The decision in this case is not merely about sex discrimination. Rather, it has broader implications for all pay discrimination claims under Title VII, which bars discrimination in compensation not only on the basis of sex, but also on the basis of race, color, religion, and national origin, and other antidiscrimination laws, including the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act. Accordingly, this bill amends the timeliness standard for pay discrimination claims under those laws as well.

RESTORING THE LAW IMPOSES NO UNFAIR BURDEN ON EMPLOYERS

Prior to the decision in this case, the EEOC, the majority of lower courts, and the Supreme Court each allowed pay discrimination claims to proceed on the basis of the issuance of a paycheck that paid an employee a discriminatory wage. The Court's decision in Ledbetter marks a reversal in the law. The proposed FPRA would restore the previous legal standard without placing an unfair burden on employers.

Although employers have suggested that a decision in favor of Ms. Ledbetter would have left them defenseless against an onslaught of pay discrimination suits going back many years, this rhetoric strains credulity. There is no evidence that employers were inundated with stale pay discrimination lawsuits prior to Ledbetter, and there is no reason to believe that a return to the state of the law pre/Ledhetter would cause such a result now. Moreover, not only would undue delay make it that much more difficult for a worker to prove a claim of pay discrimination, but it also could provide an employer with a defense—called laches—to challenge unreasonably delayed claims.

CONCLUSION

The Court's unduly restrictive interpretation of Title VII effectively guts the law's protection against pay discrimination, leaving many victims of pay discrimination without a remedy. Legislation is necessary to insure that all workers receive a fair, nondiscriminatory wage and the opportunity to participate in the workforce on equal ground.

Sincerely,

DEBRA L. NESS,
President.

NATIONAL WOMEN'S POLITICAL CAUCUS,
SEPTEMBER 23, 2008.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.
Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY AND SENATOR SPECTER: Thank you for your continued leadership on H.R. 2831, the Lilly Ledbetter Fair Pay Act. I am writing on behalf of the National Women's Political Caucus (NWPC) to endorse this important piece of legislation and to support the analysis contained in a letter sent to you by Sue Johnson, President of the Alaska Women's Political Caucus, one of our state affiliates.

The National Women's Political Caucus was founded in 1971 on the principle of achieving and protecting equal rights for women, and this includes equal economic rights for women. One fundamental tenet of our organization is fighting all forms of discrimination, and this especially includes fighting pay discrimination in the workplace. The Lilly Ledbetter Fair Pay Act provides a way to ensure equal pay for equal work and to equip women with a vital tool to combat pay discrimination. With so many women heading up their households and being the sole income earners, it is all the more important that their work is fairly and equally compensated so that they may provide for their families.

The National Women's Political Caucus and I appreciate your steadfast work on issues of fundamental importance to women, and stand behind your efforts in the passage of H.R. 2831.

Sincerely,

LULU FLORES,
President.

ALASKA WOMEN'S POLITICAL CAUCUS
Anchorage, AK, September 23, 2008.

Hon. EDWARD KENNEDY
U.S. Senate, Washington, DC.
Hon. ARLEN SPECTER
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY AND SENATOR SPECTER: On behalf of the Alaska Women's Political Caucus (AWPC). I write to thank you for your continued leadership on H.R. 2831, the Lilly Ledbetter Fair Pay Act. The AWPC is an affiliate of the National Women's Political Caucus (NWPC), a bipartisan multicultural organization dedicated to increasing women's participation in the political field and creating a political power base designed to achieve equality for all women. NWPC and its hundreds of state and local chapters support women candidates across the country without regard to political affiliation through recruiting, training, and financial donations. AWPC focuses on wining equality for women and supporting candidates who support AWPC's goals. Of the upmost importance to breaking the glass ceiling restricting women, is making certain that women can assert their right to remain free from pay discrimination at work.

H.R. 2831 IS THE RIGHT SOLUTION FOR ALASKA'S WORKING WOMEN

Alaska is part of the Ninth Circuit, which for years (along with a majority of the other federal circuits), recognized the ''paycheck accrual rule'' in employment discrimination cases. Under Title VII of the Civil Rights Act of 1964, an employee has 180 days a discrimination act to file a claim. Before the Ledbetter v. Goodyear decision, if an employee in Alaska brought a federal claim for pay discrimination, the courts recognized that each new paycheck started a new clock because each paycheck was a separate discriminatory act. This meant that our workers in Alaska were able to bring a timely claim as long as they could show that they had received a paycheck lessened by discrimination in the required time period. This had been the law in Alaska's federal courts for years: See Gibbs v. Pierce County Law Enforcement Support Agency, 785 F.2d 1396 1399 (9th Cir. 1986) (''The policy of paying lower wages . . . on each payday constitutes a 'continuing violation'.'') (internal quotation omitted).

Unfortunately, in May 2007, in Lebetter v. Goodyear, the Supreme Court overturned this common-sense practice that plaintiffs and employers in Alaska had come to rely upon. Now, if an employee does not know about the discrimination within just a few months of the employer's illegal behavior there is nothing that can be done—she can't have her day in court or ever get her hard-earned wages back.

Certainly, in tough economic times, workers should be able to earn and keep their fair wages. The Lilly Ledbetter Fair Pay Act, H.R. 2831, would reinstate this common-sense paycheck accrual rule. H.R. 2831 merely clarifies that pay discrimination is not a one-time occurrence starting and ending with a pay decision, but that each paycheck lessened due to discrimination represents a continuing violation by the employer. It is a very modest bill and is the right answer for Alaska's working women.

SENATOR HUTCHISON'S LEDBETTER ''ALTERNATIVE'' IS NOT THE RIGHT APPROACH

The clear, measured approach taken in H.R. 2831 is the only way Congress can reverse the effects of the Ledbetter decision. A newly-introduced bill from Senator HUTCHISON (R–TX), S. 3209, purports to offer a solution for victims of pay discrimination. But, in reality, Ms. Hutchison's legislation would fail to correct the injustice created by the Ledbetter decision, would create new, confusing, and unnecessary hurdles for those facing discrimination, and would flood the courts with premature claims and unnecessary litigation.

The approach of S. 3209 fails to recognize the basic principle that as long as discrimination in the workplace continues, so too should employees' ability to challenge it. It is the wrong approach for working women, who depend on every rightfully-earned dollar. Every time an employer issues a discriminatory paycheck, that employer violates the law, and victims of that discrimination should be afforded a remedy.

Moreover S. 3209 would create new legal hurdles for employees by requiring employees to show they filed their claims within 180 days of when they had—or should have had—enough information to suspect they'd been subjected to discrimination. This ''should have'' known standard would encourage employees to prematurely file discrimination claims based on mere speculation or office rumors of wrongdoing just to preserve their rights within the 180-day time frame. This novel standard is not just bad for employees, but also for employers who would be burdened with unnecessary litigation and increased costs. Far from creating a new legal standard, in contrast, H.R. 2831 would merely restore the law prior to the Ledbetter holding and fairly protect employees' day in court.

The AWPC commends you for helping to help make equal pay for equal work a reality by supporting H.R. 2831 as the best solution for the problems created by the Ledbetter decision.

Sincerely,

SUE C. JOHNSON,
President, Alaska Women's Political Caucus.●

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

DC GUN LAWS

● Mr. KENNEDY. Mr. President, I strongly oppose H.R. 6842. This bill would be a disastrous blow to gun safety in the District of Columbia. For almost three decades, the District's handgun and assault weapon ban has helped to reduce the risk of deadly gun violence. City residents and public officials overwhelmingly supported the ban, and courts have upheld it—until the Supreme Court's recent misguided decision in the Heller case in June. Now, we are facing an orchestrated assault that jeopardizes public safety. It is hard to understand how the increased availability of handguns and assault weapons in our Nation's Capital will make residents and visitors safer.

Introducing more guns onto the streets and into the community will only increase the number of violent deaths in DC, including homicides, suicides, and accidental shootings. The increased availability of firearms will

make it more likely that deadly violence will erupt in our public buildings, offices, and public spaces.

This bill will have dangerous consequences for residents and visitors alike. It removes criminal penalties for possession of unregistered firearms. It legalizes the sale of assault weapons in the District. It allows handguns and assault weapons to be kept legally in the city's homes and workplaces. It hobbles the authority of the Mayor and the City Council to deal with gun violence. Absurdly, this bill even prevents the City Council from enacting any laws that ''discourage'' gun ownership or require safe storage of firearms.

As Congresswoman ELEANOR HOLMES NORTON has emphasized, this bill sets no age limit for possession of guns, including military-style weapons. It permits a person who is voluntarily committed to a mental institution to own a gun the day after the person is released. It prevents gun registration, even for the purpose of letting police know who has guns and tracing guns used in crimes. It prevents the DC government from adopting any regulations on guns, leaving only a bare Federal statute that would leave DC with one of the most permissive gun laws in the Nation.

This bill is a frontal assault on the well-established principle of home rule. It is an insult to the 580,000 citizens of the District of Columbia. It tramples on the rights of its elected leaders and local residents to determine for themselves the policies that govern their homes, streets, neighborhoods, and workplaces. Congress wouldn't dare do this to any State, and it shouldn't do it to the District of Columbia.

Congress has consistently opposed giving the residents of the District the full voting representation in Congress they deserve. Many of our colleagues have frequently attempted to interfere with local policymaking and spending decisions. This bill is a blatant interference with DC law enforcement by denying the right of the City Council to regulate firearms and firearm ownership.

I commend Senator FEINSTEIN and Senator LAUTENBERG for their leadership in opposing this shameful legislation, and I urge my colleagues to oppose this reckless, special-interest bill that will endanger the safety of the District of Columbia's residents and visitors.

The solution to DC's gun crime problem lies in strengthening the Nation's lax gun laws, not weakening those in the District. The tragic and graphic stories of gun violence that capture front-page headlines in the District show that current gun-safety laws need to be strengthened, not abolished. I have long been committed to reasonable gun control laws, and I am concerned that the Supreme Court's decision on the DC gun ban opens a Pandora's box. Much of the progress we have made in making Americans safer by placing reasonable restrictions on the possession of firearms is now in doubt. It is a bitter irony that this gross setback comes in the name of a right to self-defense, and I urge the Senate to oppose it.●

NATIONAL HIGHWAY BRIDGE RECONSTRUCTION AND INSPECTION ACT

Mr. INHOFE. Mr. President, I would like to explain why there are objections to bringing up H.R. 3999, the National Highway Bridge Reconstruction and Inspection Act of 2008. As has been mentioned by several of my colleagues on the floor today, the Highway Bridge Program in its current form needs to be reformed to make it more useable for States. Unfortunately, H.R. 3999 hinders, rather than strengthens, States' abilities to address their greatest bridge priorities. It would force States to follow a risk-based system developed in Washington to prioritize the replacement or rehabilitation of bridges. There is great concern that this one-size-fits-all approach would not allow for important local factors, such as seismic retrofit. This legislation also forces States to spend scarce resources on new procedures that will provide little or no new information to State bridge engineers.

SAFETEA–LU will expire on September 30, 2009. Any major policy changes at this point in the process will distract from the overall goal of completing a comprehensive bill on time. For that reason, a policy change of this magnitude should be handled in the context of reauthorization. Furthermore, it is counterproductive to attempt to fix our crumbling infrastructure through piecemeal efforts. Comprehensive reform is necessary and should be addressed in a holistic approach in the reauthorization bill the Environment and Public Works Committee will work on in the coming months.

There has been a lot of press about the poor condition of the nation's bridges in the wake of the Minnesota tragedy. Our bridges are certainly in need of additional investment, but the roads on the National Highway System, NHS, are actually in greater need. According to the Federal Highway Administration, FHWA, the Nation's bridges receive an average of 15 percent less funding from all levels of government than the maximum amount that could be economically invested. In contrast, the roads on the NHS receive 78 percent less funding than the maximum economic level.

This is not to say that there are not enormous bridge needs. These are simply 20 year averages, and much more could be economically invested in the short term. According to the same study by the FHWA, $62 billion could be invested immediately in a cost-beneficial basis. It is critical, however, to view investment in the Nation's highways and bridges in a comprehensive fashion.

The authors of H.R. 3999 tout one of the benefits of the bill is that it prohibit transfers from the current bridge program to other highway programs. I would like to take a few minutes to explain that while that sounds good, it will not accomplish what the authors of the bill want. Many States rely on the flexibility allowed under the Federal highway program to transfer money in between core highway programs as an important cash and program management tool. This flexibility in the bridge program is needed by States as bridges are enormous, ''lumpy'' investments and it often becomes necessary for States to wait a few years between major bridge replacements. If they did not do so, bridges would consume too much of their highway resources to address nonbridge needs. This bill would prohibit all transfers from the bridge program on the incorrect assumption that all transfers are bad.

Many States find the bridge program requirements too bureaucratic and prefer to replace or rehabilitate structurally deficient bridges using more flexible programs. These States transfer money out of the bridge program and then obligate those same dollars to structurally deficient bridges. Also, when bridges are being replaced or rehabilitated as a part of a larger project, States frequently transfer money into a single category of funding that can be used on the entire project. Because of the narrow eligibility of Highway Bridge Program funds, the flexibility to transfer funds is oftentimes necessary and does not necessarily detract from the goals of the Highway Bridge Program.

H.R. 3999 incorrectly assumes that all bridge construction and reconstruction is done through the bridge program. In fact, only about 55 percent of obligations on bridges are through the Highway Bridge Program. The remaining obligations of funds on bridges, about $2.4 billion, are done using other categories of funding. By prohibiting transfers, H.R. 3999 would effectively punish States that are spending more on bridges than is provided in bridge funding, by denying them an important cash and program management tool.

In addition, H.R. 3999 requires States to follow a risk-based system developed in Washington to prioritize the replacement or rehabilitation of bridges. Many fear that this will produce a ''worst first'' approach to replacing and rehabilitating our bridges an approach that is widely criticized among economists as it costs far more money than a targeted approach. In many aspects of government this is a prudent method to make decisions, but the approach set forth in this bill lacks the cumulative factor analysis required to make the most cost-beneficial and safety-driven bridge investment decisions. Under H.R. 3999's risk-based system, a lower rated bridge that is rarely used and poses no public safety threat could be prioritized ahead of a slightly higher