the request of Mr. CASEY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2860, a bill to diminish predatory lending by enhancing appraisal quality and standards, to improve appraisal oversight, to ensure mortgage appraiser independence, to provide for enhanced remedies and enforcement, and for other purposes.

S. 2871

At the request of Mrs. LINCOLN, the name of the Senator from Maryland

(Mr. CARDIN) was added as a cosponsor of S. 2871, a bill to amend title 38, United States Code, to recodify as part of that title chapter 1607 of title 10, United States Code, to enhance the program of educational assistance under that chapter, and for other purposes.

S. 2874

At the request of Mrs. FEINSTEIN, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Vermont (Mr. SANDERS) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2874, a bill to amend titles 5, 10, 37, and 38, United States Code, to ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, and for other purposes.

S. 2890

At the request of Mr. MCCAIN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2890, a bill to amend the Internal Revenue Code of 1986 to provide for a highway fuel tax holiday.

S. 2892

At the request of Mr. LEAHY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2892, a bill to promote the prosecution and enforcement of frauds against the United States by suspending the statute of limitations during times when Congress has authorized the use of military force.

S. 2895

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2895, a bill to amend the Higher Education Act of 1965 to maintain eligibility, for Federal PLUS loans, of borrowers who are 90 or more days delinquent on mortgage loan payments, or for whom foreclosure proceedings have been initiated, with respect to their primary residence.

S. 2899

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2899, a bill to direct the Secretary of Veterans Affairs to conduct a study on suicides among veterans.

S. RES. 482

At the request of Mr. ENZI, the names of the Senator from Montana (Mr. TESTER) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 482, a resolution designating July 26, 2008, as ''National Day of the American Cowboy''.

S. RES. 515

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 515, a resolution commemorating the life and work of Dith Pran.

S. RES. 524

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 524, a resolution honoring the entrepreneurial spirit of the owners of small business concerns in the United States during National Small Business Week, beginning April 21, 2008.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2901. A bill to encourage residential mortgage loan modifications and workout plans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to introduce a bill to give mortgage servicers an incentive to work out new loan terms with struggling homeowners who are falling behind in their mortgage payments. It is possible to avoid foreclosure in some cases by reworking the payment terms on mortgages. Investors, however, would have to accept a smaller return on their investment than they otherwise may have expected. As a result, businesses that service mortgage loans may fear litigation from investors who are the direct or indirect holders of those mortgages. This concern may be slowing the pace of or stopping loan modifications. In testimony on December 6, 2007, before the House Committee on Financial Services, Mark Pearce, speaking on behalf of the Conference of State Bank Supervisors, testified that at a meeting with the top 20 subprime servicers ''many of them brought up fear of investor lawsuits'' as a hurdle to voluntary loan modification efforts.

The loan servicers have a legal duty to the investors to maximize the return on their investments. But in light of the current and changing economic environment, and the new and complex financial vehicles that hold mortgages, this ''duty'' is not simple or clear. This bill clarifies matters by stating that, absent contract provisions to the contrary, the duty is owed to the investor group as a whole, and not to individual investors or classes of investors. In addition, the bill clarifies that the servicer satisfies that duty by ensuring that the return from a mortgage, as modified, exceeds the return that would be expected from foreclosure. This may include agreeing to mortgage modifications or workout plans when a homeowner is in payment default, or when default or foreclosure appears imminent. Although some investors may get a smaller return than they may have expected, in the long run, taking these actions will be in the best interest of all investors.

This bill is not a bailout. The bill honors contract provisions that may be contrary to provisions in the bill. This bill would not solve all of the problems we face today, but it is an important step in removing barriers that may slow progress as we work to solve the home mortgage crisis.

This bill is necessary because regulation has not kept pace with innovation. Years ago, a homeowner would obtain a mortgage from a local bank. If he couldn't make the mortgage payment, the bank often would be willing and able to offer a workout, modifying the loan's terms to make it affordable. The bank would do this because whatever amount the borrower could pay would be worth more to the bank than foreclosure. Foreclosure has its costs, sometimes as much as half the value of the mortgage, and banks did not want to have to resell the home, so the calculation was often simple. Today, however, many mortgages are often bundled together with others mortgages and are sold to investment banks, who in turn slice and dice the bundles to produce securities that are rated by rating agencies and sold to investors all over the world.

Investment banks that issue securities backed by mortgages typically divide the securities into tranches, with some tranches having claims that are senior to other more junior tranches. None of this, of course, is transparent to the homeowner, and servicers face a complex situation. Servicers should not have to first determine precisely how a loan modification will affect the various tranches of investors and then make choices among the groups. If the servicer reasonably believes that a modification increases the net present value of the investment as a whole, it should be able to agree to the modification.

This month, Federal Reserve Chairman Ben Bernanke encouraged the nation's bankers to write down the principle on millions of mortgages. He said banks have not made nearly enough modifications to stop foreclosures. But there has been some progress. Treasury Secretary Paulson reported this month that ''since July more than one million struggling homeowners received a workout—either a loan modification or a repayment plan that helped them avoid foreclosure.'' In January alone, there were 167,000 such modifications, with the number of borrowers receiving help rising faster than the number of foreclosures. Congress needs to ensure that these modifications continue, and that they continue at a rapid pace.

We are faced with a crisis caused by mortgage brokers who pushed risky loans on homeowners, homeowners who assumed the value of their home would always increase, conflicts of interest at credit rating agencies, bond underwriters who loosened standards, lax regulators, and financial institutions that ignored the risks in the instruments they were buying and selling. There is plenty of blame to go around

but Congress must now take steps to prevent similar problems in the future. Right now, we must do what we can to keep families in their homes by encouraging the companies that service mortgages to modify mortgages where it will prevent foreclosure. This bill will encourage servicers to make such modifications and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2901

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Encouraging Mortgage Modifications Act of 2008''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mortgage modifications often afford the best opportunity to avoid foreclosures and provide long term, sustainable solutions for American homeowners;

(2) reaching mortgage modification agreements with homeowners has been unacceptably slow and foreclosure rates continue to rise, with the number of homeowners forced into foreclosure double the number who receive modifications or repayment plans;

(3) servicers have an obligation to protect the interests of investors when determining whether to offer a modification or repayment plan;

(4) the best course of action for the investor pool as a whole may disadvantage the interests of individual classes of investors;

(5) servicers have expressed concern that investor classes that are disproportionately disadvantaged by a modification or repayment plan may seek to hold the servicer liable;

(6) without liability protection, many servicers will not be willing to take on the risk associated with approving a mortgage modification or repayment plan, and instead, they will eventually pursue foreclosure even though foreclosure costs can equal 50 percent or more of mortgage value; and

(7) the net present value of a modified mortgage loan will almost always exceed the amount recouped by allowing the home to go into foreclosure.

SEC. 3. LEGAL SAFE HARBOR FOR ENTERING INTO CERTAIN LOAN MODIFICATIONS OR WORKOUT PLANS.

Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(2) by inserting after subsection (h) the following:

''(i) DUTY OF SERVICERS REGARDING CERTAIN LOAN MODIFICATIONS OR WORKOUT PLANS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, absent specific contractual provisions to the contrary, a servicer of pooled qualified residential mortgages—

''(A) owes any duty to determine if the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and parties having a direct or indirect interest in the pooled loans or securitization vehicle, but not to any individual party or group of parties; and

''(B) acts in the best interests of all such investors and parties, if the servicer agrees to or implements a qualified loan modification or workout plan for a qualified residential mortgage, or if, and only if, such efforts are unsuccessful or infeasible, takes other reasonable loss mitigation actions, including accepting partial payments or short sale of the property; and

''(C) if the servicer acts in a manner consistent with the duty set forth in subparagraphs (A) and (B), shall not be liable under any law or regulation of the United States, any State or any political subdivision of any State, for entering into a qualified loan modification or workout plan in any action filed by or on behalf of any person—

''(i) based on the person's ownership of any interest in a residential mortgage, a pool of residential mortgage loans, or a securitization vehicle, that distributes payments out of the principal, interest, or other payment on loans in the pool;

''(ii) based on the person's obligation to make payments determined in reference to any loan or interest referred to in clause (i); or

''(iii) based on the person's obligation to insure any loan or any interest referred to in clause (i).

''(2) DEFINITIONS.—As used in this subsection—

''(A) the term 'qualified loan modification or workout plan' means a contract, modification, or plan relating to a qualified residential mortgage loan consummated on or after January 1, 2004, with respect to which—

''(i) payment default on the loan or loans has occurred, is imminent, or is reasonably foreseeable;

''(ii) the dwelling securing the loan or loans is the primary residence of the owner;

''(iii) the servicer reasonably believes that the anticipated recovery under the loan modification or workout plan will exceed the anticipated recovery through foreclosure, on a net present value basis;

''(iv) the effective period runs for at least 5 years from the date of adoption of the plan, or until the borrower sells or refinances the property, if that occurs earlier; and

''(v) the borrower is not required to pay additional fees to the servicer;

''(B) the term 'qualified residential mortgage' means a consumer credit transaction or loan that is secured by the consumer's principal dwelling;

''(C) the term 'securitization vehicle' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

''(D) the term 'servicer'—

''(i) means the person responsible for servicing of a loan (including the person who makes or holds a loan, if such person also services the loan); and

''(ii) includes the entities listed in subparagraphs (A) and (B) of subsection (j)(2).

''(3) EFFECTIVE PERIOD.—This subsection shall apply only with respect to qualified loan modification or workout plans initiated during the 6-month period beginning on the date of enactment of this subsection.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to limit the ability of a servicer to enter into a loan modification or workout plan other than a qualified loan modification or workout plan covered by this subsection.''.

By Ms. SNOWE (for herself and Mr. PRYOR):

S. 2902. A bill to ensure the independent operation of the Office of Advocacy of the Small Business Administration, ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today with my colleague Senator PRYOR, during National Small Business Week, to introduce the Independent Office of Advocacy and Small Business Regulatory Reform Act of 2008. This bipartisan measure would ensure the independence of the Small Business Administration, SBA, Office of Advocacy, and provide targeted small business regulatory reforms that would strengthen the Office of Advocacy's voice in protecting our small businesses. Our bill is supported by the SBA Office of Advocacy and National Ombudsman, as well as the National Federation of Independent Business and the U.S. Chamber of Commerce.

As Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I recognize that the SBA Office of Advocacy is, regrettably, one of our Government's best kept secrets, and in many cases, the best hope for small businesses faced with overly burdensome Federal regulations.

Established in 1976, the Office of Advocacy, headed by the Chief Counsel for Advocacy, is a unique office within the Federal Government. First, the Office of Advocacy is the ''Regulatory Watchdog'' for small businesses. In this capacity, it represents small businesses before the Federal Government in regulatory matters—taking advantage of its statutorily granted independence to argue against Federal regulatory actions that impose too great a burden on small businesses for too little benefit—and to encourage Federal agencies to consider less costly regulatory alternatives. Second, it conducts valuable research to further our understanding of the importance of small businesses to our economy and the forces that have an effect on them.

The SBA Office of Advocacy is part of the SBA, and the Chief Counsel for Advocacy is nominated by the President and confirmed by the Senate. At the same time, the office is also intended to be the ''independent'' voice for small business within the Federal Government. It is charged with the duty of representing the views and interests of small businesses before other Federal agencies, and developing proposals for changing government policies to help small businesses. These roles can sometimes come into conflict.

The Independent Office of Advocacy and Small Business Regulatory Reform Act of 2008 resolves such conflicts in favor of the small businesses that rely on the Chief Counsel and the Office of Advocacy to be a fully independent advocate within the executive branch. The bill would help to reinforce a clear mandate that the Office of Advocacy must fight on behalf of small businesses, regardless of the position taken

on critical issues by the administration.

Funding for the Office of Advocacy currently comes from the ''Salaries and Expense Account'' of the SBA's budget. Staffing is allocated by the SBA administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. The current allocation of staff is 48. The independence and effectiveness of the office is potentially diminished when the Office of Advocacy staff is reduced, at the discretion of the administrator.

To address this problem, the Independent Office of Advocacy and Small Business Regulatory Reform Act of 2008 builds a firewall to minimize political intrusion into the management of day-to-day operations of the Office of Advocacy similar to the one that protects Inspectors General in other agencies. The bill would require the Federal budget to include a separate account for the Office of Advocacy drawn directly from General Fund of the Treasury. No longer would its funds come from the general operating account of the SBA. This will free the Chief Counsel for Advocacy from having to seek approval from the SBA administrator to hire staff for the Office of Advocacy.

The bill would leave unchanged current law that allows the Chief Counsel to hire individuals critical to the mission of the Office of Advocacy without going through the normal competitive procedures directed by Federal law and the Office of Personnel Management, OPM. This long-standing special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best assist the Office in responding to changing issues and problems confronting small businesses.

In addition to protecting the Office of Advocacy's independence, this bill also provides targeted small business regulatory reform. As the Ranking Member of the Small Business Committee, I have long fought to ensure that small businesses across the country are treated fairly by the Federal Government. Unfortunately, in far too many cases, Federal agencies promulgate rules and regulations without adequately addressing the economic impacts on small businesses.

The disproportionate burden that Federal regulations often place on our small businesses cannot be overemphasized. Research published by the Office of Advocacy indicates that small businesses spend an astounding 8 billion hours each year complying with government rules and regulations. More specifically, the smallest firms with fewer than 20 employees, spend approximately 45 percent more per employee than larger firms to comply with Federal regulations.

The Regulatory Flexibility Act (RFA) recognizes this situation, as it requires Federal Government agencies to propose rules that keep the regulatory burden at a minimum on small businesses. Enacted in 1980, the RFA requires Federal agencies to analyze the economic impact of proposed regulations when there is likely to be a significant economic impact on a substantial number of small entities. In 1996, I was pleased to support, along with all of my colleagues, the Small Business Regulatory Enforcement Fairness Act, (SBREFA), which amended the RFA. The intent of SBREFA was to further curb the impact of burdensome or duplicative regulations on small businesses, by clarifying key RFA requirements.

The Independent Office of Advocacy and Small Business Regulatory Reform Act of 2008 would further improve the Regulatory Flexibility Act by requiring Federal agencies to consider and specifically respond to comments provided by Office of Advocacy. This critical change would ensure that agencies give the proper deference to the Office of Advocacy, and to the comments and concerns of small businesses. This is a straightforward and simple reform that could have major benefits.

Finally, our proposal would also clarify that Federal agencies are required to provide pertinent information to the SBA Ombudsman upon request.

This noncontroversial, bipartisan legislation is absolutely necessary. I urge my colleagues to support this bill so we can ensure the complete independence of the Office of Advocacy in all matters, and provide our Nation's small businesses and their employees with much needed targeted regulatory relief.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2902

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Office of Advocacy and Small Business Regulatory Reform Act of 2008''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ensure that the Office of Advocacy of the Small Business Administration (referred to in this section as the ''Office'') has adequate financial resources to advocate for and on behalf of small business concerns;

(2) to provide a separate authorization of appropriations for the Office; and

(3) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

SEC. 3. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(6) carry out the responsibilities of the Office of Advocacy under chapter 6 of title 5, United States Code.''.

(b) BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

''SEC. 207. BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.

''(a) APPROPRIATION REQUESTS.—Each budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, shall include a separate statement of the amount of appropriations requested for the Office of Advocacy of the Small Business Administration, which shall be designated in a separate account in the General Fund of the Treasury.

''(b) ADMINISTRATIVE OPERATIONS.—The Administrator of the Small Business Administration shall provide the Office of Advocacy with appropriate and adequate office space at central and field office locations, together with such equipment, operating budget, and communications facilities and services as may be necessary, and shall provide necessary maintenance services for such offices and the equipment and facilities located in such offices.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this title. Any amount appropriated under this subsection shall remain available, without fiscal year limitation, until expended.''.

SEC. 4. REGULATORY FLEXIBILITY REFORM FOR SMALL BUSINESSES.

(a) REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

''(d) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities either—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs at the Office of Management and Budget under Executive Order 12866, if that order requires such submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is so required, at a reasonable time prior to publication of the rule by the agency.''.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(A) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Section 604(a)(2) of title 5, United States Code, is amended by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis''.

(B) INCLUSION OF RESPONSE TO COMMENTS FILED BY CHIEF COUNSEL FOR ADVOCACY.—Section 604(a) of title 5, United States Code, is amended—

(i) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(ii) by inserting after paragraph (2) the following:

''(3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any changes made to the proposed rule in the final rule as a result of such comments;''.

(C) PUBLICATION OF ANALYSES ON WEBSITE.—

(i) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by this Act, is amended by adding at the end the following:

''(e) An agency shall publish any initial regulatory flexibility analysis required under this section on the website of the agency.''.

(ii) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including placement of the entire analysis on the website, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof that includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.''.

(3) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis that is required by any other law and which satisfies such requirement.''.

(4) CERTIFICATIONS.—The second sentence of section 605(b) of title 5, United States Code, is amended by inserting ''detailed'' before ''statement''.

(5) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) HEADING.—The heading of section 605 of title 5, United States Code, is amended to read as follows:

''§ 605. Incorporations by reference and certifications''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(A) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.''; and

(B) by striking the item relating to section 607 and inserting the following:

''607. Quantification requirements.''.

SEC. 5. OVERSIGHT OF REGULATORY ENFORCEMENT.

Section 30 of the Small Business Act (15 U.S.C. 657) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''(A)'' before ''Not later than'';

(ii) by striking ''Nothing in this section is intended to replace'' and inserting the following:

''(B) Nothing in this section—

''(i) is intended to replace'';

(iii) by striking the period at the end and inserting ''; or''; and

(iv) by adding at the end the following:

''(ii) may be construed to exempt an agency from providing relevant information to the Ombudsman upon request.'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ''(i)'' before ''work with each agency'';

(II) by inserting ''fine, forfeiture,'' before ''or other enforcement related''; and

(III) by adding at the end the following: ''or

''(ii) refer any substantiated comment to the affected agency for response to the Ombudsman;''; and

(ii) by amending subparagraph (C) to read as follows:

''(C) based on cases that are substantiated by the Ombudsman, annually submit to Congress and affected agencies a report evaluating the enforcement activities of agency personnel, including—

''(i) ratings of the responsiveness to small business concerns; and

''(ii) a description of the policies, actions, and activities impacting small business concerns described in subparagraph (A), for each Federal agency and regional or program office of each Federal agency, as determined appropriate by the Ombudsman.'';

(2) in subsection (d)(1), by inserting '', in coordination with the Ombudsman,'' after ''hold such hearings''; and

(3) by adding at the end the following:

''(e) The Board shall coordinate with the Ombudsman regarding any official correspondence to be sent by the Board.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 529—COMMEMORATING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE GREATER PHILADELPHIA ASSOCIATION OF REALTORS

Mr. SPECTER (for himself and Mr. CASEY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 529

Whereas the Greater Philadelphia Association of Realtors, which was 1 of the 3 original chapters of the National Association of Realtors, was founded January 10, 1908, in the City of Philadelphia;

Whereas the Greater Philadelphia Association of Realtors has worked to improve the neighborhoods, business communities, and real estate markets in the City of Philadelphia and its suburbs; and

Whereas the members of the Greater Philadelphia Association of Realtors continue to do excellent work in strengthening the economy of the United States and making the American dream of homeownership a reality: Now, therefore, be it

Resolved, That the Senate commemorates the 100th Anniversary of the founding of the Greater Philadelphia Association of Realtors.

Mr. SPECTER. Mr. President, I have sought recognition to introduce a Senate resolution congratulating the Greater Philadelphia Association of Realtors on its 100th anniversary.

The Greater Philadelphia Association of Realtors was founded on January 10, 1908, as the Philadelphia Real Estate Brokers Association, when loosely knit neighborhood broker groups joined together and brought order to Philadelphia's real estate market. It was one of the three original chapters of the National Association of Realtors. Since that time, the Association has become the most influential professional real estate association in the Philadelphia region.

Over its 100 year existence, the Greater Philadelphia Association of Realtors has sought to improve the neighborhoods, business communities, and real estate markets in Philadelphia and its suburbs. I commend the Association for its work to improve Philadelphia's communities by helping individuals and families achieve the American Dream of homeownership.

I urge my colleagues to join me in congratulating the Greater Philadelphia Association of Realtors.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4570. Mr. VITTER (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1315, to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes; which was ordered to lie on the table.

SA 4571. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1315, supra; which was ordered to lie on the table.

SA 4572. Mr. BURR (for himself, Mr. VITTER, Mr. ISAKSON, and Mr. CRAIG) proposed an amendment to the bill S. 1315, supra.

SA 4573. Ms. SNOWE (for herself, Mr. KENNEDY, and Mr. ENZI) submitted an amendment intended to be proposed by her to the bill H.R. 493, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; which was ordered to lie on the table.

SA 4574. Mr. PRYOR (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1315, to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes; which was ordered to lie on the table.

SA 4575. Mr. REID (for Mr. KYL) proposed an amendment to the bill S. 2324, to amend the Inspector General Act of 1978 (5 U.S.C. App.) to enhance the Offices of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

TEXT OF AMENDMENTS

SA 4570. Mr. VITTER (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1315, to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. 109. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) TREATMENT.—Section 1965 is amended—

(1) in paragraph (10), by adding at the end the following new subparagraph:

''(C) The member's stillborn natural child.''; and

(2) by adding at the end the following new paragraph:

''(11)(A) Except as provided in subparagraph (B), the term 'stillborn natural child' means a natural child—

''(i) whose death occurs before expulsion, extraction, or delivery; and

''(ii) whose—

''(I) fetal weight is greater than 500 grams;

''(II) in the event fetal weight is unknown, duration in utero exceeds 22 completed weeks of gestation; or

''(III) in the event neither fetal weight nor duration in utero is known, body length (crown-to-heel) is 25 centimeters or more.

''(B) The term does not include any fetus or child extracted for purposes of an abortion.''.

(b) CONFORMING AMENDMENT.—Section 101(4)(A) is amended by striking ''section 1965(10)(B)'' in the matter preceding clause (i) and inserting ''subparagraph (B) or (C) of section 1965(10)''.

SA 4571. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1315, to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

SEC. 604. PAYMENTS TO INDIVIDUALS WHO SERVED DURING WORLD WAR II IN THE UNITED STATES MERCHANT MARINE.

(a) ESTABLISHMENT OF COMPENSATION FUND.—Subchapter II of chapter 5 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 532. Merchant Mariner Equity Compensation Fund

''(a) COMPENSATION FUND.—(1) There is in the general fund of the Treasury a fund to be known as the 'Merchant Mariner Equity Compensation Fund' (in this section referred to as the 'compensation fund').

''(2) Subject to the availability of appropriations for such purpose, amounts in the fund shall be available to the Secretary without fiscal year limitation to make payments to eligible individuals in accordance with this section.

''(b) ELIGIBLE INDIVIDUALS.—(1) An eligible individual is an individual who—

''(A) before October 1, 2009, submits to the Secretary an application containing such information and assurances as the Secretary may require;

''(B) has not received benefits under the Servicemen's Readjustment Act of 1944 (Public Law 78–346); and

''(C) has engaged in qualified service.

''(2) For purposes of paragraph (1), a person has engaged in qualified service if, between December 7, 1941, and December 31, 1946, the person—

''(A) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crewmember of a vessel that was—

''(i) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

''(ii) operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States;

''(iii) under contract or charter to, or property of, the Government of the United States; and

''(iv) serving the Armed Forces; and

''(B) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

''(c) AMOUNT OF PAYMENTS.—The Secretary shall make a monthly payment out of the compensation fund in the amount of $1,000 to an eligible individual. The Secretary shall make such payments to eligible individuals in the order in which the Secretary receives the applications of the eligible individuals.

''(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the compensation fund amounts as follows:

''(A) For fiscal year 2009, $120,000,000.

''(B) For fiscal year 2010, $108,000,000.

''(C) For fiscal year 2011, $97,000,000.

''(D) For fiscal year 2012, $85,000,000.

''(E) For fiscal year 2013, $75,000,000.

''(2) Funds appropriated to carry out this section shall remain available until expended.

''(e) REPORTS.—The Secretary shall include, in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year, detailed information on the operation of the compensation fund, including the number of applicants, the number of eligible individuals receiving benefits, the amounts paid out of the compensation fund, the administration of the compensation fund, and an estimate of the amounts necessary to fully fund the compensation fund for that fiscal year and each of the three subsequent fiscal years.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.''.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe the regulations required under section 532(f) of title 38, United States Code, as added by subsection (a).

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 531 the following new item:

''532. Merchant Mariner Equity Compensation Fund.''.

SA 4572. Mr. BURR (for himself, Mr. VITTER, Mr. ISAKSON, and Mr. CRAIG) proposed an amendment to the bill S. 1315, to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes; as follows:

Strike section 401 and insert the following:

SEC. 401. EXPANSION OF ELIGIBILITY FOR BENEFITS PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS FOR CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE COMMONWEALTH OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS.

(a) MODIFICATION OF STATUS OF CERTAIN SERVICE.—

(1) IN GENERAL.—Section 107 is amended to read as follows:

''§ 107. Certain service with Philippine forces deemed to be active service

''(a) IN GENERAL.—Service described in subsection (b) shall be deemed to have been active military, naval, or air service for purposes of any law of the United States conferring rights, privileges, or benefits upon any individual by reason of the service of such individual or the service of any other individual in the Armed Forces.

''(b) SERVICE DESCRIBED.—Service described in this subsection is service—

''(1) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

''(2) in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 538).

''(c) DEPENDENCY AND INDEMNITY COMPENSATION FOR CERTAIN RECIPIENTS RESIDING OUTSIDE THE UNITED STATES.—(1) Dependency and indemnity compensation provided under chapter 13 of this title to an individual described in paragraph (2) shall be made at a rate of $0.50 for each dollar authorized.

''(2) An individual described in this paragraph is an individual who resides outside the United States and is entitled to dependency and indemnity compensation under chapter 13 of this title based on service described in subsection (b).

''(d) EXCEPTION ON PENSION AND DEATH PENSION FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—An individual who resides outside the United States shall not, while so residing, be entitled to a pension under subchapter II or III of chapter 15 of this title based on service described in subsection (b).

''(e) UNITED STATES DEFINED.—In this section, the term 'United States' means the States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other possession or territory of the United States.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 is amended by striking the item related to section 107 and inserting the following new item:

''107. Certain service with Philippine forces deemed to be active service.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the payment or provision of benefits on or April 1, 2009. No benefits are payable or are required to be provided by reason of such amendment for any period before such date.

(b) PENSION AND DEATH PENSION BENEFIT PROTECTION.—Notwithstanding any other provision of law, a veteran with service described in section 107(b) of title 38, United States Code (as added by subsection (a)), who is receiving benefits under a Federal or federally assisted program as of April 1, 2009, or a survivor of such veteran who is receiving such benefits as that date, may not be required to apply for or receive benefits under chapter 15 of such title if the receipt of such benefits would—

(1) make such veteran or survivor ineligible for any Federal or federally assisted program for which such veteran or survivor qualifies; or

(2) reduce the amount of benefit such veteran or survivor would receive from any Federal or federally assisted program for which such veteran or survivor qualifies.

(c) INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.—

(1) IN GENERAL.—Section 2102 is amended—

(A) in subsection (b)(2), by striking ''$10,000'' and inserting ''$11,000'';

(B) in subsection (d)—

(i) in paragraph (1), by striking ''$50,000'' and inserting ''$55,000''; and

(ii) in paragraph (2), by striking ''$10,000'' and inserting ''$11,000''; and

(C) by adding at the end the following new subsection:

''(e)(1) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amounts described in subsection (b)(2) and paragraphs (1) and (2) of subsection (d) in accordance with this subsection.

''(2) The increase in amounts under paragraph (1) to take effect on October 1 of a year shall be by an amount of such amounts equal to the percentage by which—

''(A) the residential home cost-of-construction index for the preceding calendar year, exceeds

''(B) the residential home cost-of-construction index for the year preceding the year described in subparagraph (A).

''(3) The Secretary shall establish a residential home cost-of-construction index for

the purposes of this subsection. The index shall reflect a uniform, national average change in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009, and shall apply with respect to payments made in accordance with section 2102 of title 38, United States Code, on or after that date.

(d) ANNUAL ADJUSTMENT OF AMOUNT OF BURIAL AND FUNERAL EXPENSES FOR DEATHS FROM SERVICE-CONNECTED DISABILITY.—Section 2307 is amended—

(1) by inserting ''(a)'' before ''In any case''; and

(2) by adding at the end the following new subsection:

''(b) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the amount authorized by subsection (a)(1) by the amount equal to the percentage of such amount by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(e) INCREASE IN ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES TO CERTAIN DISABLED VETERANS.—

(1) IN GENERAL.—Section 3902 is amended—

(A) in subsection (a), by striking ''$11,000'' and inserting ''$15,000''; and

(B) by adding at the end the following new subsection:

''(e) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amount described in subsection (a) by a percentage of such amount equal to the percentage by which—

''(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009, and shall apply with respect to payments made in accordance with section 3902 of title 38, United States Code, on or after that date.

SA 4573. Ms. SNOWE (for herself, Mr. KENNEDY, and Mr. ENZI) submitted an amendment intended to be proposed by her to the bill H.R. 493, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic ''defects'' such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to ''correct'' apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell Anemia Control Act, which withholds Federal funding from States unless sickle cell testing is voluntary.

(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of pre-employment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case Norman-Bloodsaw v. Lawrence Berkeley Laboratory (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(1) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(2) by adding at the end the following:

''(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

''(A) IN GENERAL.—For purposes of this section, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a health insurance issuer offering health insurance coverage in connection with a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.''.

(b) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a

group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

''(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

''(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

''(B) LIMITATION.—For purposes of subparagraph (A), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request only the minimum amount of information necessary to accomplish the intended purpose.

''(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

''(A) The request is made, in writing, pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

''(B) The plan or issuer clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

''(i) compliance with the request is voluntary; and

''(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

''(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

''(D) The plan or issuer notifies the Secretary in writing that the plan or issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

''(E) The plan or issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

''(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 733).

''(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or coverage in connection with such enrollment.

''(3) INCIDENTAL COLLECTION.—If a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d), and subsection (b)(1) and section 701 with respect to genetic information, shall apply to group health plans and health insurance issuers without regard to section 732(a).''.

(c) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

''(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

''(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

''(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.''.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means, with respect to an individual—

''(A) a dependent (as such term is used for purposes of section 701(f)(2)) of such individual, and

''(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

''(6) GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

''(i) such individual's genetic tests,

''(ii) the genetic tests of family members of such individual, and

''(iii) the manifestation of a disease or disorder in family members of such individual.

''(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

''(C) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

''(7) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(8) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(9) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

''(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

''(B) the computation of premium or contribution amounts under the plan or coverage;

''(C) the application of any pre-existing condition exclusion under the plan or coverage; and

''(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.''.

(e) ERISA ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking ''(7), or (8)'' and inserting ''(7), (8), or (9)'';

(2) in subsection (b)(3), by striking ''The Secretary'' and inserting ''Except as provided in subsections (c)(9) and (a)(6) (with respect to collecting civil penalties under subsection (c)(9)), the Secretary''; and

(3) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following new paragraph:

''(9) SECRETARIAL ENFORCEMENT AUTHORITY RELATING TO USE OF GENETIC INFORMATION.—

''(A) GENERAL RULE.—The Secretary may impose a penalty against any plan sponsor of a group health plan, or any health insurance issuer offering health insurance coverage in connection with the plan, for any failure by such sponsor or issuer to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 702 or section 701 or 702(b)(1) with respect to genetic information, in connection with the plan.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each participant or beneficiary to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date the failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to a participant or beneficiary—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such participant or beneficiary shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are

more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the plan sponsor (or predecessor plan sponsor) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.

''(F) DEFINITIONS.—Terms used in this paragraph which are defined in section 733 shall have the meanings provided such terms in such section.''.

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Secretary of Labor shall issue final regulations not later than 12 months after the date of enactment of this Act to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

''(A) IN GENERAL.—For purposes of this section, a group health plan, and health insurance issuer offering group health insurance coverage in connection with a group health plan, may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a health insurance issuer offering health insurance coverage in connection with a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.''.

(2) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

''(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

''(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

''(B) LIMITATION.—For purposes of subparagraph (A), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request only the minimum amount of information necessary to accomplish the intended purpose.

''(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

''(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

''(B) The plan or issuer clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

''(i) compliance with the request is voluntary; and

''(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

''(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

''(D) The plan or issuer notifies the Secretary in writing that the plan or issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

''(E) The plan or issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

''(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 2791).

''(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or coverage in connection with such enrollment.

''(3) INCIDENTAL COLLECTION.—If a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c) , and (d) and subsection (b)(1) and section 2701 with respect to genetic information, shall apply to group health plans and health insurance issuers without regard to section 2721(a).''.

(3) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

''(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

''(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

''(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.''.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means, with respect to any individual—

''(A) a dependent (as such term is used for purposes of section 2701(f)(2)) of such individual; and

''(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

''(16) GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

''(i) such individual's genetic tests,

''(ii) the genetic tests of family members of such individual, and

''(iii) the manifestation of a disease or disorder in family members of such individual.

''(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

''(C) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

''(17) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA,

chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(18) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(19) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

''(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

''(B) the computation of premium or contribution amounts under the plan or coverage;

''(C) the application of any pre-existing condition exclusion under the plan or coverage; and

''(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.''.

(5) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22(b)) is amended by adding at the end the following:

''(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

''(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the succeeding subparagraphs of this paragraph shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), (c), or (d) of section 2702 or section 2701 or 2702(b)(1) with respect to genetic information in connection with the plan.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each participant or beneficiary to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date the failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—

''(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from establishing rules for eligibility for an individual to enroll in individual health insurance coverage based on the manifestation of a disease or disorder in that individual, or in a family member of such individual where such family member is covered under the policy that covers such individual.

''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—

''(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from adjusting premium or contribution amounts for an individual on the basis of a manifestation of a disease or disorder in that individual, or in a family member of such individual where such family member is covered under the policy that covers such individual. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other individuals covered under the policy issued to such individual and to further increase premiums or contribution amounts.

''(c) PROHIBITION ON GENETIC INFORMATION AS PREEXISTING CONDITION.—

''(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market may not, on the basis of genetic information, impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or in paragraphs (1) and (2) of subsection (e) shall be construed to preclude a health insurance issuer from imposing any preexisting condition exclusion for an individual with respect to health insurance coverage on the basis of a manifestation of a disease or disorder in that individual.

''(d) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

''(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

''(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a health insurance issuer offering health insurance coverage in the individual market from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a) and (c).

''(B) LIMITATION.—For purposes of subparagraph (A), a health insurance issuer offering health insurance coverage in the individual market may request only the minimum amount of information necessary to accomplish the intended purpose.

''(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

''(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

''(B) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that—

''(i) compliance with the request is voluntary; and

''(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

''(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

''(D) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

''(E) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

''(e) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

''(1) IN GENERAL.—A health insurance issuer offering health insurance coverage in the individual market shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 2791).

''(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A health insurance issuer offering health insurance coverage in the individual market shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan in connection with such enrollment.

''(3) INCIDENTAL COLLECTION.—If a health insurance issuer offering health insurance coverage in the individual market obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

''(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this part to genetic information concerning an individual or family member of an individual shall—

''(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

''(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.''.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg–61(b)) is amended to read as follows:

''(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.''.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (b)(3), (c), and (d) of section 2702 and the provisions of sections 2701 and 2702(b) to the extent that such provisions apply to genetic information.''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 1 year after the date of enactment of this Act; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 1 year after the date of enactment of this Act.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Subsection (b) of section 9802 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(2) by adding at the end the following:

''(3) NO GROUP-BASED DISCRIMINATION ON BASIS OF GENETIC INFORMATION.—

''(A) IN GENERAL.—For purposes of this section, a group health plan may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a group health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.''.

(b) LIMITATIONS ON GENETIC TESTING; PROHIBITION ON COLLECTION OF GENETIC INFORMATION; APPLICATION TO ALL PLANS.—Section 9802 of such Code is amended by redesignating subsection (c) as subsection (f) and by inserting after subsection (b) the following new subsections:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan may not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

''(3) RULE OF CONSTRUCTION REGARDING PAYMENT.—

''(A) IN GENERAL.—Nothing in paragraph (1) shall be construed to preclude a group health plan from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

''(B) LIMITATION.—For purposes of subparagraph (A), a group health plan may request only the minimum amount of information necessary to accomplish the intended purpose.

''(4) RESEARCH EXCEPTION.—Notwithstanding paragraph (1), a group health plan may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

''(A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

''(B) The plan clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

''(i) compliance with the request is voluntary; and

''(ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

''(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

''(D) The plan notifies the Secretary in writing that the plan is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted.

''(E) The plan complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

''(d) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

''(1) IN GENERAL.—A group health plan shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 9832).

''(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or in connection with such enrollment.

''(3) INCIDENTAL COLLECTION.—If a group health plan obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), (c), and (d) and subsection (b)(1) and section 9801 with respect to genetic information, shall apply to group health plans without regard to section 9831(a)(2).''.

(c) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Such section is further amended by adding at the end the following:

''(f) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this chapter to genetic information concerning an individual or family member of an individual shall—

''(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

''(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.''.

(d) DEFINITIONS.—Subsection (d) of section 9832 of such Code is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means, with respect to any individual—

''(A) a dependent (as such term is used for purposes of section 9801(f)(2)) of such individual, and

''(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

''(7) GENETIC INFORMATION.—

''(A) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

''(i) such individual's genetic tests,

''(ii) the genetic tests of family members of such individual, and

''(iii) the manifestation of a disease or disorder in family members of such individual.

''(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

''(C) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

''(8) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes, or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(9) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(10) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to any group health plan ,or health insurance coverage offered in connection with a group health plan—

''(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;

''(B) the computation of premium or contribution amounts under the plan or coverage;

''(C) the application of any pre-existing condition exclusion under the plan or coverage; and

''(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.''.

(e) ENFORCEMENT.—

(1) IN GENERAL.—Subchapter C of chapter 100 of the Internal Revenue Code of 1986 (relating to general provisions) is amended by adding at the end the following new section:

''SEC. 9834. ENFORCEMENT.

''For the imposition of tax on any failure of a group health plan to meet the requirements of this chapter, see section 4980D.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 100 of such Code is amended by adding at the end the following new item:

''Sec. 9834. Enforcement.''.

(f) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Secretary of the Treasury shall issue final regulations or other guidance not later than 12 months after the date of the enactment of this Act to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of the enactment of this Act.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy (including the imposition of any exclusion of benefits under the policy based on a pre-existing condition) and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

''(F) RULE OF CONSTRUCTION.—Nothing in subparagraph (E) or in subparagraphs (A) or (B) of subsection (x)(2) shall be construed to limit the ability of an issuer of a medicare supplemental policy from, to the extent otherwise permitted under this title—

''(i) denying or conditioning the issuance or effectiveness of the policy or increasing the premium for an employer based on the manifestation of a disease or disorder of an individual who is covered under the policy; or

''(ii) increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer).''.

(b) LIMITATIONS ON GENETIC TESTING AND GENETIC INFORMATION.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(x) LIMITATIONS ON GENETIC TESTING AND INFORMATION.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

''(C) RULE OF CONSTRUCTION REGARDING PAYMENT.—

''(i) IN GENERAL.—Nothing in subparagraph (A) shall be construed to preclude an issuer of a medicare supplemental policy from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary under part C of title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (s)(2)(E).

''(ii) LIMITATION.—For purposes of clause (i), an issuer of a medicare supplemental policy may request only the minimum amount of information necessary to accomplish the intended purpose.

''(D) RESEARCH EXCEPTION.—Notwithstanding subparagraph (A), an issuer of a medicare supplemental policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

''(i) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

''(ii) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that—

''(I) compliance with the request is voluntary; and

''(II) non-compliance will have no effect on enrollment status or premium or contribution amounts.

''(iii) No genetic information collected or acquired under this subparagraph shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rating, or the creation, renewal, or replacement of a plan, contract, or coverage for health insurance or health benefits.

''(iv) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this subparagraph, including a description of the activities conducted.

''(v) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this subparagraph.

''(2) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

''(A) IN GENERAL.—An issuer of a medicare supplemental policy shall not request, require, or purchase genetic information for underwriting purposes (as defined in paragraph (3)).

''(B) PROHIBITION ON COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—An issuer of a medicare supplemental policy shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

''(C) INCIDENTAL COLLECTION.—If an issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of subparagraph (B) if such request, requirement, or purchase is not in violation of subparagraph (A).

''(3) DEFINITIONS.—In this subsection:

''(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

''(B) GENETIC INFORMATION.—

''(i) IN GENERAL.—The term 'genetic information' means, with respect to any individual, information about—

''(I) such individual's genetic tests,

''(II) the genetic tests of family members of such individual, and

''(III) subject to clause (iv), the manifestation of a disease or disorder in family members of such individual.

''(ii) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

''(iii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of any individual.

''(C) GENETIC TEST.—

''(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

''(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(D) GENETIC SERVICES.—The term 'genetic services' means—

''(i) a genetic test;

''(ii) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

''(iii) genetic education.

''(E) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to a medicare supplemental policy—

''(i) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

''(ii) the computation of premium or contribution amounts under the policy;

''(iii) the application of any pre-existing condition exclusion under the policy; and

''(iv) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

''(F) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.''.

(2) APPLICATION TO GENETIC INFORMATION OF A FETUS OR EMBRYO.—Section 1882(x) of such Act, as added by paragraph (1), is further amended by adding at the end the following:

''(4) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this section to genetic information concerning an individual or family member of an individual shall—

''(A) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

''(B) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.''.

(3) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (x).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 1 year after the date of enactment of this Act.

(d) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2008, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2008, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2008.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2008 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2008. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 105. PRIVACY AND CONFIDENTIALITY.

(a) IN GENERAL.—Part C of title XI of the Social Security Act is amended by adding at the end the following new section:

''APPLICATION OF HIPAA REGULATIONS TO GENETIC INFORMATION

''SEC. 1180. (a) IN GENERAL.—The Secretary shall revise the HIPAA privacy regulation (as defined in subsection (b)) so it is consistent with the following:

''(1) Genetic information shall be treated as health information described in section 1171(4)(B).

''(2) The use or disclosure by a covered entity that is a group health plan, health insurance issuer that issues health insurance coverage, or issuer of a medicare supplemental policy of protected health information that is genetic information about an individual for underwriting purposes under the group health plan, health insurance coverage, or medicare supplemental policy shall not be a permitted use or disclosure.

''(b) DEFINITIONS.—For purposes of this section:

''(1) GENETIC INFORMATION; GENETIC TEST; FAMILY MEMBER.—The terms 'genetic information', 'genetic test', and 'family member' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), as amended by the Genetic Information Nondiscrimination Act of 2007.

''(2) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; MEDICARE SUPPLEMENTAL POLICY.—The terms 'group health plan' and 'health insurance coverage' have the meanings given such terms under section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), and the term 'medicare supplemental policy' has the meaning given such term in section 1882(g).

''(3) HIPAA PRIVACY REGULATION.—The term 'HIPAA privacy regulation' means the regulations promulgated by the Secretary under this part and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

''(4) UNDERWRITING PURPOSES.—The term 'underwriting purposes' means, with respect to a group health plan, health insurance coverage, or a medicare supplemental policy—

''(A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for, or determination of, benefits under the plan, coverage, or policy;

''(B) the computation of premium or contribution amounts under the plan, coverage, or policy;

''(C) the application of any pre-existing condition exclusion under the plan, coverage, or policy; and

''(D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

''(c) PROCEDURE.—The revisions under subsection (a) shall be made by notice in the Federal Register published not later than 60 days after the date of the enactment of this section and shall be effective upon publication, without opportunity for any prior public comment, but may be revised, consistent with this section, after opportunity for public comment.

''(d) ENFORCEMENT.—In addition to any other sanctions or remedies that may be available under law, a covered entity that is a group health plan, health insurance issuer, or issuer of a medicare supplemental policy and that violates the HIPAA privacy regulation (as revised under subsection (a) or otherwise) with respect to the use or disclosure of genetic information shall be subject to the penalties described in sections 1176 and 1177 in the same manner and to the same extent that such penalties apply to violations of this part.''.

(b) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to carry out the revision required by section 1180(a) of the Social Security Act, as added by subsection (a). The Secretary has the sole authority to promulgate such regulations, but shall promulgate such regulations in consultation with the Secretaries of Labor and the Treasury.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 106. ASSURING COORDINATION.

Except as provided in section 105(b)(1), the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term ''employer'' means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms ''employment agency'' and ''labor organization'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term ''member'', with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term ''family member'' means, with respect to an individual—

(A) a dependent (as such term is used for purposes of section 701(f)(2) of the Employee Retirement Income Security Act of 1974) of such individual, and

(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—The term ''genetic information'' means, with respect to any individual, information about—

(i) such individual's genetic tests,

(ii) the genetic tests of family members of such individual, and

(iii) the manifestation of a disease or disorder in family members of such individual.

(B) INCLUSION OF GENETIC SERVICES AND PARTICIPATION IN GENETIC RESEARCH.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(C) EXCLUSIONS.—The term ''genetic information'' shall not include information about the sex or age of any individual.

(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term ''genetic services'' means—

(A) a genetic test;

(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term ''genetic test'' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTIONS.—The term ''genetic test'' does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory, and such analysis is included in the Combined DNA Index System pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132), and requests or requires genetic information of such employer's employees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual;

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member; or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) DISCRIMINATION BASED ON GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory, and such analysis is included in the Combined DNA Index System pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132), and requests or requires genetic information of such employer's apprentices or trainees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member, such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member. An employer, employment agency, labor organization, or joint labor-management committee shall be considered to be in compliance with the maintenance of information requirements of this subsection with respect to genetic information subject to this subsection that is maintained with and treated as a confidential medical record under section 102(d)(3)(B) of the Americans With Disabilities Act (42 U.S.C. 12112(d)(3)(B)).

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member except—

(1) to the employee or member of a labor organization (or family member if the family member is receiving the genetic services) at the written request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall inform the employee or member of the court order and any genetic information that was disclosed pursuant to such order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation;

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws; or

(6) to a Federal, State, or local public health agency only with regard to information that is described in section 201(4)(A)(iii) and that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, and that the employee whose family member or family members is or are the subject of a disclosure under this paragraph is notified of such disclosure.

(c) RELATIONSHIP TO HIPAA REGULATIONS.—With respect to the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), this title does not prohibit a covered entity under such regulations from any use or disclosure of health information that is authorized for the covered entity under such regulations. The previous sentence does not affect the authority of such Secretary to modify such regulations.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, procedures, and remedies provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, procedures, and remedies this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(f) PROHIBITION AGAINST RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this title or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title. The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) DEFINITION.—In this section, the term ''Commission'' means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, ''disparate impact'', as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of genetic information does not establish a cause of action under this Act.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the ''Commission'') to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and Labor of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and Labor of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

(a) IN GENERAL.—Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title, including the protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112)), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) provide for enforcement of, or penalties for violation of, any requirement or prohibition applicable to any employer, employment agency, labor organization, or joint labor-management committee subject to enforcement for a violation under—

(i) the amendments made by title I of this Act;

(ii)(I) subsection (a) of section 701 of the Employee Retirement Income Security Act of 1974 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 702(a)(1)(F) of such Act; or

(III) section 702(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor;

(iii)(I) subsection (a) of section 2701 of the Public Health Service Act as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 2702(a)(1)(F) of such Act; or

(III) section 2702(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor; or

(iv)(I) subsection (a) of section 9801 of the Internal Revenue Code of 1986 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 9802(a)(1)(F) of such Act; or

(III) section 9802(b)(1) of such Act as such section applies with respect to genetic information as a health status-related factor;

(3) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(4) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule);

(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations; or

(7) require any specific benefit for an employee or member or a family member of an employee or member under any group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan.

(b) GENETIC INFORMATION OF A FETUS OR EMBRYO.—Any reference in this title to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(c) RELATION TO AUTHORITIES UNDER TITLE I.—With respect to a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, this title does not prohibit any activity of such plan or issuer that is authorized for the plan or issuer under any provision of law referred to in clauses (i) through (iv) of subsection (a)(2)(B).

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

SEC. 302. CHILD LABOR PROTECTIONS.

(a) IN GENERAL.—Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended to read as follows:

''(e)(1)(A) Any person who violates the provisions of sections 12 or 13(c), relating to child labor, or any regulation issued pursuant to such sections, shall be subject to a civil penalty not to exceed—

''(i) $11,000 for each employee who was the subject of such a violation; or

''(ii) $50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is a repeated or willful violation.

''(B) For purposes of subparagraph (A), the term 'serious injury' means—

''(i) permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);

''(ii) permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or

''(iii) permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.

''(2) Any person who repeatedly or willfully violates section 6 or 7, relating to wages, shall be subject to a civil penalty not to exceed $1,100 for each such violation.

''(3) In determining the amount of any penalty under this subsection, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be—

''(A) deducted from any sums owing by the United States to the person charged;

''(B) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

''(C) ordered by the court, in an action brought for a violation of section 15(a)(4) or a repeated or willful violation of section 15(a)(2), to be paid to the Secretary.

''(4) Any administrative determination by the Secretary of the amount of any penalty under this subsection shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary.

''(5) Except for civil penalties collected for violations of section 12, sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provision of section 2 of the Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof and for other purposes' (29 U.S.C. 9a). Civil penalties collected for violations of section 12 shall be deposited in the general fund of the Treasury.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 4574. Mr. PRYOR (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1315, to amend title 38, United States Code, to enhance life insurance benefits for disabled veterans, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 306. EXPANSION OF PROGRAMS OF EDUCATION ELIGIBLE FOR ACCELERATED PAYMENT OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) IN GENERAL.—Subsection (b) of section 3014A is amended by striking paragraph (1) and inserting the following new paragraph (1):

''(1) enrolled in—

''(A) an approved program of education that leads to employment in a high technology occupation in a high technology industry (as determined pursuant to regulations prescribed by the Secretary); or

''(B) during the period beginning on October 1, 2008, and ending on September 30, 2012, an approved program of education lasting less than two years that (as so determined) leads to employment in—

''(i) the transportation sector of the economy;

''(ii) the construction sector of the economy;

''(iii) the hospitality sector of the economy; or

''(iv) the energy sector of the economy; and''.

(b) CONFORMING AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

''§ 3014A. Accelerated payment of basic educational assistance''.

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 30 is amended to read as follows:

''3014A. Accelerated payment of basic educational assistance.''.

SA 4575. Mr. REID (for Mr. KYL) proposed an amendment to the bill S. 2324, to amend the Inspector General Act of 1978 (5 U.S.C. App.) to enhance the Offices of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes; as follows:

On page 2, line 21, insert before the quotation marks ''Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 2, line 26, insert a period before the quotation marks.

On page 3, line 3, insert before the quotation marks ''. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 3, line 14, insert before the quotation marks ''Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 4, line 7, insert before the quotation marks ''Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 4, line 17, insert before the quotation marks ''Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 10, after line 24, add the following:

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity.

On page 32, strike lines 14 through 19 and insert the following:

''(E) if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office, any comments of the affected Inspector General with respect to the proposal.''.

On page 40, strike lines 1 through 20.

On page 40, line 21, strike ''15'' and insert ''14''.

On page 42, line 4, strike ''16'' and insert ''15''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Wednesday, April 30, 2008, at 3:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nominations of Kameran L. Onley, of Washington, to be an Assistant Secretary of the Interior and Jeffrey F. Kupfer, of Maryland, to be Deputy Secretary of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy.senate.gov.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

The PRESIDING OFFICER. The majority leader.

INSPECTOR GENERAL REFORM ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 578, S. 2324.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2324) to amend the Inspector General Act of 1978, (5 U.S.C. App.) to enhance the Offices of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 2324

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Inspector General Reform Act of **[**2007**]***2008*''.

SEC. 2. APPOINTMENT AND QUALIFICATIONS OF INSPECTORS GENERAL.

Section 8G(c) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end ''Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.''.

SEC. 3. REMOVAL OF INSPECTORS GENERAL.

(a) ESTABLISHMENTS.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the second sentence and inserting ''If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.''.

(b) DESIGNATED FEDERAL ENTITIES.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress'' and inserting ''shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer''.

(c) LEGISLATIVE AGENCIES.—

(1) LIBRARY OF CONGRESS.—Section 1307(c)(2) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 185(c)(2)) is amended by striking the second sentence and inserting ''If the Inspector General is removed from office or is transferred to another position or location within the Library of Congress, the Librarian of Congress shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.''.

(2) CAPITOL POLICE.—Section 1004(b) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 1909(b)) is amended by striking paragraph (3) and inserting the following:

''(3) REMOVAL.—The Inspector General may be removed or transferred from office before the expiration of his term only by the unanimous vote of all of the voting members of the Capitol Police Board. If an Inspector General is removed from office or is transferred to another position or location within the Capitol Police, the Capitol Police Board shall communicate in writing the reasons for any such removal or transfer to the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, not later than 30 days before the removal or transfer.''.

(3) GOVERNMENT PRINTING OFFICE.—Section 3902(b)(2) of title 44, United States Code, is amended by striking the second sentence and inserting ''If the Inspector General is removed from office or is transferred to another position or location within the Government Printing Office, the Public Printer shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.''.

SEC. 4. PAY OF INSPECTORS GENERAL.

(a) INSPECTORS GENERAL AT LEVEL III OF EXECUTIVE SCHEDULE.—

(1) IN GENERAL.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.), is amended by adding at the end the following:

''(e) The annual rate of basic pay for an Inspector General (as defined under section 11(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5315 of title 5, United States Code, is amended by striking the item relating to each of the following positions:

(A) Inspector General, Department of Education.

(B) Inspector General, Department of Energy.

(C) Inspector General, Department of Health and Human Services.

(D) Inspector General, Department of Agriculture.

(E) Inspector General, Department of Housing and Urban Development.

(F) Inspector General, Department of Labor.

(G) Inspector General, Department of Transportation.

(H) Inspector General, Department of Veterans Affairs.

(I) Inspector General, Department of Homeland Security.

(J) Inspector General, Department of Defense.

(K) Inspector General, Department of State.

(L) Inspector General, Department of Commerce.

(M) Inspector General, Department of the Interior.

(N) Inspector General, Department of Justice.

(O) Inspector General, Department of the Treasury.

(P) Inspector General, Agency for International Development.

(Q) Inspector General, Environmental Protection Agency.

(R) Inspector General, Export-Import Bank.

(S) Inspector General, Federal Emergency Management Agency.

(T) Inspector General, General Services Administration.

(U) Inspector General, National Aeronautics and Space Administration.

(V) Inspector General, Nuclear Regulatory Commission.

(W) Inspector General, Office of Personnel Management.

(X) Inspector General, Railroad Retirement Board.

(Y) Inspector General, Small Business Administration.

(Z) Inspector General, Tennessee Valley Authority.

(AA) Inspector General, Federal Deposit Insurance Corporation.

(BB) Inspector General, Resolution Trust Corporation.

(CC) Inspector General, Central Intelligence Agency.

(DD) Inspector General, Social Security Administration.

(EE) Inspector General, United States Postal Service.

(3) ADDITIONAL TECHNICAL AND CONFORMING AMENDMENT.—Section 194(b) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(b)) is amended by striking paragraph (3).

(b) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation of the senior level executives of that designated Federal entity *calculated on an annual basis.*

(c) SAVINGS PROVISION FOR NEWLY APPOINTED INSPECTORS GENERAL.—The provisions of section 3392 of title 5, United States Code, other than the terms ''performance awards'' and ''awarding of ranks'' in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

(d) SAVINGS PROVISION.—Nothing in this section shall have the effect of reducing the rate of pay of any individual serving on the date of enactment of this section as an Inspector General of—

(1) an establishment as defined under section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(2) a designated Federal entity as defined under section 8G(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(3) a legislative agency *for which the position of Inspector General is established by statute*; or

(4) any other entity of the Government *for which the position of Inspector General is established by statute.*

SEC. 5. PROHIBITION OF CASH BONUS OR AWARDS.

Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 4 of this Act) is further amended by adding at the end the following:

''(f) An Inspector General (as defined under section 8G(a)(6) or 11(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.''.

SEC. 6. SEPARATE COUNSEL TO SUPPORT INSPECTORS GENERAL.

(a) COUNSELS TO INSPECTORS GENERAL OF ESTABLISHMENT.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by sections 4 and 5 of this Act) is further amended by adding at the end the following:

''(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.''.

(b) COUNSELS TO INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Section 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(4) Each Inspector General shall, in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General or obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.''.

SEC. 7. ESTABLISHMENT OF COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

(a) ESTABLISHMENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 11 and 12 as sections 12 and 13, respectively, and by inserting after section 10 the following:

''SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

''(a) ESTABLISHMENT AND MISSION.—

''(1) ESTABLISHMENT.—There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the 'Council').

''(2) MISSION.—The mission of the Council shall be to—

''(A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and

''(B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Council shall consist of the following members:

''(A) All Inspectors General whose offices are established under—

''(i) section 2; or

''(ii) section 8G.

''(B) The Inspectors General of the Office of the Director of National Intelligence and the Central Intelligence Agency.

''(C) The Controller of the Office of Federal Financial Management.

''(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

''(E) The Director of the Office of Government Ethics.

''(F) The Special Counsel of the Office of Special Counsel.

''(G) The Deputy Director of the Office of Personnel Management.

''(H) The Deputy Director for Management of the Office of Management and Budget.

''(I) The Office of Inspectors General of the Library of Congress, Capitol Police, and the Government Printing Office.

''(J) Any other members designated by the President.

''(2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

''(A) EXECUTIVE CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

''(B) CHAIRPERSON.—The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.

''(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

''(A) EXECUTIVE CHAIRPERSON.—The Executive Chairperson shall—

''(i) preside over meetings of the Council;

''(ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and

''(iii) provide to the Council such information relating to the agencies and entities represented on the Council as assists the Council in performing its functions.

''(B) CHAIRPERSON.—The Chairperson shall—

''(i) convene meetings of the Council—

''(I) at least 6 times each year;

''(II) monthly to the extent possible; and

''(III) more frequently at the discretion of the Chairperson;

''(ii) exercise the functions and duties of the Council under subsection (c);

''(iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected;

''(iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;

''(v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the availability of appropriations and the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;

''(vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;

''(vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

''(viii) prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council.

''(c) FUNCTIONS AND DUTIES OF COUNCIL.—

''(1) IN GENERAL.—The Council shall—

''(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

''(B) develop plans for coordinated, governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;

''(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

''(D) maintain an Internet website and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;

''(E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;

''(F) submit recommendations of 3 individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);

''(G) make such reports to Congress as the Chairperson determines are necessary or appropriate; and

''(H) perform other duties within the authority and jurisdiction of the Council, as appropriate.

''(2) ADHERENCE AND PARTICIPATION BY MEMBERS.—To the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council shall adhere to professional standards developed by the Council and participate in the plans, programs, and projects of the Council, as appropriate.

''(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

''(A) INTERAGENCY FUNDING.—Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency funding of activities described under subclause [(I) or (II)] *(I), (II), or (III)* of clause (i), in the performance of the responsibilities, authorities, and duties of the Council—

''(i) the Executive Chairperson may authorize the use of interagency funding for—

''(I) Governmentwide training of employees of the Offices of the Inspectors General;

''(II) the functions of the Integrity Committee of the Council; and

''(III) any other authorized purpose determined by the Council; and

''(ii) upon the authorization of the Executive Chairperson, any department, agency, or entity of the [United States Government] *executive branch which has a member on the Council* shall fund or participate in the funding of such activities.

''(B) SUPERSEDING PROVISIONS.—No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede the authority under paragraph (1), unless such provision makes specific reference to the authority in that paragraph.

''(4) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The establishment and operation of the Council shall not affect—

''(A) the role of the Department of Justice in law enforcement and litigation;

''(B) the authority or responsibilities of any Government agency or entity; and

''(C) the authority or responsibilities of individual members of the Council.

''(d) INTEGRITY COMMITTEE.—

''(1) ESTABLISHMENT.—The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and [certain] staff members of the various Offices of Inspector General *described under paragraph (4)(C)*.

''(2) MEMBERSHIP.—The Integrity Committee shall consist of the following members:

''(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee.

''(B) Three or more Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

''(C) The Special Counsel of the Office of Special Counsel.

''(D) The Director of the Office of Government Ethics.

''(3) LEGAL ADVISOR.—The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

''(4) REFERRAL OF ALLEGATIONS.—

''(A) REQUIREMENT.—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if—

''(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

''(ii) the Inspector General determines that—

''(I) an objective internal investigation of the allegation is not feasible; or

''(II) an internal investigation of the allegation may appear not to be objective.

''(B) DEFINITION.—In this paragraph the term 'staff member' means—

''(i) any employee of an Office of Inspector General who reports directly to an Inspector General; or

''(ii) who is designated by an Inspector General under subparagraph (C).

''(C) DESIGNATION OF STAFF MEMBERS.—Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

''(5) REVIEW OF ALLEGATIONS.—The Integrity Committee shall—

''(A) review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against [an employee] *a staff member* of an Office of Inspector General *described under paragraph (4)(C)*;

''(B) refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and

''(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee *under subparagraph (A)* to be potentially meritorious that cannot be referred to an agency under subparagraph (B).

''(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

''(A) REQUIREMENT.—The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(C) to be conducted in accordance with this paragraph.

''(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

''(i) may provide resources necessary to the Integrity Committee; and

''(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

''(7) PROCEDURES FOR INVESTIGATIONS.—

''(A) STANDARDS APPLICABLE.—Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

''(B) ADDITIONAL POLICIES AND PROCEDURES.—

''(i) ESTABLISHMENT.—The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in—

''(I) determining whether to initiate an investigation;

''(II) conducting investigations;

''(III) reporting the results of an investigation; and

''(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report.

''(ii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

''(C) REPORTS.—

''(i) POTENTIALLY MERITORIOUS ALLEGATIONS.—For allegations [referred to] *described* under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

''(ii) ALLEGATIONS OF WRONGDOING.—For allegations referred to *an agency* under paragraph (5)(B), the head of [an] *that* agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.

''(8) ASSESSMENT AND FINAL DISPOSITION.—

''(A) IN GENERAL.—With respect to any report received under paragraph (7)(C), the Integrity Committee shall—

''(i) assess the report;

''(ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action, within [180] *30* days (to the maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and

''(iii) submit to the congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after the submission of such report to the Executive Chairperson under clause (ii).

''(B) DISPOSITION.—The Executive Chairperson of the Council shall report to the Integrity Committee the final disposition of the matter, including what action was taken by the President or agency head.

''(9) ANNUAL REPORT.—The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

''(A) The number of allegations received.

''(B) The number of allegations referred to other agencies, including the number of allegations referred for criminal investigation.

''(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

''(D) The number of allegations closed without referral.

''(E) The date each allegation was received and the date each allegation was finally disposed of.

''(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

''(G) Other matters that the Council considers appropriate.

''(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from any of the following:

''(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

''(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

''(C) The chairperson or ranking member of the congressional committees of jurisdiction.

''(11) NO RIGHT OR BENEFIT.—This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.''.

(b) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(1) DEFINITIONS.—In this section—

(A) the term ''Integrity Committee'' means the Integrity Committee established under section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App.), as amended by this Act; and

(B) the term ''Special Counsel'' refers to the Special Counsel appointed under section 1211(b) of title 5, United States Code.

(2) AUTHORITY OF INTEGRITY COMMITTEE.—

(A) IN GENERAL.—An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this paragraph.

(B) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This subsection does not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this subsection involves section 2302(b)(8) of that title, a failure to obtain corrective action within 120 days after the date on which that allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of that title.

(3) REGULATIONS.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this subsection, subject to such consultation or other requirements as might otherwise apply.

[(b)]*(c)* EXISTING EXECUTIVE ORDERS.—Executive Order 12805, dated May 11, 1992, and Executive Order 12993, dated March 21, 1996, shall have no force or effect.

[(c)]*(d)* TECHNICAL AND CONFORMING AMENDMENTS.—

(1) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in sections 2(1), 4(b)(2), and 8G(a)(1)(A) by striking ''section 11(2)'' each place it appears and inserting ''section 12(2)''; and

(B) in section 8G(a), in the matter preceding paragraph (1), by striking ''section 11'' and inserting ''section 12''.

(2) SEPARATE APPROPRIATIONS ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by striking the first paragraph (33) and inserting the following:

''(33) a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.''.

SEC. 8. SUBMISSION OF BUDGET REQUESTS TO CONGRESS.

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the [agency, board, or commission] *establishment or designated Federal entity* to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training [requirements] *needs*, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General's office for that fiscal year, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request.

''(2) In transmitting a proposed budget to the President for approval, the head of each [agency, board or commission] *establishment or designated Federal entity* shall include—

''(A) an aggregate request for the Inspector General;

''(B) amounts for Inspector General training;

''(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and

''(D) any comments of the affected Inspector General with respect to the proposal.

''(3) The President shall include in each budget of the United States Government submitted to Congress—

''(A) a separate statement of the budget estimate prepared in accordance with paragraph (1);

''(B) the amount requested by the President for each Inspector General;

''(C) *the amount requested by the President for* training of Inspectors General;

''(D) *the amount requested by the President for* support for the Council of the Inspectors General on Integrity and Efficiency; and

''(E) any comments of the affected Inspector General with respect to the proposal, including whether the budget request submitted by the head of the establishment *or designated Federal entity* would substantially inhibit the Inspector General from performing the duties of the office.''.

SEC. 9. SUBPOENA POWER.

Section 6(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting ''in any medium (including electronically stored information, as well as any tangible thing)'' after ''other data''; and

(2) by striking ''subpena'' and inserting ''subpoena''.

SEC. 10. PROGRAM FRAUD CIVIL REMEDIES ACT.

Section 3801(a)(1) of title 31, United States Code, is amended—

(1) in subparagraph [(C)] *(D)*, by striking ''and'' after the semicolon;

(2) in subparagraph [(D)] *(E)*, by adding ''and'' after the semicolon; and

(3) by adding at the end the following:

''[(E)]*(F)* a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978).''.

SEC. 11. LAW ENFORCEMENT AUTHORITY FOR DESIGNATED FEDERAL ENTITIES.

Section 6(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking ''appointed under section 3''; and

(2) by adding at the end the following:

''(9) In this subsection the term 'Inspector General' means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.''.

SEC. 12. APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO INSPECTION REPORTS AND EVALUATION REPORTS.

Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in each of subsections (a)(6), (a)(8), (a)(9), (b)(2), and (b)(3)—

(A) by inserting '', inspection reports, and evaluation reports'' after ''audit reports'' the first place it appears; and

(B) by striking ''audit'' the second place it appears; and

(2) in subsection (a)(10) by inserting '', inspection reports, and evaluation reports'' after ''audit reports''.

[SEC. 13. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

[(a) DEFINITION.—In this section the term ''agency'' means a Federal agency as defined under section 11(5) of the Inspector General Act of 1978 (5 U.S.C. App.).

[(b) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

[(1) IN GENERAL.—Each agency shall establish and maintain on the homepage of the website of that agency, a direct link to the website of the Office of the Inspector General of that agency.

[(2) ACCESSIBILITY.—The direct link under paragraph (1) shall be obvious and facilitate accessibility to the website of the Office of the Inspector General.

[(c) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

[(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each agency shall—

[(A) in accordance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act), not later than 3 working days after any report or audit (or portion of any report or audit), that is subject to release under section 552 of that title (commonly referred to as the Freedom of Information Act), is made publicly available, post that report or audit (or portion of that report or audit) on the website of the Office of the Inspector General; and

[(B) ensure that any posted report or audit (or portion of that report or audit) described under subparagraph (A)—

[(i) is easily accessible from a direct link on the homepage of the website of the Office of the Inspector General;

[(ii) includes a summary of the findings of the Inspector General; and

[(iii) is in a format that—

[(I) is searchable and downloadable; and

[(II) facilitates printing by individuals of the public accessing the website.

[(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

[(A) IN GENERAL.—The Inspector General of each agency shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

[(B) ANONYMITY.—The Inspector General of each agency shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.

[(d) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the head of each agency and the Inspector General of each agency shall implement this section.]

SEC. 13. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

(a) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8K the following:

''SEC. 8L. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

''(a) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

''(1) IN GENERAL.—Each agency shall establish and maintain on the homepage of the website of that agency, a direct link to the website of the Office of the Inspector General of that agency.

''(2) ACCESSIBILITY.—The direct link under paragraph (1) shall be obvious and facilitate accessibility to the website of the Office of the Inspector General.

''(b) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

''(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each agency shall—

''(A) in accordance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act), not later than 3 working days after any report or audit (or portion of any report or audit), that is subject to release under section 552 of that title (commonly referred to as the Freedom of Information Act), is made publicly available, post that report or audit (or portion of that report or audit) on the website of the Office of the Inspector General; and

''(B) ensure that any posted report or audit (or portion of that report or audit) described under subparagraph (A)—

''(i) is easily accessible from a direct link on the homepage of the website of the Office of the Inspector General;

''(ii) includes a summary of the findings of the Inspector General; and

''(iii) is in a format that—

''(I) is searchable and downloadable; and

''(II) facilitates printing by individuals of the public accessing the website.

''(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

''(A) IN GENERAL.—The Inspector General of each agency shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

''(B) ANONYMITY.—The Inspector General of each agency shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.''.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the head of each agency and the Inspector General of each agency shall implement the amendment made by this section.

SEC. 14. INVESTIGATIONS OF DEPARTMENT OF JUSTICE PERSONNEL.

(a) AMENDMENT TO REQUIREMENT RELATING TO CERTAIN REFERRALS.—Section 8E(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking paragraph (3).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is further amended—

(1) in subsection (b)—

(A) by striking ''and paragraph (3)'' in paragraph (2);

(B) by redesignating paragraph (4) as paragraph (3); and

(C) by redesignating paragraph (5) as paragraph (4) and in that paragraph by striking ''(4)'' and inserting ''(3)''; and

(2) in subsection (d), by striking '', except with respect to allegations described in subsection (b)(3),''.

SEC. 15. OTHER ADMINISTRATIVE AUTHORITIES.

(a) IN GENERAL.—Section 6(d) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended to read as follows:

''(d)(1)(A) For purposes of applying the provisions of law identified in subparagraph (B)—

''(i) each Office of Inspector General shall be considered to be a separate agency; and

''(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

''(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

''(i) Subchapter II of chapter 35.

''(ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b).

''(iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2).

''(2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting 'the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall' for 'the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,'.''.

(b) AUTHORITY OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION [TO] *TO* PROTECT INTERNAL REVENUE SERVICE EMPLOYEES.—Section 8D(k)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''and the providing of physical security''.

SEC. 16. GOVERNMENT ACCOUNTABILITY OFFICE REPORTS.

(a) IN GENERAL.—

(1) SUBMISSION.—Not later than 360 days after the date of enactment of this Act, the Government Accountability Office shall submit a report examining the adequacy of mechanisms to ensure accountability of the Offices of Inspector General to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall examine—

(A) the practices, policies, and procedures of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (and its predecessor committee); and

(B) the practices, policies, and procedures of the Offices of Inspector General with respect to complaints by and about employees of any Office of Inspector General that are not within the jurisdiction of the Integrity Committee.

(b) PAY OF INSPECTORS GENERAL.—Not later than 270 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the congressional committees of jurisdiction on the implementation of section 4.

Mr. KYL. Mr. President, I rise today to say a few words about S. 2324, the Inspector General Reform Act, which is expected to pass the Senate today with an amendment of mine. The amendment makes several reforms and clarifying changes to the bill.

Section 3 of the bill requires the President to give Congress 30 days' notice before removing or transferring an inspector general from his position. My amendment clarifies that the President may still take other actions against an inspector general without providing 30 days' notice, such as suspending him or otherwise preventing him from taking official actions. While section 3 appears to be designed to allow Congress to respond to a situation where an inspector general is fired in order to impede his discovery of wrongdoing or for other improper reasons, my amendment is intended to address another kind of scenario, one where an inspector general is fired for very good reasons.

We should not assume that inspectors general will be immune to human failings. If an inspector general is fired because he has been indicted or is under investigation for corruption or has otherwise abused the powers of his office, it should be clear that the President can prevent the inspector general from launching new investigations in retaliation or taking other official actions, and that he can be denied access to his office space. My amendment ensures that this is so.

Section 6 of the bill authorizes inspectors general to obtain legal advice from the attorneys working for them. While this provision strengthens the independence of inspectors general, it creates a potential ambiguity as to who has ultimate authority to resolve legal questions within an agency. Agency employees should not face a division of authority if an inspector general were to reach a different conclusion on a legal matter previously resolved by the agency counsel.

My amendment clarifies that the agency or department's chief legal officer remains the ultimate legal authority within the agency. While an inspector general may obtain his own legal advice, his review does not constitute an appeal or review of the general counsel's decisions and judgments. The chief legal officer's views are what is final within the agency, and they are subject to review within the executive branch only by the head of the agency and the Justice Department.

Section 8 of the bill as reported by the committee allowed inspectors general to include their own budget comments with respect to their offices in the President's budget proposal to Congress. I would first note that the generous growth of inspectors generals' budgets during this administration leaves little reason to fear that these offices are being starved of resources. More fundamentally, as a general matter, all agencies and departments should be subject to the Office of Management and Budget's budgeting process, to ensure that the President's budget proposal reflects and balances competing priorities. Rules such as that in section 8 should generally be disfavored. An exception is tolerable here only because of the unique status and role of the inspectors general. And even in their case, we should not assume that every disagreement between the Office of Management and Budget and an inspector general about the size of his budget reflects some effort to suppress an investigation.

All bureaucrats love to see their budgets grow and to build their little empires. We should not assume that inspectors general are immune from this tendency. To mitigate its effects, my amendment would require that an inspector general assert that he would be inhibited in the performance of his duties before he may submit a separate budget request.

The amendment serves two purposes. First, it should rein in requests for ever-expanding budgets, and ensure that inspectors general generally remain subject to budget discipline. And secondly, it ensures that if an administration is retaliating against an inspector general or otherwise reducing his budget in order to prevent him from doing his job, then Congress will be alerted to the fact. If separate budget requests were routine, the submission of such requests would provide little notice to congressional overseers. And if an inspector general believes that an administration is starving him of resources with the intent to undermine his ability to do his job, Congress not only should have before it his separate budget request, it should also be made aware that the inspector general believes that he is being treated that way.

Finally, section 14 of the committee-reported bill would have given the Justice Department's inspector general the authority to conduct legal ethics reviews. I found this provision strongly objectionable. An attorney's decision to investigate, litigate, or provide legal advice is a sensitive one and should be reviewed with great deference. There can be a wide range of legitimate disagreement as to how such issues should be decided. Justice Department reviews of such decisions are equivalent to the attorney discipline proceedings conducted by state bar associations. They are currently conducted within the Justice Department by the Office of Professional Responsibility, and there is no evidence that this Office's reviews are anything less than adequate.

Indeed, recently the Office of Professional Responsibility has taken upon itself the role of reviewing the merits of the Office of Legal Counsel's legal analyses. The Office of Legal Counsel's lawyers are recognized to be among the very best in the executive branch. They are assigned to resolve the most difficult legal questions that confront an administration. I find it dubious that an OPR lawyer would be in any position to assess whether an Office of Legal Counsel opinion is legally correct or not.

Absent at least some evidence that such an opinion was the product of bribery or other improper external influences, I question the basis on which

OPR even assumes for itself the authority to initiate such a review. I fear that OPR's actions are influenced more by the toxic style of opposition attacks on the Justice Department in recent years, in which legitimate policy and legal disputes are recast as ethical lapses, rather than by a sound concern for the integrity of the Department.

While some of the Office of Professional Responsibilities' recent actions are debatable, the notion of extending that Office's authority to the inspector general is totally unacceptable. Inspectors general investigate waste, fraud, and abuse. They are suited neither by temperament nor experience to second guess whether a Justice Department lawyer should have investigated a matter, prosecuted a case, or offered a legal opinion. It is at my insistence that the original section 14 has been removed from this bill.

I commend Senators LIEBERMAN and COLLINS for their devotion to overseeing and improving the operations of the inspectors general and, with the changes made by my amendment, I will raise no objection to the passage of this bill.

Mr. REID. Mr. President, I ask unanimous consent that a Kyl amendment, which is at the desk, be agreed to; the committee amendments, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 4575) was agreed to, as follows:

(Purpose: To modify provisions relating to transfers and removals, duties of counsel, and comments on budget submissions, and for other purposes)

On page 2, line 21, insert before the quotation marks ''Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 2, line 26, insert a period before the quotation marks.

On page 3, line 3, insert before the quotation marks ''. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 3, line 14, insert before the quotation marks ''Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 4, line 7, insert before the quotation marks ''Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 4, line 17, insert before the quotation marks ''Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

On page 10, after line 24, add the following:

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity.

On page 32, strike lines 14 through 19 and insert the following:

''(E) if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office, any comments of the affected Inspector General with respect to the proposal.''.

On page 40, strike lines 1 through 20.

On page 40, line 21, strike ''15'' and insert ''14''.

On page 42, line 4, strike ''16'' and insert ''15''.

The committee amendments were agreed to.

The bill (S. 2324), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2324

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Inspector General Reform Act of 2008''.

SEC. 2. APPOINTMENT AND QUALIFICATIONS OF INSPECTORS GENERAL.

Section 8G(c) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end ''Each Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.''.

SEC. 3. REMOVAL OF INSPECTORS GENERAL.

(a) ESTABLISHMENTS.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the second sentence and inserting ''If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

(b) DESIGNATED FEDERAL ENTITIES.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.'' and inserting ''shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

(c) LEGISLATIVE AGENCIES.—

(1) LIBRARY OF CONGRESS.—Section 1307(c)(2) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 185(c)(2)) is amended by striking the second sentence and inserting ''If the Inspector General is removed from office or is transferred to another position or location within the Library of Congress, the Librarian of Congress shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

(2) CAPITOL POLICE.—Section 1004(b) of the Legislative Branch Appropriations Act, 2006 (2 U.S.C. 1909(b)) is amended by striking paragraph (3) and inserting the following:

''(3) REMOVAL.—The Inspector General may be removed or transferred from office before the expiration of his term only by the unanimous vote of all of the voting members of the Capitol Police Board. If an Inspector General is removed from office or is transferred to another position or location within the Capitol Police, the Capitol Police Board shall communicate in writing the reasons for any such removal or transfer to the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, not later than 30 days before the removal or transfer. Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

(3) GOVERNMENT PRINTING OFFICE.—Section 3902(b)(2) of title 44, United States Code, is amended by striking the second sentence and inserting ''If the Inspector General is removed from office or is transferred to another position or location within the Government Printing Office, the Public Printer shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. Nothing in this paragraph shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.''.

SEC. 4. PAY OF INSPECTORS GENERAL.

(a) INSPECTORS GENERAL AT LEVEL III OF EXECUTIVE SCHEDULE.—

(1) IN GENERAL.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.), is amended by adding at the end the following:

''(e) The annual rate of basic pay for an Inspector General (as defined under section 11(3)) shall be the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, plus 3 percent.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5315 of title 5, United States Code, is amended by striking the item relating to each of the following positions:

(A) Inspector General, Department of Education.

(B) Inspector General, Department of Energy.

(C) Inspector General, Department of Health and Human Services.

(D) Inspector General, Department of Agriculture.

(E) Inspector General, Department of Housing and Urban Development.

(F) Inspector General, Department of Labor.

(G) Inspector General, Department of Transportation.

(H) Inspector General, Department of Veterans Affairs.

(I) Inspector General, Department of Homeland Security.

(J) Inspector General, Department of Defense.

(K) Inspector General, Department of State.

(L) Inspector General, Department of Commerce.

(M) Inspector General, Department of the Interior.

(N) Inspector General, Department of Justice.

(O) Inspector General, Department of the Treasury.

(P) Inspector General, Agency for International Development.

(Q) Inspector General, Environmental Protection Agency.

(R) Inspector General, Export-Import Bank.

(S) Inspector General, Federal Emergency Management Agency.

(T) Inspector General, General Services Administration.

(U) Inspector General, National Aeronautics and Space Administration.

(V) Inspector General, Nuclear Regulatory Commission.

(W) Inspector General, Office of Personnel Management.

(X) Inspector General, Railroad Retirement Board.

(Y) Inspector General, Small Business Administration.

(Z) Inspector General, Tennessee Valley Authority.

(AA) Inspector General, Federal Deposit Insurance Corporation.

(BB) Inspector General, Resolution Trust Corporation.

(CC) Inspector General, Central Intelligence Agency.

(DD) Inspector General, Social Security Administration.

(EE) Inspector General, United States Postal Service.

(3) ADDITIONAL TECHNICAL AND CONFORMING AMENDMENT.—Section 194(b) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(b)) is amended by striking paragraph (3).

(b) INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Notwithstanding any other provision of law, the Inspector General of each designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall, for pay and all other purposes, be classified at a grade, level, or rank designation, as the case may be, at or above those of a majority of the senior level executives of that designated Federal entity (such as a General Counsel, Chief Information Officer, Chief Financial Officer, Chief Human Capital Officer, or Chief Acquisition Officer). The pay of an Inspector General of a designated Federal entity (as those terms are defined under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)) shall be not less than the average total compensation of the senior level executives of that designated Federal entity calculated on an annual basis.

(c) SAVINGS PROVISION FOR NEWLY APPOINTED INSPECTORS GENERAL.—The provisions of section 3392 of title 5, United States Code, other than the terms ''performance awards'' and ''awarding of ranks'' in subsection (c)(1) of such section, shall apply to career appointees of the Senior Executive Service who are appointed to the position of Inspector General.

(d) SAVINGS PROVISION.—Nothing in this section shall have the effect of reducing the rate of pay of any individual serving on the date of enactment of this section as an Inspector General of—

(1) an establishment as defined under section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(2) a designated Federal entity as defined under section 8G(2) of the Inspector General Act of 1978 (5 U.S.C. App.);

(3) a legislative agency for which the position of Inspector General is established by statute; or

(4) any other entity of the Government for which the position of Inspector General is established by statute.

SEC. 5. PROHIBITION OF CASH BONUS OR AWARDS.

Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by section 4 of this Act) is further amended by adding at the end the following:

''(f) An Inspector General (as defined under section 8G(a)(6) or 11(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.''.

SEC. 6. SEPARATE COUNSEL TO SUPPORT INSPECTORS GENERAL.

(a) COUNSELS TO INSPECTORS GENERAL OF ESTABLISHMENT.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) (as amended by sections 4 and 5 of this Act) is further amended by adding at the end the following:

''(g) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service, obtain legal advice from a counsel either reporting directly to the Inspector General or another Inspector General.''.

(b) COUNSELS TO INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.—Section 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(4) Each Inspector General shall, in accordance with applicable laws and regulations governing appointments within the designated Federal entity, appoint a Counsel to the Inspector General who shall report to the Inspector General or obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to alter the duties and responsibilities of the counsel for any establishment or designated Federal entity.

SEC. 7. ESTABLISHMENT OF COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

(a) ESTABLISHMENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 11 and 12 as sections 12 and 13, respectively, and by inserting after section 10 the following:

''SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

''(a) ESTABLISHMENT AND MISSION.—

''(1) ESTABLISHMENT.—There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the 'Council').

''(2) MISSION.—The mission of the Council shall be to—

''(A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and

''(B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Council shall consist of the following members:

''(A) All Inspectors General whose offices are established under—

''(i) section 2; or

''(ii) section 8G.

''(B) The Inspectors General of the Office of the Director of National Intelligence and the Central Intelligence Agency.

''(C) The Controller of the Office of Federal Financial Management.

''(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

''(E) The Director of the Office of Government Ethics.

''(F) The Special Counsel of the Office of Special Counsel.

''(G) The Deputy Director of the Office of Personnel Management.

''(H) The Deputy Director for Management of the Office of Management and Budget.

''(I) The Office of Inspectors General of the Library of Congress, Capitol Police, and the Government Printing Office.

''(J) Any other members designated by the President.

''(2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

''(A) EXECUTIVE CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

''(B) CHAIRPERSON.—The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.

''(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

''(A) EXECUTIVE CHAIRPERSON.—The Executive Chairperson shall—

''(i) preside over meetings of the Council;

''(ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and

''(iii) provide to the Council such information relating to the agencies and entities represented on the Council as assists the Council in performing its functions.

''(B) CHAIRPERSON.—The Chairperson shall—

''(i) convene meetings of the Council—

''(I) at least 6 times each year;

''(II) monthly to the extent possible; and

''(III) more frequently at the discretion of the Chairperson;

''(ii) exercise the functions and duties of the Council under subsection (c);

''(iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected;

''(iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;

''(v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the availability of appropriations and the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;

''(vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;

''(vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

''(viii) prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council.

''(c) FUNCTIONS AND DUTIES OF COUNCIL.—

''(1) IN GENERAL.—The Council shall—

''(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

''(B) develop plans for coordinated, governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;

''(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

''(D) maintain an Internet website and other electronic systems for the benefit of

all Inspectors General, as the Council determines are necessary or desirable;

''(E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;

''(F) submit recommendations of individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);

''(G) make such reports to Congress as the Chairperson determines are necessary or appropriate; and

''(H) perform other duties within the authority and jurisdiction of the Council, as appropriate.

''(2) ADHERENCE AND PARTICIPATION BY MEMBERS.—To the extent permitted under law, and to the extent not inconsistent with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council shall adhere to professional standards developed by the Council and participate in the plans, programs, and projects of the Council, as appropriate.

''(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

''(A) INTERAGENCY FUNDING.—Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency funding of activities described under subclause (I), (II), or (III) of clause (i), in the performance of the responsibilities, authorities, and duties of the Council—

''(i) the Executive Chairperson may authorize the use of interagency funding for—

''(I) Governmentwide training of employees of the Offices of the Inspectors General;

''(II) the functions of the Integrity Committee of the Council; and

''(III) any other authorized purpose determined by the Council; and

''(ii) upon the authorization of the Executive Chairperson, any department, agency, or entity of the executive branch which has a member on the Council shall fund or participate in the funding of such activities.

''(B) SUPERSEDING PROVISIONS.—No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede the authority under paragraph (1), unless such provision makes specific reference to the authority in that paragraph.

''(4) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The establishment and operation of the Council shall not affect—

''(A) the role of the Department of Justice in law enforcement and litigation;

''(B) the authority or responsibilities of any Government agency or entity; and

''(C) the authority or responsibilities of individual members of the Council.

''(d) INTEGRITY COMMITTEE.—

''(1) ESTABLISHMENT.—The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C).

''(2) MEMBERSHIP.—The Integrity Committee shall consist of the following members:

''(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee.

''(B) Three or more Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

''(C) The Special Counsel of the Office of Special Counsel.

''(D) The Director of the Office of Government Ethics.

''(3) LEGAL ADVISOR.—The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

''(4) REFERRAL OF ALLEGATIONS.—

''(A) REQUIREMENT.—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if—

''(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

''(ii) the Inspector General determines that—

''(I) an objective internal investigation of the allegation is not feasible; or

''(II) an internal investigation of the allegation may appear not to be objective.

''(B) DEFINITION.—In this paragraph the term 'staff member' means—

''(i) any employee of an Office of Inspector General who reports directly to an Inspector General; or

''(ii) who is designated by an Inspector General under subparagraph (C).

''(C) DESIGNATION OF STAFF MEMBERS.—Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

''(5) REVIEW OF ALLEGATIONS.—The Integrity Committee shall—

''(A) review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against a staff member of an Office of Inspector General described under paragraph (4)(C);

''(B) refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and

''(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee under subparagraph (A) to be potentially meritorious that cannot be referred to an agency under subparagraph (B).

''(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

''(A) REQUIREMENT.—The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(C) to be conducted in accordance with this paragraph.

''(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

''(i) may provide resources necessary to the Integrity Committee; and

''(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

''(7) PROCEDURES FOR INVESTIGATIONS.—

''(A) STANDARDS APPLICABLE.—Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

''(B) ADDITIONAL POLICIES AND PROCEDURES.—

''(i) ESTABLISHMENT.—The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in—

''(I) determining whether to initiate an investigation;

''(II) conducting investigations;

''(III) reporting the results of an investigation; and

''(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report.

''(ii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

''(C) REPORTS.—

''(i) POTENTIALLY MERITORIOUS ALLEGATIONS.—For allegations described under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

''(ii) ALLEGATIONS OF WRONGDOING.—For allegations referred to an agency under paragraph (5)(B), the head of that agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.

''(8) ASSESSMENT AND FINAL DISPOSITION.—

''(A) IN GENERAL.—With respect to any report received under paragraph (7)(C), the Integrity Committee shall—

''(i) assess the report;

''(ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action, within 30 days (to the maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and

''(iii) submit to the congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after the submission of such report to the Executive Chairperson under clause (ii).

''(B) DISPOSITION.—The Executive Chairperson of the Council shall report to the Integrity Committee the final disposition of the matter, including what action was taken by the President or agency head.

''(9) ANNUAL REPORT.—The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

''(A) The number of allegations received.

''(B) The number of allegations referred to other agencies, including the number of allegations referred for criminal investigation.

''(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

''(D) The number of allegations closed without referral.

''(E) The date each allegation was received and the date each allegation was finally disposed of.

''(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

''(G) Other matters that the Council considers appropriate.

''(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the

Council shall provide more detailed information about specific allegations upon request from any of the following:

''(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

''(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

''(C) The chairperson or ranking member of the congressional committees of jurisdiction.

''(11) NO RIGHT OR BENEFIT.—This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.''.

(b) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(1) DEFINITIONS.—In this section—

(A) the term ''Integrity Committee'' means the Integrity Committee established under section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App), as amended by this Act; and

(B) the term ''Special Counsel'' refers to the Special Counsel appointed under section 1211(b) of title 5, United States Code.

(2) AUTHORITY OF INTEGRITY COMMITTEE.—

(A) IN GENERAL.—An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this paragraph.

(B) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This subsection does not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this subsection involves section 2302(b)(8) of that title, a failure to obtain corrective action within 120 days after the date on which that allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of that title.

(3) REGULATIONS.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this subsection, subject to such consultation or other requirements as might otherwise apply.

(c) EXISTING EXECUTIVE ORDERS.—Executive Order 12805, dated May 11, 1992, and Executive Order 12993, dated March 21, 1996, shall have no force or effect.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in sections 2(1), 4(b)(2), and 8G(a)(1)(A) by striking ''section 11(2)'' each place it appears and inserting ''section 12(2)''; and

(B) in section 8G(a), in the matter preceding paragraph (1), by striking ''section 11'' and inserting ''section 12''.

(2) SEPARATE APPROPRIATIONS ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by striking the first paragraph (33) and inserting the following:

''(33) a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.''.

SEC. 8. SUBMISSION OF BUDGET REQUESTS TO CONGRESS.

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) For each fiscal year, an Inspector General shall transmit a budget estimate and request to the head of the establishment or designated Federal entity to which the Inspector General reports. The budget request shall specify the aggregate amount of funds requested for such fiscal year for the operations of that Inspector General and shall specify the amount requested for all training needs, including a certification from the Inspector General that the amount requested satisfies all training requirements for the Inspector General's office for that fiscal year, and any resources necessary to support the Council of the Inspectors General on Integrity and Efficiency. Resources necessary to support the Council of the Inspectors General on Integrity and Efficiency shall be specifically identified and justified in the budget request.

''(2) In transmitting a proposed budget to the President for approval, the head of each establishment or designated Federal entity shall include—

''(A) an aggregate request for the Inspector General;

''(B) amounts for Inspector General training;

''(C) amounts for support of the Council of the Inspectors General on Integrity and Efficiency; and

''(D) any comments of the affected Inspector General with respect to the proposal.

''(3) The President shall include in each budget of the United States Government submitted to Congress—

''(A) a separate statement of the budget estimate prepared in accordance with paragraph (1);

''(B) the amount requested by the President for each Inspector General;

''(C) the amount requested by the President for training of Inspectors General;

''(D) the amount requested by the President for support for the Council of the Inspectors General on Integrity and Efficiency; and

''(E) if the Inspector General concludes that the budget submitted by the President would substantially inhibit the Inspector General from performing the duties of the office, any comments of the affected Inspector General with respect to the proposal.''.

SEC. 9. SUBPOENA POWER.

Section 6(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting ''in any medium (including electronically stored information, as well as any tangible thing)'' after ''other data''; and

(2) by striking ''subpena'' and inserting ''subpoena''.

SEC. 10. PROGRAM FRAUD CIVIL REMEDIES ACT.

Section 3801(a)(1) of title 31, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' after the semicolon;

(2) in subparagraph (E), by adding ''and'' after the semicolon; and

(3) by adding at the end the following:

''(F) a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978).''.

SEC. 11. LAW ENFORCEMENT AUTHORITY FOR DESIGNATED FEDERAL ENTITIES.

Section 6(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking ''appointed under section 3''; and

(2) by adding at the end the following:

''(9) In this subsection the term 'Inspector General' means an Inspector General appointed under section 3 or an Inspector General appointed under section 8G.''.

SEC. 12. APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO INSPECTION REPORTS AND EVALUATION REPORTS.

Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in each of subsections (a)(6), (a)(8), (a)(9), (b)(2), and (b)(3)—

(A) by inserting '', inspection reports, and evaluation reports'' after ''audit reports'' the first place it appears; and

(B) by striking ''audit'' the second place it appears; and

(2) in subsection (a)(10) by inserting '', inspection reports, and evaluation reports'' after ''audit reports''.

SEC. 13. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

(a) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8K the following:

''SEC. 8L. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL.

''(a) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

''(1) IN GENERAL.—Each agency shall establish and maintain on the homepage of the website of that agency, a direct link to the website of the Office of the Inspector General of that agency.

''(2) ACCESSIBILITY.—The direct link under paragraph (1) shall be obvious and facilitate accessibility to the website of the Office of the Inspector General.

''(b) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

''(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each agency shall—

''(A) in accordance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act), not later than 3 working days after any report or audit (or portion of any report or audit), that is subject to release under section 552 of that title (commonly referred to as the Freedom of Information Act), is made publicly available, post that report or audit (or portion of that report or audit) on the website of the Office of the Inspector General; and

''(B) ensure that any posted report or audit (or portion of that report or audit) described under subparagraph (A)—

''(i) is easily accessible from a direct link on the homepage of the website of the Office of the Inspector General;

''(ii) includes a summary of the findings of the Inspector General; and

''(iii) is in a format that—

''(I) is searchable and downloadable; and

''(II) facilitates printing by individuals of the public accessing the website.

''(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

''(A) IN GENERAL.—The Inspector General of each agency shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

''(B) ANONYMITY.—The Inspector General of each agency shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.''.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the head of each agency and the Inspector General of each agency shall implement the amendment made by this section.

SEC. 14. OTHER ADMINISTRATIVE AUTHORITIES.

(a) IN GENERAL.—Section 6(d) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended to read as follows:

''(d)(1)(A) For purposes of applying the provisions of law identified in subparagraph (B)—

''(i) each Office of Inspector General shall be considered to be a separate agency; and

''(ii) the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office, have the functions, powers, and duties of an agency head or appointing authority under such provisions.

''(B) This paragraph applies with respect to the following provisions of title 5, United States Code:

''(i) Subchapter II of chapter 35.

''(ii) Sections 8335(b), 8336, 8344, 8414, 8468, and 8425(b).

''(iii) All provisions relating to the Senior Executive Service (as determined by the Office of Personnel Management), subject to paragraph (2).

''(2) For purposes of applying section 4507(b) of title 5, United States Code, paragraph (1)(A)(ii) shall be applied by substituting 'the Council of the Inspectors General on Integrity and Efficiency (established by section 11 of the Inspector General Act) shall' for 'the Inspector General who is the head of an office referred to in clause (i) shall, with respect to such office,'.''.

(b) AUTHORITY OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION TO PROTECT INTERNAL REVENUE SERVICE EMPLOYEES.—Section 8D(k)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''and the providing of physical security''.

SEC. 15. GOVERNMENT ACCOUNTABILITY OFFICE REPORTS.

(a) IN GENERAL.—

(1) SUBMISSION.—Not later than 360 days after the date of enactment of this Act, the Government Accountability Office shall submit a report examining the adequacy of mechanisms to ensure accountability of the Offices of Inspector General to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall examine—

(A) the practices, policies, and procedures of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (and its predecessor committee); and

(B) the practices, policies, and procedures of the Offices of Inspector General with respect to complaints by and about employees of any Office of Inspector General that are not within the jurisdiction of the Integrity Committee.

(b) PAY OF INSPECTORS GENERAL.—Not later than 270 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the congressional committees of jurisdiction on the implementation of section 4.

NATIONAL SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH 2008

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 77 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 77) supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month 2008.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 77) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 77

Whereas on average, a person is sexually assaulted in the United States every 2½ minutes;

Whereas the Department of Justice reports that 191,670 people in the United States were sexually assaulted in 2005;

Whereas 1 in 6 women and 1 in 33 men have been victims of rape or attempted rape;

Whereas the Department of Defense received 2,688 reports of sexual assault involving members of the Armed Forces in fiscal year 2007;

Whereas children and young adults are most at risk of sexual assault, as 44 percent of sexual assault victims are under the age of 18, and 80 percent are under the age of 30;

Whereas sexual assault affects women, men, and children of all racial, social, religious, age, ethnic, and economic groups in the United States;

Whereas only 41 percent of sexual assault victims pursue prosecution by reporting their attacks to law enforcement agencies;

Whereas ⅔ of sexual crimes are committed by persons who are not strangers to the victims;

Whereas sexual assault survivors suffer emotional scars long after the physical scars have healed;

Whereas prevention education programs carried out by rape crisis and women's health centers have the potential to reduce the prevalence of sexual assault in their communities;

Whereas because of recent advances in DNA technology, law enforcement agencies now have the potential to identify the rapists in tens of thousands of unsolved rape cases;

Whereas aggressive prosecution can incarcerate rapists and therefore prevent them from committing further crimes;

Whereas free, confidential help is available to all survivors of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers across the United States, and other organizations that provide services to assist survivors of sexual assault; and

Whereas April is recognized as ''National Sexual Assault Awareness and Prevention Month'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of Congress that—

(A) National Sexual Assault Awareness and Prevention Month provides a special opportunity to educate the people of the United States about sexual violence and to encourage the prevention of sexual assault, the improved treatment of its survivors, and the prosecution of its perpetrators;

(B) it is appropriate to properly acknowledge the more than 20,000,000 men and women who have survived sexual assault in the United States and salute the efforts of survivors, volunteers, and professionals who combat sexual assault;

(C) national and community organizations and private sector supporters should be recognized and applauded for their work in promoting awareness about sexual assault, providing information and treatment to its survivors, and increasing the number of successful prosecutions of its perpetrators; and

(D) public safety, law enforcement, and health professionals should be recognized and applauded for their hard work and innovative strategies to increase the percentage of sexual assault cases that result in the prosecution and incarceration of the offenders;

(2) Congress strongly recommends that national and community organizations, businesses in the private sector, colleges and universities, and the media promote, through National Sexual Assault Awareness and Prevention Month, awareness of sexual violence and strategies to decrease the incidence of sexual assault; and

(3) Congress supports the goals and ideals of National Sexual Assault Awareness and Prevention Month 2008.

ORDERS FOR THURSDAY, APRIL 24, 2008

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., tomorrow morning, Thursday, April 24; following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business for up to 60 minutes with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of S. 1315, the Veterans' Benefits Enhancement Act, as under the previous order.

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

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of Senator BROWNBACK.

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

The Senator from Kansas is recognized.

NOMINATION OF KATHLEEN STEPHENS AS U.S. AMBASSADOR TO THE REPUBLIC OF SOUTH KOREA

Mr. BROWNBACK. Mr. President, I thank the majority leader for recognizing me and allowing me to speak this evening before we close down.

I want to put before the body a situation that is happening right now in North Korea. I put a hold on our nominee to be the Ambassador to the Republic of South Korea. I want to explain why I am doing that. I want to show why I am doing that. Then I want to raise some issues on human rights and why we need to be a lot more involved and pushy about what is taking place in North Korea.

I was encouraged last week in a meeting I had with the new President of South Korea, Mr. Lee Myung Bak, at a meeting hosted by the Senate leadership. I was encouraged to hear his interest in dealing with the human rights situation—or lack thereof, of human rights—in North Korea. He is going to be more willing to work with us than the last Korean administration in South Korea.

I was pleased to see his willingness to work with us and support us on the nuclear negotiations in which the Korean Peninsula would be a nuclear-free zone—although that is not the case. We have seen what North Korea has done in their willingness to proliferate. I told the President of South Korea—and he agreed—we must see real and verified results with the North Korean regime, not only on nuclear activities but also on the issue of human rights.

We are not seeing either. We are not seeing real and verifiable results on what they are doing in the nuclear development category. We are certainly not seeing it in the human rights category.

Without transparent improvement in human rights, and I believe the same on the nuclear issues as well, I told him the establishment of diplomatic relations would condone crimes against humanity on a massive scale. Without transparent distribution of humanitarian aid from the United States and outside world into North Korea, this aid would be used as a weapon of oppression and diverted from those in greatest need to those elites who get the most under the system.

These statements I made to him were well received, which is a change from the prior administration which sought a different policy toward North Korea, one they wanted to engage but certainly not address on these human rights and nuclear issues.

I met with our nominee to be the Ambassador to South Korea. I met with her twice. In two meetings with Ms. Stephens, the nominee, I gave her every opportunity to explain to me why she should be our next Ambassador to the Republic of South Korea and how she would address the human rights issues. She is certainly a qualified individual, spending her adult career in the State Department and international work. She is a highly qualified individual. Yet on how we are going to and if we are going to positively address the human rights concern and address it on a high scale—to where it is one of the top issues we are dealing with, not just one that, well, once we deal with these others we will talk about human rights or we might bring it up—I did not get satisfactory answers from her, nor did I get those even from Secretary Rice, for whom I have great admiration, a week later, after my meetings with the nominee.

I asked her in the Senate Foreign Operations Appropriations hearing what specific ''asks'' we are making of North Korea on the human rights agenda. She didn't say that we had particular items. Now maybe there are ones she is willing to identify. One I asked her specifically about is why don't we ask the North Koreans to shut down the gulags, the political prisoner camps which I am going to showcase here. Why don't we ask them to shut those down as an ''ask,'' putting those on the table? I didn't get a response.

We are now approaching 4 years since the passage of the North Korean Human Rights Act of 2004. I was willing to give the State Department and other agencies time to implement the act. I was willing to give those implementing the law, which included Ms. Stephens, our nominee to be the Ambassador to South Korea, the benefit of the doubt. I was willing to wait to see if the Department of State negotiators would be willing to confront the North Koreans regarding their human rights abuses. I wanted to see how much priority they would give to addressing the trafficking along the border between North Korea and China.

Today I met with a number of refugees from North Korea. If a woman crosses over that border looking for food in China, 100 percent are trafficked—they are caught and sold. That is taking place on that border today. I wanted to see if we would give priority to the trafficking issues or gain accession to the gulags that dot the country or ensure the food aid would be strictly monitored. I am still waiting, as are many other individuals and groups working on North Korean issues, but my wait is not significant, nor is their wait. The 23 million North Koreans who are waiting are the ones who are dying. Many are desperately waiting in the gulags. I would like to show you these pictures today.

These pictures are from Google Earth. Google has made a witness of all of us, to no longer deny that these things exist and say they are classified photographs. You can go on Google Earth and look these up. The existence of these camps and the specific details have been confirmed by North Korean defectors living in South Korea.

Some are guards, others former prisoners in some camps that they were able to get out of. I would like to thank, in particular, Rev. Chun Ki Won for his assistance.

We now have no excuse for ignoring the truth of what many believe is a holocaust that is occurring in North Korea today. The U.S. Committee for Human Rights in North Korea believes that 400,000 have already died in these camps alone—400,000 have died in these camps alone according to the U.S. Committee for Human Rights in North Korea.

If you listen to the defectors' stories, as I have done on several occasions, the scale and depravity of the crimes that are committed in these camps rival those done by Pol Pot in Cambodia and even by the Nazis.

Too many of us refuse to confront this issue. Maybe we are afraid that confronting the atrocities of these camps would also require us to confront its urgent moral imperatives.

The first photo here is of Camp 22 where chemical experiments are alleged to have occurred. Camp 22 is in this picture. It is a huge concentration camp. It is over 400 square miles in size, a concentration camp.

No known prisoner has ever left the camp. The information we have has been from guards who have defected. No prisoner has been known to get out of this camp alive. The guards we contacted were able to identify its electric fences and moats. They were able to point out the huts where its prisoners live, the coal mines where men are worked to death, and the forests and fields where the dead are not buried, they are discarded.

Former guard Kwon Hyuk claims the fences around Camp 22 are about 2.5 meters high and electrified with 3,300 volts of electricity. He also says the camp is surrounded by land mines and spiked moats.

If you look carefully at the center of this next picture, of the courtyard at the middle of the guard station, you will see what appears to be a group of people coming in. This is the entry gate—a group of people going in to whatever fate we do not know.

Outside the gates, life for North Koreans, such as it is, goes on. This year is said to be an especially difficult one in this part of North Korea, but the farmers outside the gate are still luckier than those inside.

Farmers cannot pretend not to know what goes on beyond the fence. One recent defector who lived just outside Camp 22 told his American English teacher how the guards from his camp would come to his house and search for scarce food and alcohol, and how drunken guards would confess remorsefully to the cruelties they inflicted on the prisoners.

The teacher published his recollection in the Washington Post last year, which I ask unanimous consent be made part of the RECORD and printed at the end of my statement.

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

(See exhibit 1).

Mr. BROWNBACK. This next picture is the Chungbong Coal Mine in Camp 22. I described Camp 22. It is over 400 square miles. Its main features are coal and forest mining. Ahn Myong Chol, a former guard and driver at Camp 22, described the working conditions in this mine. Prisoners work two shifts a day on meager rations. They are organized

into five-person teams and are encouraged to earn rewards and supplement the starvation rations by informing on each other. Prisoners are beaten frequently, sometimes to death, and often for no reason at all. This is according to a former guard in Camp 22.

They work in cramped, narrow shafts. Accidents and cave-ins kill many prisoners. Those who are injured are sent to a hospital without qualified staff or medical supplies, and they are essentially left to die. Others die of exhaustion as they try to meet daily quotas. Those who fail to meet the quotas are not fed.

Now, there are dozens of these camps all over North Korea. I want to show you some locations of the various gulags that are known throughout North Korea. We now have corroborated reports from multiple sources of the kind of depravity that continues in these camps to this day.

Why not, in our Six Party negotiations and talks that we have going on today, that one of our primary ''asks,'' along with dealing with the nuclear issue, be to shut the gulag system down? It is a very clear, a very specific ''ask.'' We have evidence from Google Earth. I believe we have much better satellite photographs that go into this in even more detail.

There are hundreds of North Koreans who have fled now into South Korea, a few into this country, with evidence, who are speaking about this issue. So they know and can corroborate what we are seeing in the pictures.

Why not confront the North Koreas with it on an equal par with the nuclear negotiations? I think to do this advances our cause overall.

In the Soviet Union, when we were dealing with them on nuclear disarmament, one of the key things we asked for is, well, with the human rights agenda, put it up right there beside it. People are saying: Do not do that. You are going to upset the balance. But when you talk with the people who were in the prison system, and you hear their statements about it, they were saying that what gave them heart was they knew someone on the outside world was paying attention to them.

It also delegitimized the Soviet Union because as long as you are going at the nuclear issue, the Government in North Korea says, ''They are just trying to disarm us.'' And ''They have got it, this is something that we as North Koreans deserve.''

But when you say: What about the Chungbong Coal Mine and the people dying there every day; what about Camp 22 where you are having people going into this all of the time but nobody ever comes out; if you raise that, it delegitimizes the regime, it makes them confront their own people about what they are doing. And that is a more powerful tool. Why would we not raise that? This was my question to our nominee. Why are we not raising that?

It seems as if the desire to get something on the nuclear side is so much greater than that on the human rights side, that this one is set: OK, when we get the nuclear one dealt with, we will deal with this. But in the meantime, people are dying, a lot of them. And this goes on. It continues at a time when we would look at those things and say: My goodness, this is 2008. This does not go on in the world today. You have pictures. You can go on Google Earth and see it.

I think we have to raise this issue. I think it is important in our negotiations for us to raise this issue. We have expressed our horror at what has taken place in various places around the world and said, ''never again.'' We have said it about concentration camps. Yet it is going on here and we have a negotiation and we are not even making it a major issue. So I believe we need to step up and we need to push this issue.

The final point I would like to make about this is that the Chinese are complicit in this as well. They are the ones who could put the most pressure of any country in the world outside of Korea on the North Koreans. They are the ones who have the economic relations. They are the ones who are the protector of North Korea. When people escape out of one of these camps or try looking for food in China, they are caught by the Chinese and repatriated to an uncertain fate, likely death, often imprisonment, and they are sent back against the Chinese requirements of what they had signed in the U.N. Human Rights Commission Agreement in 1951, an agreement that China is a signatory of that says they will not send people back into a death camp situation or where their health would be challenged or would be likely harmed or that they would be killed.

Clearly, that is taking place over there, and China continues to do it. So on top of what they are doing in Tibet and what they are doing in North Korea, on top of what they are doing in Sudan, enabling the Sudanese Government to continue this in Darfur and buying oil out of Sudan and backing reform in the United Nations, on top of that and pursuing resources out of the Congo, regardless of what sorts of abuses are taking place by the groups or the militias stealing the resources to take them out through China, regardless of what is taking place in Burma where the Chinese are blocking and supporting the Burmese and then they are pushing people out, the Korean people are being pushed into Thailand, but they are not citizens of Thailand so they are being trafficked from that point. The Chinese are the ones who are complicit in all of this. They are the great enabler of human rights abuses around the world today, in their own country and externally. They bear a huge responsibility for what is taking place today in North Korea.

I hope this continues to be expressed and brought up—I plan to do so—prior to the Olympics this year, which should be a celebration of great athleticism. I believe it will be. But as China seeks to exploit this as a presentation of their coming forward in the world, I hope the world notices what else they are doing. They are hosting a grand Olympics, but they are hosting a greater catastrophe of human rights abuses in their country and around the world. Whether it is Tibetans or people in the house church movement, Falun Gong members being arrested, North Koreans, Burmese, Sudanese, Congolese, they lay at the doorstep of the Chinese.

I think we need to confront this. I am hopeful the administration will address this. I know the President personally cares very deeply about human rights abuses in North Korea. He has met individually with people who have come out of North Korea. I talked directly with him about it. I don't think we are seeing the administration meet the President's greatest desires on addressing this issue. That is why I put a hold on Kathleen Stephens being Ambassador to the Republic of Korea until we begin to address these issues.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Apr. 1, 2007]

ESCAPE FROM DEAR LEADER TO MY CLASSROOM IN SEOUL

(By Samuel Songhoon Lee)

SEOUL.— At a small restaurant in late February, my student and I ate spicy noodle soup and stared at a huge TV showing the extravagant celebration of Kim Jong Il's 65th birthday in Pyongyang. Thousands of smiling people paraded across the North Korean capital and saluted their Dear Leader.

''I was once there,'' my student said. ''But even as I danced and smiled, I knew of a better life outside.'' She said this matter-of-factly and turned to stir her tea. Her search for that better life had brought her here, at age 13, to Seoul, and to my English class at a special school for young North Korean defectors.

The school has more than two dozen students, members of a growing contingent of North Koreans who have deserted that communist country since famines in the mid-1990s killed more than 2 million people. According to South Korea's Ministry of Unification, 41 North Korean defectors arrived in South Korea in 1995. The number increased to 312 in 2000, and to 1,383 in 2005, many of them young people.

It isn't easy for these young defectors to fit into South Korean schools and fill the gaps in their education. Most schools here don't offer transition courses on the differences in language and culture. But catching up with schoolwork is only one problem they face.

In South Korea, a country that withstood centuries of invasions from its Chinese and Japanese neighbors, unity defines survival. And without ethnic diversity or a history of immigration, unity means conformity. When something becomes fashionable here, it can have significant consequences. For example, South Korea has the world's highest ratio of cosmetic surgeons to citizens, catering to the legions of girls who receive eyelid surgery as a present for their 16th birthday. This culture of unity and conformity is vastly different from the one I experienced growing up Korean American in New York, Denver and Seattle. The lack of diversity at school makes the young defectors instant

standouts—subject to 15 minutes of fame and adulation, then an enduring period of isolation. When their peers ask about their accent—noticeably different from what's common in Seoul—most students say they're from Gangwon Province, in the northeastern part of the country.

Facing ostracism from South Korean students, many young North Korean defectors drop out of school. According to a ministry report in 2005, 43 percent of young defectors were attending school, and 29 percent had dropped out of middle and high schools. Almost half of the 198 young defectors still attending school said that they hid their background from classmates, according to a survey by the National Human Rights Commission.

''Don't expect them to be like us just because they look Korean and speak Korean,'' the principal told me on the orientation day for volunteer teachers at School 34, an independent school for defectors. ''Treat them like foreigners, but with respect.''

I was assigned to teach two English classes to students ages 15 to 27. When I introduced myself, they were as puzzled and curious about me as I was about them. An oversized Korean American with big Sony headphones—was I really one of them?

Taking the principal's advice, I made it clear from the start that I was not, and that I probably could not understand the obstacles they had to overcome to reach the free world. Many feel deeply betrayed by Kim and the propaganda they were forced to learn. But they have achieved a surprising distance from their painful past. They share memories—which include watching public executions and boiling grass to eat in times of famine—as if they were reciting folk tales with a sense of wonder and humor.

Among my students, one young man stood out because of his motivation to learn English. His family is still in North Korea, and he wants to earn the $15,000 in payoffs it would take to get them to Seoul. Numerous underground railroads established by brokers in China make rescuing family members from North Korea possible, he told me—if one has the money. ''I can work hard for two years and make that money. But I will lag behind in my study. Then what can I do even if my family were to come here?'' he said.

In North Korea, he knew exactly what he wanted to do: become an officer in the North Korean army. He dreamed of killing as many Americans and South Koreans as he could. In his childhood home, a framed photo of his grandfather and Kim was prominently displayed on the living room wall. His family was part of North Korea's small and reclusive elite society, and he would have marched off as an army lieutenant if he hadn't received a black-market Sony Walkman for his 15th birthday and listened to forbidden South Korean radio frequencies.

Late at night, muffling the scratchy signal so as not to get caught, he tuned in to the news, learning that much of what he was taught all day in school was a lie. ''We learned that the Americans were constantly trying to invade us. But from the South Korean news, I learned that it was the other way around. But my classmates truly believed in what we were learning. They were like robots.''

When he graduated from high school and was ordered to serve 13 years in the military, he decided to defect. His father bribed the North Korean border patrolmen, who took him to China. Because the Chinese government regularly repatriated North Korean refugees, South Korean missionaries took him to Myanmar, where Seoul's consulate prepared the papers for his final journey to South Korea.

Soon after arriving in Seoul, he found School 34 and a community of others like him. Most students were too poor to have bribed their way out. Instead, they had braved often frigid waters to swim across the Tumen River to China.

Another student, a good-humored young woman, lost her parents to starvation before she turned 11. To survive, she said, she crossed the Tumen many times to obtain food and other goods in China that she could sell on North Korea's widespread black market. When she defected, she went as far as Xinyang, in China's southeastern Henan Province. Discovered by Chinese agents, she was repatriated and served six months in prison. She was 13 at the time. After being released, she swam across the river again and this time she stayed in China, begging for food. Eventually, missionaries helped her get to Seoul.

One recent School 34 graduate is now studying at Sungkyunkwan University, one of the nation's top colleges. He grew up a few minutes away from one of North Korea's most notorious political prisons, Prison 22 in Hyeryung, Ham-Kyung Province, at the northern tip of North Korea. Because food and alcohol are scarce in the countryside, the prison guards went to his house for libations. ''They always drank heavily,'' he told me. ''And when they got drunk, they would mumble about how sorry they felt for what they did to prisoners.''

Despite his rare glimpse of the prison guards and knowledge of what they did, my student says he finds it difficult to raise awareness about the little-known gulags of North Korea among his classmates in Seoul. Most do not care, he says. Or worse, they take a pro-North Korea stance. President Roh Moo Hyun has been passionately calling for the ouster of the 37,000 U.S. troops in South Korea, and a wave of anti-American sentiment is sweeping across college campuses. After eight years of the dubious ''sunshine policy,'' which advocated engagement with rather than containment of the communist north, South Korean public sentiment favors neglecting thousands of North Korean refugees in China and pouring cash and aid into Pyongyang, even with Kim's apparent nuclear ambitions.

''Back in North Korea, we learned to hate and fear America,'' a 17-year-old student who attended middle school in North Korea told me one recent afternoon over sodas at McDonald's. His father was once responsible for importing and distributing Soviet arms to the North Korean army. But he defected to South Korea two years ago after his father was purged. ''Now, I've realized that all I learned was a series of lies,'' he said, taking a bite of his Big Mac. ''I wish my friends back in North Korea could eat this one day.''

We left McDonald's shortly and went back to School 34 to study English.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. on Thursday, April 24, 2008.

Thereupon, the Senate, at 7:32 p.m., adjourned until Thursday, April 24, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

C. STEVEN MCGANN, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE FIJI ISLANDS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU, THE KINGDOM OF TONGA, TUVALU, AND THE REPUBLIC OF KIRIBATI.

T. VANCE MCMAHAN, OF TEXAS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

CARMINE G. D'ALOISIO, OF NEW JERSEY
JOHN J. FOGARASI, OF TEXAS

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

ROBERT L. FARRIS, OF FLORIDA
MARGARET A. HANSON-MUSE, OF MARYLAND
JOSEPH B. KAESSHAEFER, JR., OF FLORIDA
RICHARD C. REED, OF VIRGINIA
JUDY R. REINKE, OF VIRGINIA

DEPARTMENT OF JUSTICE

JEFFREY LEIGH SEDGWICK, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE REGINA B. SCHOFIELD, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

CHRISTINE O. HILL, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS), VICE THOMAS E. HARVEY, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DONALD J. HOFFMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL J. SELVA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF AIR FORCE RESERVE AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 8038:

To be lieutenant general

MAJ. GEN. CHARLES E. STENNER, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WILLIAM E. GORTNEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. MELVIN G. WILLIAMS, JR.

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

CHERYL AMYX

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

DEBORAH K. SIRRATT

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE

UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

MARK A. CANNON
MICHAEL J. MILLER

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

GENE KAHN
JAMES D. TOWNSEND

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

LOZAY FOOTS III

To be major

MICHAEL A. CLARK
RONALD J. GAY
LAURA W. PIERRE
BRIDGETTE Y. POLK
BRET G. WITT
MARGARET L. YOUNG

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

PHILLIP J. CARAVELLA
DANIEL O. IZON
CURTIS A. PREJEAN

To be major

LORRAINE O. HARRISDAVIS
PAUL S. LAJOS