than their male coworkers, but they will never know about it unless we get them this information.

My Fair Pay Act amends the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on the basis of sex, race, or national origin. Most importantly, it requires each individual employer to provide equal pay for jobs that are comparable in skill, effort, responsibility, and working conditions—skill, effort, responsibility, and working conditions.

Now, you might say: Haven't we already passed the Equal Pay Act? Yes, but the Equal Pay Act only says you have to be paid the same if you are doing exactly the same job. Well, what about if you are doing a job like a nurse's aide, in which you require medium strength, in which you require training, and you compare it to what a truckdriver does? Why should a truckdriver get 60 percent more than someone who is taking care of you when you are ill or your mother or your grandmother or grandparents in assisted living or in a nursing home or in hospice care or a number of other things where nurses' aides are vitally important?

You might say: Well, has this ever been done? The fact is, 20 States—20 State governments—right now have fair pay laws and policies in place for their employees, including my State of Iowa. I point out that Iowa had a Republican legislature and Republican Governor in 1985 when this bill was passed into law. So ending wage discrimination against women should not be a partisan issue.

I am just saying let's take what 20 State governments have done and let's extend it to the private sector. Well, some would say we do not need any more laws; market forces will take care of the wage gap. Well, maybe so, but we all know from basic economics 101 that for a free market to work there has to be not only a number of players where they have equivalent purchasing power—not an employer-employee situation—secondly, what else is most important for a market to work? Transparency, knowledge, knowing what the game is, openness. But when pay scales are kept secret and you do not know what they are, how can market forces ever, ever close this wage gap?

Experience also shows there are some injustices market forces cannot rectify. That is why we passed the Equal Pay Act, the Civil Rights Acts, the Family Medical Leave Act, and here, in 1990, the Americans with Disabilities Act. Market forces did not break down the barriers of discrimination against people with disabilities in our country. But that is what we did with the Americans with Disabilities Act. We broke the barriers down and let people with disabilities not only get educated, not only travel—go out to restaurants and things—but also get jobs in which we can look not at their disabilities but at their abilities.

Mr. President, I would like to close with a story of a woman from my State named Angie. She was employed as a field office manager at a temp firm. The employees there were not allowed to talk about pay with their coworkers. Only inadvertently did she discover that a male office manager at a similar branch, who had less education and less experience, was earning more than she was. In this case, the story did end happily. She cited this information in negotiations with her employer, and she was able to get a raise.

But I think there is a twofold lesson in this story. The first lesson is that if we give women information about what their male colleagues are getting, they can negotiate a better deal for themselves in the workplace. The second lesson is that pay discrimination is a harsh reality in the workplace. It is not only unfair, but it is demeaning, it is demoralizing, and it is pervasive—pervasive—throughout our society. Individual women should not have to do battle in order to win equal pay. We need more inclusive national laws to make equal pay for equal work—equal pay for equivalent work—a basic standard and a legal right in the American workplace.

So it is time, after all these years, to pass the Fair Pay Act. Do not confuse it with the Paycheck Protection Act. I am also a cosponsor of the Paycheck Protection Act. That legislation will improve the enforcement of the laws we already have on the books. But we already know those laws are not sufficient, as the Ledbetter case shows us. So in order to really open the marketplace for women to earn what they should be earning and to make the equivalent of what their male counterparts are making, we need to pass the Fair Pay Act.

Tomorrow, when we recognize Equal Pay Day—just think about it: Equal Pay Day tomorrow, April 22. So it took women all the way from January, February, March, and April, on average, to earn as much as a man did by December 31 of last year. That is just grossly unfair. It is also time to start paying women equivalent pay to what their male counterparts are making, when their job requires the same skill, effort, responsibility, and working conditions.

When you take all those factors into account, there is no reason why we should not pass the Fair Pay Act. Let's do for the private sector what 20 States have already done in their governments. With that, maybe we will start getting some justice in the workplace for American women.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

EQUAL PAY FOR EQUAL WORK

Mr. KENNEDY. Mr. President, I welcome the opportunity to address the Senate on a matter of fundamental fairness to millions of our fellow citizens: to women, working women in our society, and to do it at a time when we know those who are working are hard pressed in the economy. We are all familiar with the anxiety among working families—working fathers and working mothers. Today I will address what underlies the efforts in which many of us are involved in what we call the Ledbetter case.

It is legislation to override a 5-to-4 Supreme Court decision named after Lilly Ledbetter, an extraordinary woman who had worked for a tire company for a number of years and had been discriminated against in her pay and had received judgments to make up for the damages she had experienced over a period of years. The Supreme Court then undermined the previous courts and effectively left her without any remedy at all, in effect saying unscrupulous employers could discriminate against an employee, and if they do not get caught within 100 days, they are free and clear and they can continue to discriminate against that individual.

That is not only against women, which is the Ledbetter case, but it is also true if they had done the same with regard to African Americans or Latino Americans or if they discriminated against the disabled or if they discriminated on the basis of religion or national origin—all of those cases with a simple 5-to-4 decision, the rights of those workers, people who are working, working hard, are virtually out the window.

I wish to take a few minutes to review what this Senate has done with regard to what we will call the equal pay issue over a period of time. It is an extraordinary record. It is a record of progress and fairness.

It will be amazing to me when my friends and colleagues on the other side rise to oppose this simple act of fairness and equity this situation demands. For over 40 years, this Senate has gone on record time and again saying that we will not discriminate against our fellow citizens on the basis of pay. Nonetheless, the Supreme Court has reached a different conclusion, and we will have the opportunity on Wednesday to change that conclusion and restore the record of the Senate to what it has been over the last 40 years.

This chart shows the different laws that have been passed in Congress to establish equal pay for equal work. The Equal Pay Act under President Kennedy was done by a voice vote. It was pointed out at that time that women were getting 60 cents on the dollar. That was wrong. We ought to strive for equal pay for equal work. That legislation was passed at that time.

We thought we had made progress on that legislative effort, but we had not made as much progress as we thought.

So in 1964, the great Civil Rights Act, known because of the public accommodations provisions, included in title VII a provision that provided equal pay, nondiscrimination on the basis of race, religion, and national origin, signed by President Johnson. It passed 73 to 27.

Then we had the Age Discrimination in Employment Act because there were many forms of discrimination in our country on the basis of people's age. We wanted to free ourselves of discriminating against the elderly in our country, those who contributed so much to our Nation, so we passed the Age Discrimination Act. There was much support for that effort. It was passed under the Johnson administration by voice vote.

We had the Rehabilitation Act that dealt with the disabled. Make no mistake about it, under the current Supreme Court holding, if you have a disabled person who is able to perform a job as well as somebody who does not have that disability, if the employer discriminates against that individual, that individual will be covered by the existing Supreme Court decision, and we may very well see those individuals discriminated against because they are disabled, even though they are able to perform the work, and they are being denied a remedy.

We debated those issues back with the Rehabilitation Act of 1973 and said we were not going to permit that.

Then the Civil Rights Restoration Act of 1988 under President Reagan and the Americans with Disabilities Act restated those goals. Look at the votes: 92 to 6 and 93 to 5.

All of this legislation, from early 1963 all the way to 1991, provided the kinds of protections that we are including in this legislation that will be before the Senate on Wednesday, called the Ledbetter legislation, named after Lilly Ledbetter who was discriminated against.

Mr. President, I mentioned those pieces of legislation. Look at this chart. Pay discrimination hurts all kinds of American workers. In 2007, EEOC received more than 7,000 pay discrimination charges: on the basis of disability, 480 cases; on the basis of national origin, 760; on the basis of age discrimination, 978; on the basis of race, 2,352; and on the basis of gender, some 2,470.

These were individuals who were working hard but finally found out they were being discriminated against—7,000 cases. So we can ask: What had been the law previously when we had those kinds of situations? This chart reflects what the law was. The paycheck accrual rule was the law of the land. That meant if people discriminated against those individuals and the individuals found out about it and brought a case, they were able to gain damages or they were able to get remedies by the EEOC. This was under Republican and Democratic administrations alike. That has been the law of the land, with the exception of three States. That was the law of the land. That is what we want to return to, and we will have the opportunity to return to it.

Some will say if we return to it, it will mean a lot of burdensome bureaucracy and expenditures on the employers. Look what CBO says. CBO agrees that ''the Fair Pay Restoration Act would not establish a new cause of action for claims of pay discrimination. . . . CBO expects that the bill would not significantly affect the number of filings with the Equal Employment Opportunity Commission.''

So this argument that it is going to make it much more cumbersome and much more troublesome and much more expensive is not true. What it will do is provide protections.

What are we basically talking about with Lilly Ledbetter? She was a hardworking woman. Here is what Lilly Ledbetter received: $5,000 less than the lowest paid male coworker during her last year at Goodyear. That was $44,000. The lowest paid male was $51,000, and the highest paid male, who did virtually the same job, was paid $62,000. This is a year. She was doing exactly the same as this paid worker; the only difference was she was a woman.

What did the courts say, even though she was awarded the damages? You didn't bring the case in the first 180 days. You didn't bring the case and, therefore, you don't have the case at all.

How was Lilly Ledbetter supposed to know she had a case? The payroll was kept secret from all the workers. How was she supposed to know? How in the world was she supposed to know? She couldn't know; she didn't know. It took her years to find out that she was the subject of this kind of discrimination, and the Supreme Court says: We don't care; we don't mind if the employers are going to keep that payroll all locked up and keep it secret. Lilly Ledbetter should have known what was in that secret safe of that employer.

Come on. Come on. That is a system of justice in the United States of America? They were able to get five votes for that theory over in the Supreme Court of the United States? It defies common sense, of reasonableness and equity for people in this country, and that is what we are striving for.

This is all against an extraordinary background of what is happening to working women at the present time. Look at what is happening to working women now. For women who are employed now, their earnings are falling faster. Women who are working now are experiencing unemployment two or three times faster than men in our economy. Their earnings are going down faster than men in our economy. Incidents of foreclosure for women are a good deal higher than men in our economy, and they are, at the present time, still only earning, for the same job, 77 cents out of every dollar. So they are already facing an uphill battle in our economy, the difficult economy we are facing at the present time, and this Supreme Court decision is just going to make it all that more complicated and more difficult.

This issue, as I said, is one of fundamental fairness.

We have an extraordinary group supporting us in terms of the disability groups—the American Association of People with Disabilities; the elderly groups—the AARP, they know they can experience the same kinds of discrimination; Business and Professional Women; the NAACP—because of what this can mean in discriminating against minorities, Blacks; the auto workers, because we can see the discrimination that could be against other workers; the National Congress of Black Women; the Religious Action Center—there was an excellent letter they sent pointing out the moral issues raised about this; and then the U.S. Women's Chamber of Commerce—understanding this is plainly simply wrong. It is wrong in our society. It was wrong at any other time.

This is an issue that cries out for a remedy. It should not take the Ledbetter legislation—which passed overwhelmingly. It passed with Republican support in the House of Representatives and strong Democratic support. We have a number of our Republican friends and colleagues who are a part of this effort. This is a very simple and fundamental issue: Are we going to permit discrimination against women in the workplace to continue? That is what it is.

We have to understand, as a practical matter, employers are going to keep the payroll confidential and secret. They do that. They have done it and will do it in the future. What the Supreme Court says is that is too bad, too bad you don't know, but if you do not do it within 180 days you will lose your rights. They can effectively discriminate against you for the rest of your life if you are working in that company. They can go ahead, completely freely, without any threat of any kind of lawsuit, go ahead and discriminate for the rest of your life, if you are working there. Tell me what the common sense of that proposal is. Where is the justice on that issue? Where is it?

We have addressed that issue and similar issues over a long period of time under a variety of Presidents, under Democratic Presidents and Republican Presidents—President Nixon, President Reagan, the two Presidents Bush. Look at the vote on these, 91 to 6, and 93 to 5, with virtually similar issues that are presented here.

We should not have to spend the time other than having a rollcall on this issue, it is so compelling. We await eagerly those who support the current Supreme Court decision. We await them out here on the floor of the Senate. We awaited them last week to come out and tell us what their rationale is, what their excuse is, what their reasons are for denying fairness and equity in the workplace to millions of

our fellow citizens who happen to be women. What is their right? What is their purpose? What is their justification—whether those individuals are disabled, whether they are elderly, whether they are being discriminated against on the basis of religion—we are going to continue to permit that here in the United States when we have the opportunity to overturn it? That is what is going to be before the Senate on Wednesday.

It is simple; it is fundamental; it is basic. It is a defining issue of fairness in this country and we will have more to say about this tomorrow and on Wednesday as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

LEDBETTER FAIR PAY ACT OF 2007—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I would move to Calendar No. 325, H.R. 2831. I indicated to the minority that I would do that now. As a result of their indicating they would not be in agreement to do that, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant 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.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. This is an important piece of legislation that we talked about moving to. It deals with fair pay. In the morning we are going to have the morning hour. We are going to have a number of Senators, and a lot of female Senators, come and speak on this issue because this is certainly an issue that is important to women all over America today. We are anxious to get to this. We hope the Republicans will let us proceed to it.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

NOTICE OF PROPOSED RULEMAKING

Mr. BYRD. Madam President, I ask unanimous consent that the attached from the Office of Compliance be printed in the RECORD today, pursuant to section 304(b)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)(1)).

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

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

NOTICE OF PROPOSED RULEMAKING, AND REQUEST FOR COMMENTS FROM INTERESTED PARTIES

New proposed regulations implementing certain substantive employment rights and protections for veterans, as required by 2 U.S.C. 1316, The Congressional Accountability Act of 1995, as amended (''CAA'').

BACKGROUND

The purpose of this Notice is to issue proposed substantive regulations which will implement Section 206 of the CAA which applies certain veterans' employment and reemployment rights and protections to employing offices and employees covered by the CAA.

What is the authority under the CAA for these proposed substantive regulations?

The authority under the CAA for these proposed substantive regulations is found in two sections of the CAA. Section 206 of the CAA, 2 U.S.C. §1316, applies certain provisions of the Uniformed Services Employment and Reemployment Rights Act (''USERRA''), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits. Subsection 1316(c) requires the Board not only to issue regulations to implement these protections, but to issue regulations which are ''the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . .'' This section provides that the Board may only modify the Department of Labor regulations if it can establish good cause as to why a modification would be more effective for application of the protections to the legislative branch.

The second section that provides authority to the Board to propose these regulations is found in section 1384. Section 1384 provides procedures for the rulemaking process in general.

Will these regulations, if approved, apply to all employees otherwise covered by the CAA?

Yes. USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation against eligible employees, who are defined by the CAA as covered employees performing service in the uniformed services. Section 207(a) of the CAA prohibits retaliation against covered employees under the CAA, regardless of whether they have performed service in the uniformed services. The distinction between eligible employees and covered employees is the performance of service in the uniformed services: eligible employees have performed service in the uniformed services; covered employees have not.

Do other veterans' employment rights apply via the CAA to the legislative branch employing offices and covered employees?

No. However, another statutory scheme regarding uniformed service members' employment rights is incorporated, in part, through section 1316a of the CAA. Section 1316a applies sections 2108, 3309 through 3312 of the Veterans Employment Opportunities Act (''VEOA''), and subchapter I of chapter 35 of Title 5. These provisions accord certain hiring and retention rights to veterans of the uniformed services. The VEOA language of the CAA also requires the Board of Directors to issue substantive regulations patterned upon the most relevant substantive regulations (applicable with respect to the executive branch) which are promulgated to implement the provisions of VEOA. After engaging in extensive discussions with various stakeholders across Congress and the legislative branch to determine how best to address certain provisions within the regulations, the Board adopted the VEOA regulations and submitted them to Congress on March 21, 2008. Section 1316a of the CAA becomes effective once the regulations for this section are passed by Congress.

Which employment and reemployment protections are applied to eligible employees in 2 U.S.C. 1316?

USERRA was enacted in December 1994, and the Department of Labor final regulations for the executive branch became effective in 2006. USERRA's provisions ensure that entry and re-entry into the civilian workforce are not hindered by participation in military service. USERRA provides certain reemployment rights, protection from discrimination based on military service, denial of an employment benefit as a result of military service, and retaliation for enforcing USERRA protections.

The selected statutory provisions which Congress incorporated into the CAA and determined ''shall apply'' to eligible employees in the legislative branch include nine sections: sections 4303(13), 4304, 4311(a)(b), 4312, 4313, 4316, 4317, 4318, and paragraphs (1), (2)(A), and (3) of 4323(c) of title 38.

The first section, section 4303(13), provides a definition for ''service in the uniformed services.'' This is the only definition in USERRA that Congress made applicable to the legislative branch. Section 4303(13) references Section 4304, which describes the ''character of service'' and illustrates situations which would terminate eligible employees' rights to USERRA benefits.

Congress applied section 4311 to the legislative branch in order to provide discrimination and retaliation protections, respectively to eligible and covered employees. Interestingly, although Congress adopted these protections, it did not adopt the legal standard by which to establish a violation of this section of the regulations.

Sections 4312 and 4313 outline the reemployment rights that are provided to eligible employees. These rights are automatic under the statute, and if an employee meets the eligibility requirements, he or she is entitled to the rights provided therein.

Sections 4316, 4317, and 4318 provide language on the benefits given to eligible employees. The language in these sections is largely statutory and has been altered very little by the Board.

Are there veterans' employment regulations already in force under the CAA?

No. The Board has issued to the Speaker of the House and the President Pro Tempore of