



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, WEDNESDAY, JANUARY 14, 2009

No. 8

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

O Lord of the storm and the calm, the troubled sea and the quiet brook, give the Members of this body the perseverance to meet today's challenges. Help them as they find common ground and adapt themselves to the surprises each day can bring. Remind them that life is real and often difficult and that they need You in every season of their sojourn. Save them from being so preoccupied with the difficulties that they cannot see all the opportunities about them. Lord, help them to not run ahead of You or to lag behind. Instead, may they walk with You, at Your pace, in Your timing, and toward Your goals. We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 14, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN,

a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN 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

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the wilderness bill, S. 22, with the time until 10:30 a.m. equally divided between the leaders or their designees. The Democratic time is given to Senator BINGAMAN of New Mexico. At 10:30 a.m., the Senate will proceed to a rollcall vote on the motion to invoke cloture on S. 22. The filing deadline for second-degree amendments is 10 a.m. this morning.

RECOGNITION OF THE MINORITY LEADER

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

ECONOMIC RESCUE PLAN

Mr. McCONNELL. Mr. President, many of us originally supported the economic rescue plan because we recognized we needed to act immediately to prevent an economic disaster.

I heard from a lot of Kentuckians last fall who were hurting and wanted the Government to help, and I am still hearing from many small business owners and others across Kentucky who still need help. But those same Kentuckians are quick to call for assurances that whatever the Federal Government does should be undertaken

with the assurance that taxpayer money will be spent wisely and will actually stimulate economic growth.

The American people have questions and so does Congress. We want assurances that if we decide to release additional funding, this money will not be wasted, that it will not be used for industry-specific bailouts that some House Democrats are already requesting.

We will be receiving briefings from the new President's team later today, and we look forward to hearing from them; that is, my Republican team. I know the new President was up here yesterday talking to the Democrats.

While I feel strongly we must continue to stabilize the economy, I would find it exceedingly difficult to support use of additional taxpayer funds without serious assurances from the incoming administration that the taxpayers will be protected.

I yield the floor.

RESERVATION OF LEADER TIME

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

DESIGNATING CERTAIN LAND COMPONENTS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 22, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 22) to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

Pending:

Reid amendment No. 15, to change the enactment date.

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



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S353

Reid amendment No. 16 (to Reid amendment No. 15), of a perfecting nature.

Motion to commit the bill to the Committee on Energy and Natural Resources, with instructions to report back forthwith, with Reid amendment No. 17, to change the enactment date.

Reid amendment No. 18 (to the instructions of the motion to commit), of a perfecting nature.

Reid amendment No. 19 (to Reid amendment No. 18), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled between the two leaders or their designees.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the quorum call time be charged equally between the two sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, at 10:30, I believe, this morning, we are going to vote on cloture on this lands package. I wish to take a few minutes—and my colleague has been more than gracious to me in terms of allowing time—to discuss this.

Our country is at a very difficult time in terms of our economic growth but, more importantly, in terms of the number of people who are suffering. We have before us a 1,300-page bill that we will hear has been looked at for a year and a half—the proponents of which, I am sure, have—that is nonamendable and that we will spend somewhere between \$10 billion and \$12 billion, when we think about the long-term consequences of the bill.

The questions I have before the body on this bill are, No. 1, is this truly a priority for us at the times we are in, considering the nature of the great difficulties that face this country; and No. 2, is it a priority for us in terms of the things that are out there that we can really be making a difference on today that we refuse to make a difference on.

Mr. President, let me highlight that for you for a minute.

This last year we put out a report on the Justice Department that showed very clearly \$10 billion a year in waste. I gave a speech on the floor this last summer outlining \$380 billion in waste. We know we have at least \$50 billion a year in waste at the Pentagon. We know we have at least \$80 billion worth of fraud a year in Medicare. The first thing we do in this Congress is create

\$10 billion more of spending. So we are not attacking the structural problems that actually face our Government, but, more importantly, we are not attacking the biggest problem. The biggest problem is the American people do not have confidence in us as an institution to do what they do every day, and that is to set priorities.

Every family out there today is going through a process, much like I did at the end of the year, seeing how much is going to come in, what they are absolutely obligated to spend, and if there is any left over, where is the priority at which they do that. We are in reverse of that process. We are saying we are not even going to look at that process, we are not going to look at the \$380 billion worth of waste, we are not going to look at the programs.

I had a visit with Mr. DUNCAN, who is the new nominee for the Education Department. To his surprise, he was blown over by the fact that there are more educational programs outside the Department of Education than there are inside. Yet we refuse to work on those very hard things that will actually make a large difference in the outcome.

We are going to be voting yet this week on putting another \$350 billion in the hands of the Treasury Department to enhance liquidity. But with that, we hear from Larry Summers that we are going to direct the money to whoever needs to borrow rather than whoever needs to try to be liquid in terms of loaning money. We have it exactly backwards.

Before us is a bill that will markedly undermine attempts at energy independence, will add to the 107 million acres of land that presently are wilderness areas which will make them truly, in all respects, significantly difficult to ever tap any natural resources, regardless of whether we can do that without any impact on the environment.

It is interesting to note that the actual number of acres of land that are in wilderness areas is greater than the total developed land in this country, which is 106 million acres.

We are going to take another 2.2 million acres and move them away from any possibility. Yet nowhere in our thought was—whether we were manipulated by supply-demand constraints or we were manipulated by futures markets—the fact that oil reached an all-time high and we were paying \$4 for a gallon of gasoline. Completely outside the scope of this bill was any consideration that we might want to preserve our ability to have access to future oil reserves—even the disputed debate on the Wyoming Range on whether we are going to have access to, the lowest estimate, 5 million barrels of oil and maybe 3 trillion cubic feet of natural gas, all the way up to 300 million barrels of oil and 15 trillion cubic feet of natural gas.

My complaint and my reason for voting no on cloture is really fourfold. No. 1 is it is not a priority what we are

doing. No. 2 is our problems with demand that we would be doing something different than what we do in this bill. No. 3 is the process which has not allowed for significant amendments of our choice on this bill is flawed. And, finally, No. 4, it does not go towards building back the trust in the Congress to actually do things in order of priority that are going to make a difference for this country.

I recognize that I am in the minority opinion of that view in this body. What I don't recognize and what I know is true is that I am not in the minority opinion of the people in this country.

We are about to vote on a 1,300-page bill that will not be amended, that very few have read, that very few have studied hard as to the consequences it will have on our energy dependency, and we are going to pass it. It is probably going to be sent to the new President, and he is probably going to sign it, which gives me great cause for worry because my friend, the President-elect, ran on hope and a promise of change. I don't see any change in the Senate.

My hope is somewhat diminished because I don't see us as a body collectively addressing the big problems that face us as a nation. There is no question that many of the States that have programs in this bill have wanted them for a long time, and they are going to be happy with them, the fact that we do all these things for these various organizations to create four new extensions to national parks at a time when there is a \$9 billion backlog on the national parks we have today.

But I wonder if getting something parochially is worth putting the country at risk, and not just at risk with this bill but the risk of process, the risk that we will continue to plow ahead on that which will not make an ultimate difference in the security, the long-term financial outlook of this country.

Anybody who reads this bill will say: Why are you doing certain things now? Why would you authorize the spending of \$3.5 million for a birthday party in Florida? Why would you enhance botanical gardens now when we are going to run a \$1.8 trillion deficit this year? Why would you build a new orchid garden for the Smithsonian now when we have so many other issues that are so far more important that we should be doing? Why in light of the greatest drought California has ever seen would we disrupt the water supply to 10,000 farmers, creating more than \$2 billion worth of GDP? Why would we do that? Why would we do that now? I don't understand why we are doing it now.

I understand the politics of it. I understand the way the Senate works. I understand the reason Members want to get things done for their States. But right now in our Nation, we ought to be thinking about the good of the Nation as a whole, the long-term good of the Nation as a whole.

Confidence—confidence—is what Americans don't have today. They are not confident in their future. They are

not confident in the economics of maintaining their family, their lifestyle. As a matter of fact, the confidence is so low that we are going to have a savings rate that we have not seen in 40 years in this country because people are saving for a rainy day, and they think the rainy day is here. What we are doing is destroying what confidence is left.

Our President-elect's job over the next year, more than anything, is to restore hope and confidence in the future of this country. I believe we fall far short by bringing this bill to the Senate at this time in this way without an ability to amend it in significant ways that preserve chances for energy exploration, that take the silliness out of it—as I mentioned earlier, the 45 earmarks that are in this bill—and do not address the priorities of which we should be authorizing the spending of money in this bill. It is wasteful. It does not meet common sense. It destroys what little credibility we have left, and in the long run it diminishes the promise of change and hope for which our new President-elect stands.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, how much time remains on both sides?

The ACTING PRESIDENT pro tempore. There is 18½ minutes remaining; 15 minutes on the Democratic side, 3½ minutes on the Republican side.

Mr. BINGAMAN. Mr. President, shortly, the Senate will vote on cloture on S. 22, the Omnibus Public Lands Act. I obviously support going ahead with cloture on that legislation. Let me explain briefly why and then respond to a few of the points that my colleague from Oklahoma made.

Yesterday, we did spend several hours trying to determine if it was possible to develop a unanimous consent agreement so that we could have a couple of votes today on amendments that the Senator from Oklahoma has proposed. Despite good-faith efforts on both sides, we were unable to reach that agreement. I appreciate Senator COBURN's willingness to work with us. Also, I appreciate Senator MURKOWSKI's involvement in those discussions.

I have spoken at some length earlier this week about this package of bills, so I will not repeat the details that I talked about before, but I would like to briefly summarize the bill.

This legislation contains over 160 separate public land and related bills, with roughly an equal number of provisions sponsored by Democratic and Republican Senators. Apart from the bipartisan makeup of the package, almost all of these bills were considered in the Energy Committee and were reported in our committee after amendment. I should emphasize that there was an extensive process of amending these bills in our committee. They

were reported after amendments by unanimous vote. We have made some further modifications to some of these bills in an effort to address any remaining concerns.

S. 22 incorporates 15 new wilderness bills, which combined will result in over 2 million acres of new additions to the National Wilderness Preservation System in nine different States. It will add over 1,000 miles of new rivers to the National Wild and Scenic Rivers System. It will add over 2,800 miles to the National Trails System. It will add three new units to the National Park System and enlarge the boundary of over a dozen existing parks. It will designate a new national monument, three new national conservation areas, and legislatively establish the Bureau of Land Management's National Landscape Conservation System.

The bill will protect over 1 million acres of the Wyoming Range for hunting, fishing, and other recreational uses. And to help reduce the catastrophic fire problems of recent years, it authorizes a new forest landscape restoration program.

In addition to the public land components of the package, the bill will ratify three extremely important water rights settlements. Those are located in California, in Nevada, and in my home State of New Mexico. The legislation related to those settlements will end literally decades of litigation. And it includes many other land and water authorizations to help local communities throughout the country but especially in Western States.

Despite the scope of the conservation measures included in the package, it is not, as some have suggested, inconsistent with our national energy policy. I heard my colleague indicate that in his view this legislation in total would—I believe the phrase he used was—markedly undermine energy independence in our country. I strongly disagree with that characterization of what we are doing. Almost none of the wilderness areas designated by the bill are in areas with significant energy development potential.

As to the one area which does contain energy potential—that is the Wyoming Range Legacy Act legislation—let me give some details as to that legislation. The legislation seeks to protect from future oil and gas activity lands in the Wyoming Range not currently under lease. As of November 6, 2007, there were 18 oil and gas leases within the proposed withdrawal area. Those leases cover a total of 70,600 acres. These leases represent valid existing rights and will not in any way be canceled by this legislation. The leases are primarily located in the area that has some of the most significant mineral development potential.

In addition to those oil and gas leases, there are 35 oil and gas leases covering 44,977 acres that have either been issued and are under protest or have been sold but not yet issued. This bill, again, does not in any way cancel or impede development of those leases.

Under the estimated U.S. Geological Survey's estimates, they believe the natural gas potential for the area is 1.5 trillion cubic feet, and the mean oil potential is 5 million barrels. Relative to other known gas reserves in the area, the numbers are smaller in both size and scope.

There are approximately 4,300 producing oil and gas wells in the three counties that are touched by this legislation. There is a proposal being considered for up to 4,339 additional wells that would not be affected by the legislation. There is production currently taking place nearby that will not be stopped by the provisions here.

We had the Congressional Budget Office look at this, and they have issued a statement which I will quote for information of Senators. When they refer to S. 2229, that is the legislation that is incorporated in this bill. They say:

Based on information from the U.S. Forest Service and the Bureau of Land Management, CBO estimates that enacting S. 2229 would have no significant effect on the Federal budget. Under the current law, CBO anticipates that neither agency will offer to sell mineral leases or other interests in land that would be withdrawn by the bill within the next 10 years; hence, we anticipate no foregone receipts from sales of such interests over the period of 2009 through 2018.

So as I was saying, the legislation, in my view, does not markedly undermine energy independence, it does very little to impede our ability to develop oil and gas resources, and this is a piece of legislation that is strongly supported by the Senators from Wyoming, it is strongly supported by the Governor of Wyoming, and it is legislation that I myself support as well.

Several Senators have previously spoken about the many years they have spent working on some of the provisions in this package. Especially in the West, there are few issues as complex and difficult to resolve as land and water use issues. Given the years of work invested by interested citizens and communities, by State and local governments and by individual Senate delegations to address and resolve the many competing issues, it is time to bring these issues to closure. There has been an extensive public process for the individual bills contained in this package, both locally and in the Congress, with almost all receiving the unanimous approval of our committee, the Energy and Natural Resources Committee, which has jurisdiction over these matters.

For all these reasons, I urge my colleagues to vote to invoke cloture this morning on S. 22, the Omnibus Public Lands Act, so we can advance this long overdue legislation forward for Senate approval.

Mr. President, how much time remains for the majority?

The ACTING PRESIDENT pro tempore. The majority has a little over 4 minutes and the minority has 3½ minutes remaining.

Mr. BINGAMAN. Mr. President, at this time, I yield the remainder of my

time to my colleague, the Senator from Alaska, Ms. MURKOWSKI.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I rise this morning to support the statement of my colleague, the chairman of the Committee on Energy and Natural Resources, as it relates to this legislation, the Omnibus Public Lands Act of 2009.

There has been a great deal of discussion in these past several days about priorities and whether the bills in this package actually reflect my particular priorities. Well, in fact, there are some priorities I do have. But are all these bills, all 160 of them, my priorities? No.

There has been a great deal of discussion about process. The fact that we have 160 bills packaged into an omnibus bill is cumbersome. Is this a process I would have chosen? Probably not.

Am I concerned about the ability of the minority to offer amendments? Absolutely. Absolutely. My colleague from Oklahoma has made a very strong case for why, in this deliberative process, in this deliberative body we should not be allowed to move forward and advance amendments. As I understand it, there were discussions yesterday that, hopefully, would have allowed a time agreement for consideration of amendments, but that didn't work out and that is unfortunate. But I do not believe the bills we see in this package result from an absence of careful consideration and process.

As the chairman has noted, the Committee on Energy and Natural Resources has had almost 2 years' worth of hearings, negotiations, and business meetings on these very bills we have in front of us. There has been that thoughtful committee process, there has been that review, there has been the input from the local level all the way to the top. The public lands bills in this package were considered and they were amended with the very concerns in mind that my fellow Senators are expressing today.

The concerns are most appropriate: How do we get a fair deal for the American taxpayer? How do we ensure we are not locking up land that could help improve our Nation's energy security? Are the lands we are protecting deserving of this? We can find that balance and we can maximize the development of our domestic energy resources while protecting our Nation's other natural resources.

So why so many bills in here? Well, for those of us in the West, so much of our land is federally owned that simple transactions often take literally an act of Congress. This bill transfers 23,226 acres of Federal lands to private and State sectors through conveyance, exchange or sale, and does so in a way that provides full value for the American taxpayer. The bill does authorize the expenditure of funds, but each of those is dependent on future appropriations that depend on the oversight of the Appropriations Committee and the Presidential budget request.

This process is not my preferred method for passing legislation. I wish to work with my colleague from Oklahoma and with others who have expressed their concerns about how we move public lands bills. I think working with the chairman we can improve this process, and we should. But I believe that overall what we have before us today is a package that will improve our Nation's management of its public lands and parks and will be a long-term benefit to our Nation. Therefore, I respectfully request my fellow Members' support for passage of this legislation and on this cloture motion we have before us this morning.

I yield the floor.

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

Mr. COBURN. Let me clear up the data on the Wyoming Range. It is said there is only 1.5 trillion cubic feet, according to the U.S. Geologic Survey. But you have not read the complete report. The letter is new. The data used by them is older than the data used by the Bureau of Land Management. It wasn't based on the latest topographic and geological studies. That is the first problem.

The second thing they say in their report is they lacked an official map. So it is their best guess, not based on science, not based on known data.

Finally, they only approximated for the following reasons: They only had a general outline of the area and they assumed a homogenous distribution of oil and gas resources across the entire area.

Well, that is a no report. The latest report to come from the National Petroleum Council, which is subcontracted to BLM, estimates, at a minimum, 12 trillion cubic feet of natural gas. So where you get your information and what it says and what it is based on is very important.

So we have had all this defense that this is not going to impact energy based on an erroneous report based on erroneous assumptions by the National Geologic Survey, when all you have to do is read their own survey and that is the footnote to it, which says we didn't have the information, we didn't have the map, so we used an average, not what was there. Having known that the first three gas wells drilled there had to be capped because we didn't have the technology to take the flow, it was so great, the estimates by the USGS are so far out of range it is laughable. As far as 10 years counting whether it is going to have any impact on our energy, I hope we are thinking longer than 10 years. But that is what the CBO says they are going to use—10 years.

Don't forget there is another big issue with this bill in that we step all over property rights in this country. Even though several of the bills in here say they would not use eminent domain, every one of them still has the right to use eminent domain outside

the areas we have created in this bill. So we have taken one of the basic rights of Americans in this country, and the Senate, in passing this bill, by saying: Sorry, our parochial interests for what we want to do for the State trumps your property rights.

If you believe in property rights, if you believe people who own land ought to have the right to develop that land, if you don't think the Federal Government ought to be funding those people who will take away your rights—which is what they will do with the heritage areas; they actually change the zoning laws as funded by the U.S. Park Service—I have a bridge I want to sell you.

We ought to be about doing what is in the best interest of the country, not what is in the best interest of our States right now. Our problems are severe. We ought to be doing things that develop confidence in this body, not undermining the confidence in this body. As far as the land exchanges, almost none of those was objected to. They could have come through here on unanimous consent, and everybody knows that. To use that as a reason for why we are at this point is not only insincere, it is inaccurate.

So it is time for us to start behaving and acting in ways that restore confidence in this body and setting priorities that are very similar to the priorities every family has to set. I will say, again, we should have spent the last 2 weeks working on waste and fraud and duplication in the Federal Government because we are getting ready to approve a bill that will spend \$800 billion at the same time we know we are going to waste \$300 billion in this Government. For us to spend time on this bill rather than the important things that are going to make a difference in the lives of families in this country in the long run, I believe it undermines the best values of the Senate.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has half a minute remaining.

Mr. BINGAMAN. Mr. President, the time of 10:30 is about to arrive. I yield my time. The yeas and nays have already been ordered or are they mandatory?

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. All the time has expired. Under rule XXII, the Chair lays before the Senate the pending motion to invoke cloture, 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 S. 22, the Omnibus Public Land Management Act of 2009.

Harry Reid, Jeff Bingaman, Richard Durbin, Dianne Feinstein, Bernard Sanders, Jon Tester, Tom Harkin, Kent Conrad, Byron L. Dorgan, Barbara Boxer, Debbie Stabenow, Daniel K. Akaka, Ken Salazar, Mary L. Landrieu, Ron Wyden, Patrick J. Leahy, Robert Menendez, Bill Nelson.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call is waived. The question is, Is it the sense of the Senate that debate on S. 22, a bill to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of Interior and the Department of Agriculture, and for other purposes, 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. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Ohio (Mr. BROWN), the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

The yeas and nays resulted—yeas 68, nays 24, as follows:

[Rollcall Vote No. 2 Leg.]

YEAS—68

Akaka	Gregg	Nelson (FL)
Barrasso	Hagan	Nelson (NE)
Baucus	Harkin	Pryor
Bayh	Hatch	Reed
Begich	Inouye	Reid
Bennett	Johnson	Risch
Bingaman	Kerry	Roberts
Bond	Klobuchar	Rockefeller
Boxer	Kohl	Salazar
Byrd	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Shaheen
Carper	Levin	Snowe
Casey	Lieberman	Tester
Clinton	Lincoln	Udall (CO)
Cochran	Lugar	Udall (NM)
Collins	Martinez	Voinovich
Crapo	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wicker
Feinstein	Murkowski	Wyden
Graham	Murray	

NAYS—24

Alexander	Ensign	Kyl
Brownback	Enzi	McCain
Burr	Feingold	McConnell
Chambliss	Grassley	Sessions
Coburn	Hutchison	Shelby
Corker	Inhofe	Specter
Cornyn	Isakson	Thune
DeMint	Johanns	Vitter

NOT VOTING—6

Biden	Bunning	Kennedy
Brown	Conrad	Stabenow

The PRESIDING OFFICER (Mr. NELSON of Nebraska.) On this vote, the yeas are 68, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. LEVIN assumed the chair.)

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

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

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I ask to speak as in morning business.

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

LILLY LEDBETTER

Ms. MIKULSKI. Mr. President, I am the leadoff speaker today in what will be a substantial conversation on the Fair Pay Restoration Act. It has been otherwise known in the community and in the media as the Lilly Ledbetter bill, which we hope to bring up for a vote tomorrow to advance this bill. What this legislation will do is to overturn the Supreme Court decision that essentially mitigated the ability to file lawsuits for equal pay for equal work.

Mr. President, I am not new to this bill, and neither are you. We counted you as one of our strong advocates when we had our vote last year on April 23.

The person who has been one of the leads in the Senate has been our very good colleague, Senator HILLARY RODHAM CLINTON. As we know, Senator CLINTON is about to assume other responsibilities. I have taken up this bill as the lead sponsor, along with many of the women in the Senate and the very good men. I thank Senator CLINTON for her leadership and her advocacy on behalf of women and on behalf of civil rights and on behalf of fairness and justice. She has been a great advocate, and we are going to miss her.

I also thank Senator KENNEDY and his staff, Senator KENNEDY for his leadership in trying to right the wrong the Supreme Court decision created. Senator KENNEDY has been a stalwart on this bill and is also one of the original sponsors of the remedy we are bringing before our colleagues today.

You might recall that in April we had our vote on the Lilly Ledbetter bill. You might recall it was a very intense and emotional debate. Most of the women of the Senate came on the floor. We were dressed in red because that was the color of the women's movement and Mrs. Ledbetter herself wore red. We lost that vote by essentially two votes. As everybody left the floor, they thought it was over. But I knew it was not over because we were not going to let it be over. We were going to continue the fight. I said to my colleagues then, when we lost the vote, we would come back and fight another day, and that day is here. We said very loudly, clearly, firmly, and resolutely that we wanted to be sure women receive equal pay for equal work, equal or comparable work. We wanted to change the law books so women would feel it in their checkbooks.

I reminded our colleagues, because there had been a fantastic miniseries

about John Adams, that Abigail, one of our heroes, had written John when he was busy writing the Constitution—she was busy running the farm and keeping life going—and she said: John Adams, when you write that Constitution, remember the ladies because if you forget us, we will foment another rebellion.

I said on the floor on April 23 that we, in the spirit of Abigail Adams, were ready to foment another revolution if we were going to be denied the opportunity to pursue equal pay. I then said we were going to fight, and I asked the women of the Senate—I asked the women of the Senate and women all over the country—to suit up, get ready to fight. Put your lipstick on, and let's foment another revolution.

Wow, the revolution came, and it is more than I anticipated. The revolution came in one of the most dynamic primaries our country has ever seen. The revolution came when people said loudly and clearly, at every primary and every caucus across this country, that they wanted change. They chose a new standard-bearer in President-elect Barack Obama. In that, with Mr. Obama and Mr. BIDEN, we have the leadership the American people want. In their leadership, working on a bipartisan basis in the Congress, we want to bring about change, and therefore one of the first bills we bring to the floor of the Senate is one that makes sure women have equal pay for equal or comparable work and they have access to the courts and appropriate legal process to be able to pursue their concerns and their complaints.

The revolution is here, and the votes are coming. We are going to vote tomorrow on cloture on the motion to proceed. Later on, we are going to have complete debate on the bill itself. We know there are colleagues who offer alternatives, but that is part of the revolution—to have great ideas, engage where there are differences of opinion, and then, at the end of the day, have the votes. We are looking forward to this. It is a day long in coming.

This year, this new Congress and this new President bring us not only a new year, but it also has created a new economic reality. The economy is tanking, with no end in sight, retirement accounts are plummeting, home values are sinking, and unemployment is surging.

This is not news to women. Women who are in the workplace today know how hard it is to get and keep a job. What we also know is that in good times or bad times, women are discriminated against in terms of the pay they receive. Right now, today, in the 21st century America, women still earn only 76 cents an hour when men receive a dollar an hour. There are women who pursued remedies.

In May 2007, the Supreme Court made an outrageous decision. They said women cannot get equal pay for equal work unless they file a complaint 180 days from when the discrimination

began. Women do not always know when discrimination began. They meant from the very first day that you get a paycheck that discriminates against you, within 180 days, within 6 months, you are supposed to know that and file a complaint. We would love to be able to do that. But this decision does not reflect the reality of the workplace.

What is it that we know about the workplace? You can talk about anything in the workplace. Often, politics are discussed in the lunchroom; religion is talked about at the computer; sex is often discussed at the water cooler; but salary is never discussed. How many people really know the salary of their coworkers? Women do not go around asking men: How much are you paid, and pull out a little pad. They presume that if they are doing the job side by side with male coworkers, they are getting equal pay. They don't know that. Then what happens if the male counterpart gets a raise? The guys have been out at a ball game. They say: Don't worry, we will take care of you. But the women don't know that. You have to know it the day you get the paycheck and he gets the bigger one. How are you going to know that? Snooping? Men get raises and promotions, but women are often overlooked and undervalued.

What we saw in the Supreme Court decision was that it was a backward step for women and it violates the very concept of fairness and justice. The Supreme Court decision was so outrageous that our beloved and esteemed Justice Ginsburg took the unusual position of reading her dissent from the bench. Usually, Justices do not do that. She said in her dissenting opinion that the Court did not get it, that they do not understand the realities of the workplace that would prohibit women from knowing exactly when the discrimination started. She called upon Congress to fix it, and that is what this bill does. Our bill restores the original language that existed before Ledbetter.

Along the way, President Bush heard about our legislation. He threatened to veto it. On January 20, we will have a new President, and he will not only sign it, he campaigned with Lilly Ledbetter and made a promise to the American people. When President-elect Obama, who by then will have taken his oath of office and will be President Obama—this will probably be the very first piece of legislation he will sign. What a sweet day for women all over America. But we have a legislative road to go on.

A lot has been said about Lilly Ledbetter, but people are busy and they might not remember her whole story. What a gallant and courageous woman. She fought the system, and on her own time and with great risk, she took on the challenges of the workplace. She turned to the courts and began her fight. She fought two different times, once against sexual harassment and the other time against un-

equal pay. What you need to understand is when she began her fight to get equal pay, she was then sexually harassed because she followed her legal opportunities and rights. So she was doubly punished. She was punished in the workplace in her paycheck and she was punished in the workplace because she dared speak out.

Lilly Ledbetter did not work at some microbusiness. Lilly Ledbetter worked at Goodyear Tire & Rubber Company. She worked there for 19 years and by all accounts was an outstanding employee. She did not know when the disparity developed, whether it was on the first day she was hired or over the many years she was there. But she found out and took it to court. A jury found that Goodyear had discriminated against her and awarded her \$400,000 in backpay. When they did, Goodyear then took this all the way up to the appellate court. Each time, this woman pursued her remedies, often at great risk and great financial and personal hardship. Finally, because Goodyear, every time she won, took it to a higher court—that is their prerogative. But you had little Lilly Ledbetter against this giant corporation, with tons of lawyers and tons of legal resources. Finally, they had the Supreme Court on their side, and the Supreme Court said someone cannot sue their employer over unequal pay if that person doesn't file the suit 180 days from the day the discrimination began.

As we said earlier, the Supreme Court just didn't get it. How many people know the salary of their coworkers, especially in the first 6 months on the job? What if you are hired at an equal rate with your male counterpart but he gets a raise every few months and you don't? The decision was terrible. As I said, Justice Ginsburg said, "In our view, the Court does not comprehend or is indifferent to the insidious way in which women can become victims of pay discrimination." She encouraged us to fix it.

As I said, women continue to earn 77 cents for every dollar. Women of color get paid even less. So Lilly Ledbetter is not an isolated incident.

Now, there is opposition to this bill because people make profits off of discrimination; if you pay women less, you make more. I mean, we are providing a subsidy to these businesses that discriminate.

Over a lifetime, it not only affects your current paycheck, but it affects your Social Security and your retirement in terms of lower lifetime earnings. The Supreme Court now even makes it harder for women workers to close this work gap.

I am going to have more to say about this, but I want to say that we now know the situation in the workplace, women are paid less generally. We want to be sure that if you are paid less specifically, you have an open courthouse door that will have an open mind to the fact that discrimination might exist. We want to have a fair playing field for you to file this complaint.

This bill will amend title VII of the Civil Rights Act of 1964, so that the time for an employee to file a wage discrimination suit runs from the date of the actual payment of a discriminatory wage, not from the time of hiring. That means that employees can sue employers based on discriminating paychecks. It does not limit the time a worker can seek the remedy.

I want to be clear, though, it does not change the statute of limitations. What it does is, under the Supreme Court decision you would have to file your complaint within 180 days of when you were hired. Here, you can file it within 180 days of your last paycheck when you found that discrimination, you believed discrimination existed. We are going to be debating this bill. I have many colleagues who want to speak on it. There are many in this Congress who have been very strong advocates, but our leading advocates are the two wonderful women from the State of Washington who I know are eager to speak. Both are on the floor, and the lead on this working with us in the Health and Education Committee is, of course, the senior Senator from the State of Washington, a part of our leadership team, the dynamic and intrepid PATTY MURRAY. I yield the floor for her.

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

Mrs. MURRAY. Mr. President, I first thank Senator ENZI for his accommodation to allow me to follow Senator MIKULSKI.

I thank the Senator from Maryland. She has been tireless on this issue and a champion for women and their families for many years. I am very proud to be with her today as she leads the Senate and the country in restoring the credibility and confidence of women across this country to be able to get what they should be getting when they go to work every day. So I thank her for that.

This Senate has a very proud history of working across the aisle to pass civil rights laws. Those historic laws ensure that all people in our Nation have equal rights regardless of their race, their religion, gender, or national origin. I am very proud that because of those laws, my daughter now has the right to work in the same job and achieve the same success as my son.

But despite all of the years of progress, we have not eliminated unfairness in the workplace. I believe we should all fight long and hard whenever Americans are denied the ability to fight for their rights, and that is why I have come to the floor today to speak.

With its May 2007 decision, Ledbetter v. Goodyear, the Supreme Court reversed years of progress in the fight for fairness in the workplace. Their decision made it almost impossible for workers who suffer discrimination to seek justice. It went against congressional intent, and it set us back 40 years in the fight for equal opportunity

in the workplace. The decision was wrong, and we here in this body need to take action before it weakens our civil rights even further.

So today as we begin this new Congress and a new administration, I am urging all of our colleagues to support the Lilly Ledbetter Fair Pay Act to reverse Ledbetter v. Goodyear and ensure that our workers again have a fair shot at fighting discrimination.

Before I describe the bill that is before us today, I want to say a few words about Lilly Ledbetter and her Supreme Court case. As the Senator from Maryland talked about, Lilly Ledbetter worked for Goodyear Tire for 19 years before she found out that her male counterparts were being paid more for doing the exact same work. So she sued, charging her employers with pay discrimination.

But, as you know now, the Court sided with Goodyear. It was not because the Court thought she was wrong. They, in fact, agreed she had been discriminated against. But the Court said she did not have the right to sue. That is right, that is what the Court said. They said she should have sued within 180 days of her very first unfair paycheck, even though she did not know about it until many years later.

It made that ruling despite the fact that courts around this country had for years assumed the opposite, that the clock starts ticking after any discriminatory act, including every time a worker is paid unfairly. Now, I think that sounds an awful lot like our Supreme Court is asking workers everywhere to be mind readers. It is unfair and it is not what Congress intended when we created that law in the first place.

Lilly Ledbetter has, to her credit, not let that decision go without a fight. She has been a tireless champion for her rights, and I truly want to thank her for everything she has done to raise awareness about her case.

The Lilly Ledbetter Fair Pay Act before us today would reverse the Court's unfair decision. It will allow workers to file a claim within 180 days of any discriminatory paycheck, and it would again allow workers to discover the facts and to challenge ongoing discrimination as Congress always intended. Purely and simply, it restores a worker's right to fight for her rights.

I also want to take a little bit of time to talk about why it is so important that we ensure our workers have all of the tools necessary to fight for their rights. As I said earlier, what we are talking about today is not just a philosophical issue of rights and discrimination. The truth is that although we have made tremendous progress in civil rights, there is a lot of work to be done yet. The pay gap is only one example. Women still make less than men even though they are doing the exact same work. On average today, women earn only 77 cents for every dollar that is paid to their male

coworkers. That pay gap, by the way, is even wider for African-American and Latino women. African-American women earn 67 cents on a dollar, and Latino women earn only 56 cents for every dollar a white man makes.

Pay discrimination like that has real and harmful impacts on our families and for our Nation as a whole. It hurts an individual's ability to earn a living or to care for their children or to contribute fully to society. Yet it is so deeply ingrained in our society today that many jobs dominated by women pay less than jobs dominated by men even when the work they do is almost the same. That disparity hurts millions of families. In almost 10 million households today, mothers are the breadwinners. In many of those cases, those women are also supporting their parents and other extended family members and, in far too many of those households, women have to struggle to pay for rent or heat or food or gas, much less send those kids to college.

Think of how much better off our families and our country would be if women were paid a wage equal to men, especially, of course, as we face this deepening economic crisis and all of our expenses are rising every day. If women and men made an equal wage, single working women would have 17 percent more income every year. Ensuring that they have a fair paycheck would cut their poverty rate in half. That is to the benefit of this entire country.

There is one other issue I want to raise. Although the Ledbetter case involves gender discrimination, the decision applies to all discrimination: religion, race, age, disability, national origin. I think it is only fitting that in the days before we honor the life and the legacy of Dr. Martin Luther King, Jr. we are considering this issue today. The truth is, all the laws we pass guaranteeing rights have little meaning if Americans do not have the ability to challenge the discrimination in court.

This case could set a terrible precedent. We run the risk that anti-discrimination laws will grow weaker, not stronger, if we do not act here in the Senate. So I urge our colleagues to support this bill to reverse this unfair decision and restore congressional intent and to ensure the Senate's history of protecting civil rights will not be eroded.

I again thank my colleague from Maryland, Senator MIKULSKI, for her tremendous fight over so many years to make sure that women have equal access in the workplace.

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

Mr. ENZI. Mr. President, I congratulate Senator MIKULSKI and Senator MURRAY, and all of the people who have worked on the bill for their dedication to women's rights and their dedication to civil rights.

I have been referred to several times as a reasonable voice on this floor and

in committee. I work across the aisle. And I have got to say, I went through an election where that was the toughest issue against me, the fact that I had worked across the aisle. People particularly wanted to know how I could work with Senator KENNEDY to get stuff done. I always concentrated on the last part of that: "getting stuff done." America expects us to get stuff done.

The way that really works is, we work across the aisle and we listen to everybody, and we work across the building, and we listen to 435 people down there as well, providing a process where people can have their views heard.

One of the reasons we go through a process—and we are talking about an appropriate legal process that people who are discriminated against need—is to make sure the voice of the people of the United States is heard.

The Health, Education, Labor and Pensions Committee was once the most contentious committee in this body. It is now the most productive committee in this body. We pass a lot of legislation. You do not hear much debate on the floor on it because it goes through the committee process.

How does that committee process work? Well, when a bill goes to committee, you usually have hearings. We have not had a hearing on this. You get a markup. That is when everybody can turn in every imaginable amendment they can think of for that bill, which is where you bring into account the perspectives of all of those people on the committee, 20, 22, 23 people, who concentrate on a subject, who know that subject.

From there, the chairman and the ranking member kind of divide things up and see what the relative amendments are trying to do, and the ramifications of those amendments. If you have 25 amendments, but all deal with one subject, you know that is a hot-button issue. But if you look through them, you usually find out there is kind of a common theme; not a common solution but a common theme. And because of the way a committee works, you have a chance to sit down with those people who have those opinions and see if there is a solution that fits in the bill. Usually there is.

That is why we have done some very difficult issues through committee. We passed the first change in mine safety law in 28 years, and we did it in 6 weeks, not 6 weeks of floor time. The floor time was about an hour. We did a pensions bill. That has always been a difficult process. We wanted to make sure people received the pensions they were promised and that companies were not put out of business so they could not pay those pensions. That was a 1,000-page bill. We had an agreement before it came to the floor, because of committee work, that we would have 1 hour of debate, two amendments that we could not agree on, and then a final vote. In less than an hour and a half,

we passed one of the most critical bills for this Nation, and it was because of committee work. It is because of the knowledge the committee has and shares in committee and the negotiation that goes on.

When we are presented a bill on the floor that has not been to committee, we have no voice, and it is take-it-or-leave-it. If we look at the history of the Senate, it is usually leave it. Why? Because there isn't that flexibility of amendments when it comes directly to the floor. There isn't that ability to see what the intensity of the amendments is, let alone the direction of the amendments, let alone the opportunity to find an alternate solution, one on which both sides agree. When you don't follow committee process it takes a lot more time. How much time does it take? I guess we will be talking about this today and tomorrow we will have a cloture vote on it. If that cloture vote succeeds, then there is 30 more hours of debate before we get to amendments.

One of the concerns on this side is whether the process will break down at that point as well so that if there is the approval to proceed, then there would not be any amendments allowed. That was a concern on the public lands bill, no opportunity for anybody to offer any amendments. That was a \$3.5 billion bill. But that doesn't mean much when one is talking about \$700 billion stimulus bill and when we haven't even done the appropriations process for last year. Where are the appropriations? Should that not be a part of the solution to the crisis we are in? Yet we are jumping right to this bill that has not been to committee.

I express my strong opposition to the process or, more accurately, the total lack of process which brings us to the consideration of S. 181. The manner in which this bill is being handled by the majority sets a disappointing tone for the new Congress and lays the groundwork for a legislative term that will surely be more partisan than productive. The majority has brought this legislation directly to the floor of the Senate and, in doing so, has completely circumvented the regular order of the Senate and its committee process.

This legislation has not been brought before the committee of jurisdiction and, as a consequence, has not been subject to scrutiny, open debate, and amendment which is an integral part of the Senate's deliberative process. This is not the legislative process our Founding Fathers created. It is an affront to Members and a disservice to the American people. We cannot have good legislation with a bad process. People may have wanted change when they voted last November, but the change they wanted was not the imposition of one party rule or 30 hours of debate followed by a vote, followed by 30 more hours of debate, followed by no amendment process, followed by a final vote. I don't think anybody thought that was the solution to what we were doing.

In the committee process, things can be done in a much more prudent and sometimes rapid manner, with less floor debate, and this is where the 80-percent rule can be applied. I have found that we can agree with 80 percent of the issues. Pick an issue that is in that agreement category, and we can agree on 80 percent of that issue. What we get to see on the floor of the Senate is the 20 percent debate on what we don't agree on, not the 80 percent that we could get done quickly.

In addition to slick procedural maneuvering and empty platitudes, there are other ploys in the political playbook at work. First and foremost, and guaranteed to be used to distract the public's attention, is to demagogue the issue and attempt to demonize anybody who dares to suggest there may be another way to achieve a particular goal. The Ledbetter bill is the perfect example of this divisive tactic. Anyone who suggests the bill is an overreach or the problem it seeks to address can be addressed in a better way is immediately painted as opposed to equal pay for women or is some kind of a sexist Neanderthal. What a nonsensical claim.

Let's not forget that the alternative to this bill, which has been introduced in this Congress and which the majority leadership will not let us consider, was authored by Senator HUTCHISON. I do not believe there is a single Member of the Senate who can credibly claim to be more sensitive to women's legitimate concerns over pay equity or more instrumental in assuring equal rights for women in the workplace than Senator HUTCHISON. Is there so little respect for the intelligence of the American public that despite this fact the proponents of the legislation will nonetheless foster this myth?

People may have wanted change when they voted last November, but the change they wanted was not a further coarsening of public discourse and the substitution of name calling for meaningful debate or the avoidance of following the process in a prudent and rapid way.

I intend to speak further with respect to the substance of the legislation, but I do not wish to dilute my concerns about the way this legislation is being handled with my concerns about the bill.

Accordingly, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, we will be turning to the Senator from Washington in a moment. I can't let the remarks that have been said not be clarified in terms of facts.

First, when this bill moves forward, there is an agreement between both leaders, the majority and the minority, that there will be amendments. In fact, one of the premier amendments will be offered by the Senator from Texas, who has an alternative view. She will have the opportunity to offer her amendment. As I understand, there is no restriction on amendments. Speaking for

the Democratic leader, there is no intent on our side to fill the tree.

The debate is being led by the women in the Senate. Among ourselves, we have dinner once a month. We get together on a bipartisan basis. We have pledged among ourselves—and it is unofficial, not an oath—that we are going to be a zone of civility in this institution. The way we will debate will, first of all, always try to allow amendments. We will proceed with intellectual rigor, have our discussions based on fact. Yes, philosophy will enter in, but it will not be ideological. Nor do we intend in any way to be tart or demonize.

We have listened to two speakers on this issue, myself and Senator MURRAY. There has been no demagoguing. We spoke with passion because we know Lilly Ledbetter. We mourned for her when her husband passed away. We listened to stories of sexual harassment because she stood up for herself. But we are not in the demonizing business. I can assure my colleagues, this discussion will be debated by men as well as women. But the women of the Senate intend to have this be a model of civility. That is one thing.

The second thing is hearings. This is January 14. There have been no hearings on this bill in this session. But it is exactly the same bill voted on in the last Congress on which there were two hearings held: one in the HELP Committee on January 24, 2008, and the Judiciary Committee on September 23, 2008. It is the same hearings. We would have the same witnesses. We would bring in Lilly, et cetera. The differences of opinion on how to achieve the goal of ending discrimination, for example, between the Hutchison approach and the approach here will afford her ample time. We know our colleague, Senator SPECTER, has some flashing yellow lights about the bill. He, too, will offer his amendment. We know the lawyerly way in which he proceeds, and so on.

We are ready for debate and discussion. I don't think we have been inappropriate in the process. We held our hearings last year. We are going to offer wide latitude in the offering of amendments here. The whole mood is one that is upbeat and looking forward to spirited debate.

Having said that, I didn't know if my very civil colleague from Wyoming wanted to comment. I just wanted to have those particular facts on the record.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, I still suggest on bills that we are going to do, if they go through the committee process, the committee markup process, we have a better idea of the intensity from each of the members on the committee. We have a better idea of alternate solutions or sometimes just alternate wording: a comma, a word here or there. Change sometimes makes a tremendous difference. That is not possible to do from the floor of the Senate.

The publicity isn't very good from the committee. Those issues that we passed nearly unanimously every time have not risen to much of a level of publicity, but they have gotten the job done. That is what I am suggesting we ought to do on bills this year. I am worried about the way this came up so early and, without that process, what we are facing for the rest of the year.

Will we just short-circuit committees? I also believe committees were very important, and I have enjoyed working on this committee. It used to be the most contentious, and now it is the most productive. I want to keep it that way. The way to keep it that way is to make sure things go through committee so committee members are not left out.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to join in the discussion about this important legislation and to thank the dean of our women Senate delegation, the Senator from Maryland, for her steadfast support of this legislation and continuing to make sure that people are aware of the urgency of passing this legislation. I also thank my colleague, Senator MURRAY, also on the HELP Committee, who has been working on this legislation, along with Senator CLINTON who was an original sponsor.

Last year I had the opportunity to attend a rally where I met these three young Americans: Gussie, Sofia, and Leo. I thought their story was compelling because they made their own signs and talked about how they will work for justice. Their plan to talk about discrimination and the difference in pay equity on this particular day was to walk around the street corners begging for 23 cents. They were doing that to show that this was the difference between what women get paid and what men get paid for doing the exact same job. This young generation of Americans wants to grow up in a world where they know there is going to be equal pay for equal work.

I would like to tell them that the Senate has acted on this legislation and moved forward. Unfortunately, the Supreme Court didn't share that view. I took delight in our hometown newspaper actually saying the Supreme Court kicked female workers in the teeth with their 2007 ruling and that what was important was restoring average Americans' right to justice as a good place to start undoing the damage that has already been done.

This issue is so important to women because the legacy of this injustice means not just on average we make 77 cents for every dollar our male counterpart can make in a job, but we stand to lose up to \$250,000 in income over our lifetime because of this injustice. Those are real dollars.

At a time of great economic uncertainty, when every penny counts, it is more important that we close the gap between what women and men earn in the workplace.

Last year we saw more jobs lost than in any other year since World War II, and the unemployment rate has climbed to 7.2 percent. In contrast to previous recessions, we are seeing early signs that women are being especially hard hit because of the economic downturn. So we want to make sure, that as unemployment numbers rapidly rise, those women who are still in the workforce are going to get the same pay as their male counterparts.

In 2007, women's median wage fell by 3 percent. But during that same time period, the average decline for men was only about .5 percent. So we can see that our economy and how women are being impacted is impacting individual families. So I am here to urge my colleagues to support the Lilly Ledbetter Fair Pay Act—a piece of legislation that will help us close this gap of injustice and help these young people understand they are going to grow up in a society where there is faith and justice and fairness.

As my colleague from Washington said, this bill is about gender discrimination, but it also extends to claims of pay discrimination based on race, national origin, religion, disability, and age. That is why I think it should be a top priority for us, and I am sure it is a top priority for many civil rights groups across our country.

But this bill, as my colleagues have already discussed, will allow workers to file pay discrimination claims as long as the discrimination continues. A worker's ability to challenge unequal pay should continue as long as the discrimination is there. So it is their most recent discriminatory paycheck that will be the trigger for allowing them to file a case.

Now, I ask my colleagues on the other side of the aisle who have not supported this legislation in the past to now come to the aid of helping this legislation get to the President's desk.

A few years ago, we had a similar case with the Supreme Court dealing with identity theft. The Supreme Court had interpreted a case to say that the statute of limitation for a consumer harmed by identity theft to file a lawsuit to recover from financial harm is 24 months from when it first occurred rather than when the consumer discovered it. Many of us came and made the case, through the legislative process, that sometimes you do not know when your identity has been stolen, and the consequence of that is sometimes by the time the statute of limitations had run out, you did not have a chance to bring your case.

Well, we did something about that. We passed the Fair and Accurate Credit Transactions Act that helped create a framework that said that at the time of discovery of the act of your identity being stolen was the time the statute of limitations started to run—very similar to what we are trying to do here. In fact, it was in response to a Supreme Court case in which the U.S. Congress said: We do not like the Su-

preme Court's decision. It might be based on the law, but let's change the law and make sure there is justice for those who have had their identity stolen. That legislation passed 95 to 2.

It is a similar principle here. We are saying some individuals do not know that discrimination has happened. We want to change the law to say that the most recent paycheck that established discrimination gives you the ability to bring up the case.

So I would ask my colleagues, if you were willing to support the previous legislation, the same kind of scenario dealing with identity theft, why are you not willing to give the same kind of justice to women who are trying to get equal pay for the equal work that they are doing?

I hope my colleagues will take the opportunity, now that the Supreme Court has put this ball in our court, to create a fair and equitable process and pass this legislation as soon as possible.

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

Ms. MIKULSKI. Mr. President, we would now like to turn to another strong advocate for ending discrimination, someone who has completed her first 2 years in the Senate and is part of that zone of civility to get the job done. We would like to hear from Senator KLOBUCHAR.

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

Ms. KLOBUCHAR. Thank you very much, Mr. President.

I thank the Senator from Maryland for her great leadership and her tenacity with this bill from the very beginning. She is wearing red for a reason: That is the color to get this done. I will always remember this bill by Senator MIKULSKI taking to the floor the last time we came so close to passing it, when she said to the women of America: Suit up, square your shoulders, put your lipstick on. We are ready for a revolution.

I also enjoyed hearing the comments from my colleague from Washington. I thought the analogy to the identity theft case was on point, where sometimes people have a wrong done to them—whether it is discrimination or whether it is identity theft—and it is literally impossible for them to know what happened until sometimes years later. That is what happened to Lilly Ledbetter.

I am proud to join Senator MIKULSKI and my fellow women Senators and fellow Democrats and others who are here today to call for the Senate to take up and pass the Lilly Ledbetter Fair Pay Restoration Act.

The timing of the vote on this legislation, which is tomorrow, could not be more appropriate. We all know our Nation is in the midst of a financial and economic crisis of historic proportions, with Americans facing record job losses and the largest loss of wealth since the Great Depression.

We know working families and women are bearing the brunt of this crisis. Since 2000—these figures are actually before we had, literally, this meltdown in the last few months—but since 2000—even without those figures—the average family income in America has gone down \$1,175 per year when adjusted for inflation. At the same time, the average family's expenses have gone up \$4,500 per year.

This includes higher mortgage payments, higher phone costs, higher gas prices, higher heating costs, and higher health insurance costs. So the bottom line is the average middle-class family has suffered a net annual income loss of something like \$5,500 a year, and that is not even including all the losses to the 401(k) funds and the pension funds, all the losses because of the expenses of childcare, and everything that has been going on in the last few months.

These are not just statistics. I saw this when I was home over December. I saw it in the eyes of a woman at a cafe near Litchfield, MN, who called me over to her table and said she was taking a break at her job being a waitress and she was now doing three jobs. She had just had her hours cut back at the third job, and that was the extra money she was going to use to buy her grandkids Christmas presents.

We have received letters in our office, such as the one we received from parents who said they would put their three daughters to bed and then just go sit at the kitchen table and put their heads in their hands and think: How are we going to make it? There is the woman who wrote to us and said she had received a small amount of inheritance from her father, and she planned to use it for her daughter's wedding, but she was now using it to pay for her own retirement because her 401(k) and her retirement funds had decreased so dramatically.

These are stories of women, real women, in Minnesota. No one has felt the impact of this economic downturn—the loss in income and the rising costs—more than the working women in America. It is often said that things have changed a lot for women in this country, and they have. It was not too long ago that we did not have the right to vote. It was not too long ago that my colleague from Maryland, Senator MIKULSKI, was the only woman in this Chamber. Now we have 17 of us. And it was not too long ago that I was kicked out of public fourth grade for wearing bellbottom pants to school by Mrs. Quady. I went home and changed and returned without missing much of my classes—a true story.

It is a sad reality that—88 years after the 19th amendment gave women equal voting power, and 45 years after the passage of the Equal Pay Act—it still takes women 16 months to earn what men can earn in 12 months.

When I travel around my State and talk to the women in my State, I find these women are not simply looking

for a handout or preferential treatment. All they are asking for is a fair and equal chance to make a fair and decent living. That is why it is so important the Senate take up the Lilly Ledbetter Fair Pay Act on the Senate floor this week.

This important legislation will reverse a 2007 Supreme Court ruling—Ledbetter v. Goodyear—that significantly limited the rights of individuals to sue for gender-based discrimination. The facts that gave rise to Lilly Ledbetter's case have been told, but I think they should be told again. She was a hard worker. People can picture her right now. I have met her many times. She is a delightful person. She worked at Goodyear Tire as a manager for 20 years.

When she started, all the employees at the manager level started at the same pay. She knew she was getting the same pay as the men doing the same job. But early in her tenure as manager, the company went to a "merit-based" pay system.

Payment records were kept confidential, as they are in many companies, and Lilly did not think to ask what her male colleagues were making. She was happy to be a manager. She did not think to look at her pay raise and to ask if the men in the department were getting the same pay the day the paychecks came out. I do not think many people think about running around and asking their colleagues if they are getting the same amount of money for the same work.

As the years passed by, the pay differential between what she made and what the male managers were making just kept getting bigger. It was only after getting an anonymous note from a coworker telling her she was not paid as much as the male managers that she finally realized what was happening. Soon after getting that note, she filed a legal complaint. But that was many years after the discrimination began.

At trial, Lilly Ledbetter was easily able to prove discrimination. She could show what she did, she could show what the men did, and she could show the difference in pay. In fact, the jury found that sex discrimination accounted for a pay differential of as great as 25 percent between Lilly and her male counterparts. You can think about how that adds up over 20 years of working.

However, Goodyear appealed the jury's ruling, and the Supreme Court, in a 5-to-4 decision, decided that Lilly filed her case too late. Essentially, they ruled she would have had to have filed within 180 days of Goodyear making its first discriminatory act.

Now, you ask, how would she have known this unless she was nosey and going around trying to look at people's paychecks? But this, as absurd as it sounds, is what the Court said.

Although the Court's decision completely ignores the realities of the workplace—that employee records are confidential and there is no reasonable

way to know when discrimination starts—we now have an opportunity to bring the realities to light.

We should pass the Lilly Ledbetter Fair Pay Act and allow a claim to be filed as long as the paychecks reflecting discrimination continue to be issued. In doing so, we will restore the original intent of the Civil Rights Act and the Equal Pay Act.

Women cannot be expected to challenge practices they do not know are happening. By passing this law, women will be able to take those 4 months back, those extra months it takes them to catch up with their male counterparts.

This legislation is critical in the fight for equality for women in the workplace, but there is still a long way to go.

I am honored to be the first woman elected to the Senate from the State of Minnesota. Today, I am humbled to work with my women colleagues in the Senate in this effort to advance equality for women across the country.

Last week, we welcomed two new women to the Senate, and I see one of them in the Chamber—my colleague from New Hampshire, Senator SHAHEEN—bringing our current total to 17, although our dear friend and champion on these issues, Senator CLINTON, will soon be leaving us.

Passing the Lilly Ledbetter Fair Pay Act would be a fitting sendoff to Senator CLINTON who has dedicated her life to working toward equality for women. It would also be a fitting tribute to Senator MIKULSKI in her cry to square up your shoulders, suit up, put your lipstick on, and get this bill passed. And it would be a great tribute to Senator KENNEDY. If he were on the Senate floor with us at this moment, I know he, too, would be saying: Get this done, pass this legislation—in his booming voice.

So I implore my colleagues—for Senator CLINTON, for Senator KENNEDY, for Senator MIKULSKI, but, most importantly, for the working women of America—that we pass the Lilly Ledbetter Fair Pay Act.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, we also want to be able to call upon one of our newest colleagues, Senator JEANNE SHAHEEN, from the State of New Hampshire. Though new to the Senate, she is certainly not new to the issue. She has been a strong advocate for fairness and justice and an advocate for ending discrimination her whole life and her whole career. She recently, of course, was Governor of New Hampshire, and now brings all that wealth of experience, know-how, and commitment to the Senate. This is not her first speech. It is her second speech. We are eagerly awaiting her words on this issue.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I wish to thank Senator MIKULSKI for those very nice words.

I am proud to join Senator MIKULSKI and so many of the women in this body in support of the Lilly Ledbetter Fair Pay Act of 2009. Early in the 1980s, I served on New Hampshire's Commission on the Status of Women. At that time, I chaired a committee that investigated and then reported on the status of women's employment in New Hampshire. At that time, women made 59 cents for every dollar a man earned. That report, which I was proud to co-author, pointed out that, ultimately, pay disparity affects not just women, it affects their families and it affects the entire ability of working families to earn a good living. Over the course of a woman's lifetime, that pay discrimination is estimated to cost women between \$700,000 and \$1 million.

As has been pointed out by the women who have spoken on this bill today, we have made some progress. Today, women make 77 cents for every dollar a man earns, but the conclusions our report made about the impact of this pay disparity for women are even truer today than they were in 1981, at the time of the report.

As Senator KLOBUCHAR and Senator MIKULSKI have so eloquently pointed out, the inability of women to be treated with pay equity in the workplace has a huge impact today, as families are facing this recession and are looking at how to be able to make ends meet. I think the Lilly Ledbetter Fair Pay Act is a very important step toward addressing the inequality that not just women but working families face in our country.

I wish to congratulate Senator MIKULSKI. As has been pointed out, she was the first woman elected to this body in her own right. We have made significant progress, much of it as a result of her leadership. I am delighted to be able to join as a cosponsor of this bill and look forward to voting with the majority of the Senate for final passage of this act.

I yield the floor.

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

Ms. MIKULSKI. I thank the Senator very much. We look forward to her hard work and advocacy for people who have been left out, pushed out, redlined and sidelined.

This concludes for today the number of women who wished to speak on this legislation. Senator BOXER is chairing a hearing, and I could go through others. I believe Senator CLINTON just finished her confirmation. No, just kidding, but it seems like that. So we are going to conclude this part of it. We will be on the floor tomorrow, when we have a vote on cloture on the motion to proceed, at which time we hope to be able to do that, so we can actually get down to the business next week of debating the amendments, as has been promised, and moving to final passage next week. We will be doing that after the inauguration of Barack Obama. I look forward to further discussion on this bill.

I yield the floor and note the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. 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.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent to speak as in morning business.

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

NAVY RECORD OF DECISION

Mr. NELSON of Florida. Mr. President, the U.S. Navy just released today, at 1:30 p.m., a record of decision which follows a 2½ year analysis and final environmental impact statement of 13 alternatives for homeporting additional ships at the naval station in Mayport, FL, which is at the mouth of the St. Johns River near Jacksonville. The Navy's decision will establish a homeport for a nuclear-powered aircraft carrier which disperses the fleet instead of it all being in one place in Norfolk, VA, a fleet of five nuclear aircraft carriers, the most recent of which was just commissioned last weekend—the one that was named after the 41st President of the United States—and those five assigned to the Atlantic fleet. It will disperse that fleet by having a homeport for a nuclear aircraft carrier, which will reduce the risk to the Atlantic fleet of carriers from a natural or a manmade disaster.

I wish to give a direct quote from the Assistant Secretary of the Navy for Installations from his press release today:

Neither the [Navy], nor the nation, nor its citizens can wait for a catastrophic event to occur before recognizing . . . its responsibility to develop a hedge against such an event.

A catastrophic event.

The decision is a continuation of what the Secretary of the Navy has said is the principle of strategic dispersal. According to the Secretary of the Navy, "Strategic dispersal of our fleet is both a protective measure and a passive deterrence measure, and it is one important factor in [the Navy's] homeporting decisions and [its] maintenance of transient piers."

Going back to 2005, the Chief of Naval Operations, ADM Vernon Clark, asserted that "over-centralization of the [carrier] port structure is not a good strategic move . . . the Navy should have two carrier-capable homeports on each coast.

The fact is, there is only one carrier-capable port on the east coast. There are three nuclear carrier-capable ports on the west coast. This wasn't the case before. Before, when we had nuclear carriers and conventional carriers in the Atlantic fleet back in the mid-eighties, there were four carriers in Norfolk, in this photograph from 1985,

and there were two aircraft carriers stationed in Florida at Mayport Naval Station. That was the case all the way up to 1987. There were still two-carrier ports all the way up to last year when the *John F. Kennedy*, a conventionally powered aircraft carrier, was decommissioned and mothballed. And now with five carriers, there is only one port.

The Navy has been wrestling with this problem, and they have come to the conclusion in the final administrative process of the record of decision announced this afternoon that in the interest of national security, they need these two-carrier ports, which we have always had up until last year.

If the naval station in Norfolk were to become disabled, the Atlantic fleet carriers would be either stuck in port and prevented from getting to their area of operations or they would be prevented from reaching a port of maintenance. And mind you, the naval station in Norfolk, VA, is 8 miles up the river in a single-land channel that could easily be stopped up.

Back in 2007, in our Defense authorization bill, we reaffirmed Admiral Clark's judgment that he had made 2 years previously in 2005. We reaffirmed that judgment that the Navy's fleet should disperse its Atlantic coast carriers in two homeports, just as it has always been.

The considered judgment and decisions of our military leaders make sense because there are numerous risks that face our Nation's capital ships. Those risks are compounded when you put all your eggs in one basket, on one place on the east coast. Remember, on the west coast, the Pacific coast, we have not two but three nuclear homeports and, indeed, you can put in an additional two ports in the Pacific Theater.

We simply must not delay in implementing this decision. The Secretary of Defense, Robert Gates, has come to the same strategic conclusion when he reminds us—and this is from his letter of a few weeks ago:

Having a single [nuclear carrier] homeport has not been considered acceptable on the west coast and should not be considered acceptable on the east coast.

It is clear that the strategic necessity is to have two homeports for our five capital ships, our five nuclear aircraft carriers.

The lessons of December 7, 1941, are a reminder of the danger to our national security if we do not disperse our capital ships. Remember what happened on that day: eight battleships were in port in the surprise attack on Pearl Harbor. It was just lucky that the three aircraft carriers were out. Two of them were sailing out to the west to islands, such as Wake, to deliver marine aircraft, and the third one was 5 hours out of Honolulu doing training exercises. Because there were eight battleships all bunched together, the four-star Navy admiral was fired. He was stripped of two of his four stars, and he

was forced to retire. That is a lesson in Navy history that still stands. Clearly, that has been part of the lesson that has led the CNO, the Secretary of the Navy, and the Secretary of Defense to come to this decision which they announced several weeks ago and which has been officially reiterated today in the record of decision by the U.S. Navy.

Some people are going to say: They won't bunch up the ships. Why did they bunch up five aircraft carriers in Norfolk in 1997? Count them—one, two, three, four, five in 1997. The U.S. Navy did not learn the lesson of Pearl Harbor then.

And you say: That was 11 years ago. What about 2001? One, two, three, four, five. Oh, by the way, you see this is the main bridge, this is the special channel, and the commercial channel comes right by all these ships: one, two, three, four, five, all docked together.

That was 2001. You say that was 7 years ago. We have information that in 2003 the same thing happened again. I just don't have a photograph of it, but I will.

Where are the lessons of Pearl Harbor and the firing and stripping of two stars of four-star Admiral Kimmel because of the attack on Pearl Harbor? Where are those lessons being learned by the U.S. Navy?

I submit to the Senate that is a main part of the reason the U.S. Navy has today announced the official record of decision that it will disperse the Atlantic fleet of nuclear carriers by having one of those in the port of Mayport, which was the second port until last year.

This was studied for 2½ years. There were 13 alternatives to the risk that exists. The Secretary of the Navy made the decision, with the advice of the Chief of Naval Operations, and accepted by the Secretary of Defense.

It is my hope that parochial politics does not get in the way. There is going to have to be an appropriation of some \$500 million in military construction that will make Mayport station nuclear capable. Of course, that is a lot of money, but for the national security of protecting the fleet of our main ships, that is a cost we are going to have to bear. It is this Senator's hope that we will get the Senate and the House of Representatives to understand the good common sense of this strategic defense policy when it comes around to the Defense authorization bill and the Defense appropriations bill.

Mr. MARTINEZ. Mr. President, I am pleased to know the Navy has finalized its decision to make Naval Station Mayport a homeport for a nuclear carrier a key element in furthering the Navy's longstanding strategy of strategic dispersal.

Strategic dispersal has guided our Navy in protecting our fleet for more than 150 years. Creating greater flexibility and additional safeguards for these capital ships is necessary in ensuring continuity in our Navy's efforts to tactically position our naval assets.

Currently, the Pacific fleet has three nuclear carrier homeports and maintenance facilities at San Diego, Pearl Harbor, and Bremerton; while the Atlantic Fleet has only one at Norfolk. As you might imagine, this not only places a tremendous burden on Norfolk, but it also creates a tremendous liability.

Last year, all five of the East Coast's nuclear aircraft carriers were in port simultaneously for 35 days. Two or more carriers were in port or undergoing routine maintenance in the sole east coast facility 81 percent of the time.

If, Heaven forbid, tragedy should strike or Norfolk were to become inoperative, the impact on the Atlantic fleet's ability to meet our national security needs would decrease immensely.

Sixty-seven years ago, more than 2,400 brave men and women in uniform were tragically killed while another 1,200 were wounded in the Japanese attack at Pearl Harbor. The attack taught our Nation an important lesson: assets and resources should not be concentrated in one place.

Mayport has been the home to conventional aircraft carriers for more than 50 years and is proud to be playing a role as the Navy continues transitioning to an all-nuclear powered fleet.

The Navy's decision to make Mayport nuclear-ready has been given careful consideration. The former Chief of Naval Operations, ADM Vernon Clark, told the Armed Services Committee in February 2005 that in his view, "over-centralization of the [carrier] port structure is not a good strategic move . . . the Navy should have two carrier-capable homeports on each coast." Admiral Clark went on to say, ". . . it is my belief that it would be a serious strategic mistake to have all of those key assets of our Navy tied up in one port."

In another Armed Services Committee hearing, I had the opportunity to ask the Chairman of the Joint Chiefs of Staffs ADM Mike Mullen his thoughts on the viability of Mayport as a nuclear-ready port. In response, Admiral Mullen said, "I also consider the King's Bay, Mayport, Jacksonville hub a vital part of our both strategic interests—strategic interests and key for not just capability but for our people for the future. . . ."

In addition to the Navy, the decision is preferred by the Department of Defense, Department of Commerce, the National Marine Fisheries Service, and the Environmental Protection Agency.

In November, the Navy released an Environmental Impact Study identifying why expanding Mayport is critical to our Navy's future. In the report, the Navy expressed concern over Norfolk's current physical capacity, which is at its peak. In order to ensure capacity for future ships, the report recommended utilizing the space available at Mayport.

Another concern is the risk posed by hurricanes. In the Navy's report, it was determined that, historically, the hurricane risk at Norfolk is statistically identical to Jacksonville. Given the statistical similarities between these two ports and reality of hurricanes to any city on the east coast, having the flexibility of a second nuclear-ready homeport on the Eastern Seaboard is essential in mitigating the risk these storms pose to our naval assets.

The report also addressed the impact an expansion at Mayport would have on the local habitat. The report found that an expansion at Mayport would not pose a risk to the marine mammals or the local essential fish habitat.

Perhaps most importantly, the report determined that expanding Mayport serves our national security interests. The report's findings indicated, "the most compelling strategic rationale to homeport a nuclear carrier in Mayport is as a hedge against a catastrophic event at Norfolk."

So I want to commend the Navy's leadership for making this important decision—a decision they admit is long overdue. I also want to recognize Navy Secretary Donald Winter and Chief of Naval Operations, ADM Gary Roughead for working tirelessly toward making a nuclear-ready Mayport a reality. The decision is a tremendous step forward for our Navy and a critical component to our future national security efforts.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, are we on the Ledbetter Fair Pay Act or is this morning business?

The PRESIDING OFFICER. We are postcloture on S. 22, the lands bill.

FAIR PAY ACT

Mrs. HUTCHISON. Mr. President, tomorrow, it is my understanding we will be—or sometime in the next period of a day or so, I think—we will be on the Ledbetter Fair Pay Act. A number of my colleagues have spoken on the floor today about it, and I wish to talk about that bill because I want there to be a full record before we go forward to vote on a cloture motion on that act.

I am a woman who has experienced gender discrimination. I have experienced it firsthand. I know how hard it can be to deal with for a woman, or any person who has been discriminated against for any reason in the workplace. I am pleased we are going to address this issue. I think it is very important that we have all of the considerations around this bill as we go forward so that we do not have unintended consequences.

I have been a small business owner. I know the importance of clarity, of knowing if you have made a mistake or a potential mistake, or if you are accused of making a mistake and the liability that might go along with that. I think it is important that we recognize this is not just a woman's issue, it is an issue for every person, whether it is age discrimination or some other kind of discrimination that might be used against a person in the workplace.

We want to have fair pay in our country. That is something I think all of us can agree is very important for America, but this bill should be fully vetted. One of the problems I have with it is the process. We have not ever gone to committee with this bill. In our committees, as they have functioned in the past, we have been able to have numerous amendments, we have been able to hear from all sides of an issue, and generally, in committees, when a bill is coming out, there has been much work done on it and it is a much better bill before it hits the floor. I think everyone with any experience in this body can see the difference between a bill that has not gone through committee, not had the proper input, not had the hearings, not had the debate in the markup, versus a bill we try to write on the floor with 100 people who may or may not know all of the businesses or women or ethnic groups that might have a say that is important to hear on an issue such as this.

We had a cloture vote on this bill last Congress, and in the intervening months we could have had a committee hearing, we could have had witnesses come forward on both sides, but we didn't. Senator ENZI has made a very strong point—because he is the ranking member on the relevant committee—that their committee has acted in a very bipartisan way, when he was chairman or when he has been ranking member. There has been cooperation. This could be a bill that would get 100 votes in this body. But that is not the bill that is going to come before us.

I have introduced a substitute—I introduced it last year and I have introduced it again this year—with cosponsors ENZI, VOINOVICH, ALEXANDER, CORNYN, BURR, and MURKOWSKI, because we want a responsible approach to address employment discrimination. I hope we will be able to have amendments on this bill. I am told the majority leader has agreed that we will, and our Republican leader has said he wants to work with the majority leader to assure that we do have some reasonable number of amendments that might make this a better bill that we could all support and know that it will make fairness in the workplace better.

The bill that will be before us is a bill that I think has not been fully explained. The supporters say the legislation will restore the state of employment discrimination law to the place where it rested before the Supreme Court's decision in *Ledbetter*. In fact, it was said on the floor here earlier that we should overturn the Supreme Court ruling. This statement has largely gone unchallenged, but in truth this bill does more than what the supporters are suggesting. The practical effect is to eliminate any meaningful statute of limitations on the validity of claims, meaning that employees could sue on alleged discrimination that occurred years ago, even decades ago.

The bill accomplishes this by treating every paycheck as a new trigger to

start a new filing period. The result of this would basically do two things: One is if a discriminatory act occurs, the employer would be liable for that action indefinitely. They could be sued for it any time as long as the employee continues to receive the paychecks. It wouldn't matter that the passage of a significant amount of time, perhaps decades, could make it virtually impossible for the business to expect this legal expense and prepare for it and impossible to offer a defense or to learn what happened. In *Lilly Ledbetter's* own case so much time had passed between the actual act of discrimination that was alleged and the filing of the claim that the supervisor who was accused of the past discrimination was deceased. There was no one there who could have testified that there had been some motivation or no motivation. There was no ability because the person had long since left the company and was deceased.

In addition, I think for fairness to all sides, there has to be a time in which a claim is brought or lapses. In almost every area of the law—I cannot remember that there is any other area—claims become invalid after a period of time. That provides certainty. That is essential to our justice system. Witnesses have to be available with a reasonable amount of recordkeeping or records or some way to ask questions of a person who is accused of some wrongdoing. I think it is so important that in our justice system we have the ability for a fair trial—for the person who is claiming a discrimination and the person who is defending against that discrimination to have the right to make a case. That is what our justice system has protected through statutes of limitations or having a time period in which you must make a claim or that right lapses.

Another problem with the bill is the addition of three words, which sound kind of innocuous, I guess. According to the bill, it is not only the person who is discriminated against who has the right for a claim, but a third party who claims to be affected by that discrimination. With such broad language, you are opening the field to innumerable lawsuits. Wouldn't it be irrational to have a law in which an heir of a deceased person could potentially have the ability to file a suit, saying that, as a third party, they are affected by a discrimination?

I think we are going down a very treacherous road here. I think if we had a committee hearing and the ability to go to markup, this could be a good bill, because I definitely want to make sure that we have fair pay for all of the people in our country. I have heard from many small and mid-sized businesses around the country, saying they are not opposed to giving workers a fair shake, but they oppose this bill because they are concerned about the catastrophic increase in legal costs resulting from an undisciplined system that allows liability to continue indefinitely.

The explosion of litigation from allegations possibly many years old could be an enormous strain on a small or mid-sized business, and could actually result in reduced employment. Certainly at this particular time, when we know we should be creating jobs in America, we should not be creating more burdens on the businesses that are providing jobs.

The bill I have introduced goes beyond simply providing additional time for workers to file claims. It would have the consequence of allowing a person to file if they knew or should have known of the act of discrimination, and they would have the 180 days to do that. It would make it a uniform codified law that everyone in America would be treated the same. Some districts in America do say that you have a burden to show you didn't know if there was a discrimination and that is why you are bringing the case beyond the 180 days. But if you knew or should have known, then you can say, I couldn't possibly have known, and the judge can make the determination if your claim is reasonable. That is what we would codify, that an employee would have the opportunity to say they were not aware, nor could they have been aware, that there was a discrimination.

Now, if you are fired or demoted, that is clearly a triggering action in which you should know that there might be discrimination. If you believe you have been unjustly demoted or fired, as an employee, you are then on notice that a discriminatory act has been taken against you. Then it is a harder case for the employee to say they needed more than 180 days. But the area where we want them to conserve the employee's ability to file a lawsuit is in pay discrimination, because often it is difficult for the employee to know that maybe they were not getting what their coworker was getting. So I think my bill, which I hope to be able to offer as a substitute amendment, would be a fair way to say to the employee, if they feel they have been discriminated against because of their gender or their age, they will have the ability to come forward and say, it is within the 6 months that I have learned of my discrimination. Or here is why I couldn't know of that discrimination, and either way, they would have the ability to have that decided by the judge or the EEOC.

I think that is a reasonable approach so that the business will know what their range of liability potentially is, which every small or mid-sized business needs to know. We want to make sure there is a fairness for the defense and fairness for the plaintiff in these cases. We want to make sure we have a reasonable standard, and I think my bill provides that. It provides more leeway and a standard which everyone would know is the same across our country.

I think the underlying bill is flawed in that it gives third parties who are

not the person who is discriminated against a right of action. I think that opens the door much too wide and offers the potential for abuse if the person who actually had the discrimination might not have wanted to bring a case or felt discriminated against—but to give a third party the right to sue and claim they are affected I think is going way beyond our concept of discrimination. Second, I do think it is very important that we have a standard here that is the standard throughout our justice system and that is you need to bring a case in a timely way, for the rights of everyone—for defendants as well as the memories of people who would want to be making the case that there is a discriminatory act.

I want fair pay. I want to eliminate discrimination in our workplace. I want people to have the right to sue. I want there to be a reasonable time in which they can do this, and I think that is what the bill that I hope to be able to offer as a substitute will do. Mine is the Title VII Fairness Act, which has been introduced with cosponsors. I think if we can write this bill in a way that can bring fairness to all sides. It would not overburden businesses with undefendable lawsuits and would give more leeway to the people who have discovered that they were discriminated against and need more time to bring a case, that, in fact, would be the best result for our country.

I appreciate this opportunity to speak. I certainly will have the opportunity to speak, I hope, again when I am able to offer my amendment. I hope the Senate will function going into the future, where we have committee hearings, committee markups on bills so we can have the maximum input to go forward and have good legislation and not legislation that has unintended consequences that would hurt the workplace and the rights of people in our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. I thank the Chair.

(The remarks of Mrs. SHAHEEN pertaining to the introduction of S. 239 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. SHAHEEN. 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. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.

Mr. INHOFE. Madam President, I ask unanimous consent to speak as in morning business for such time as I may consume.

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

ECONOMIC BAILOUT

Mr. INHOFE. Madam President, I have been pretty outspoken in the last several weeks on the \$700 billion bailout. I still believe historians will look back someday and say it was the most outrageous vote ever taken. It is the largest single expenditure in the history of the country.

To make matters worse, it was giving an unelected bureaucrat total power, usurping our powers, to make all decisions over the \$700 billion with no oversight whatsoever. It had never been done before. It was unprecedented in American history. Nobody seems to care. It is mind-boggling to me to know that it happened, and now it looks as though we will be voting in the other body as well as here on a motion that would be hostile to the whole idea, but it will not pass. The money is going to be there anyway. The reason is, if the legislation that will be coming before the House and the Senate is passed, it still can be vetoed by the President, and it would be vetoed by the President. So all of a sudden he is going to have the second half of the \$700 billion, the \$350 billion laid at his doorstep to do with as he wishes.

I wouldn't want that for a Republican President or a Democratic President, for any President. It is not the way we are supposed to function. I believe it is a fait accompli. I don't see any way a resolution of disapproval is going to be effective, because I think it is going to pass the House and very likely could pass here. I am inclined to think it will not. Whatever the case is, it will become a reality.

That is bad for many reasons. It establishes a precedent. People look at large numbers, and it is difficult for the American people and for me to appreciate how much money is \$700 billion. What I normally do when we deal with large numbers is, I take the total number of families in America who file tax returns and do the math. This turns out to be \$5,000 a family. When I say it in those terms, which I have done quite a bit on talk radio as a wake-up call to the American people, then people do understand.

I have been a little critical of my own President, President Bush, because he has let this happen. This wasn't a Democratic idea or a Republican idea. It was the President's idea, in concert with the Democrats, making this happen. This vote took place on October 10. Ever since October 10, I have had legislation I have tried to get through saying that it is not going to be automatic. Accessing the second \$350 billion should not be automatic, and we had legislation to keep it from being so until 2 nights ago when President Bush agreed to a wish list by our new President when he comes into power. It is going to happen. Again, this is unprecedented in American history. It has never happened before.

I have been critical of the Secretary of the Treasury, Mr. Paulson, for telling us what he was going to do with the

money and then turning around and not doing it. He did not tell us the truth. It is disingenuous. Nonetheless, it is something that looks as though it will be happening and it looks as though it will happen this week.

In defense of President Bush, if we take the total amount of deficits of the 8 years of his presidency from his own budget, add them up and divide by 8, it averages \$247 billion a year. Compare that with what we are faced with right now with the new administration which has said it is going to be somewhere between \$1.2 and \$1.8 trillion. I think people will look at this and say that the Bush legacy is not going to be one of deficits, because it is nothing compared to the deficits we are projecting for the coming year, as proposed by the incoming President.

The reason I mention that is because I have somewhat accused President Bush of looking for a legacy. It occurs to me that George W. Bush has a legacy that may be unlike any other President in history. I call this the invisible legacy of President George W. Bush. I will explain in detail how I have come to this conclusion.

President Bush inherited a weaker America militarily. All of a sudden, after he came in, 9/11 occurred. So let's go back in history. When George W. Bush was inaugurated in 2001, he was already behind the power curve when it came to the war on terror. As the 9/11 Commission confirmed, the United States was not on a wartime footing with al-Qaida, even though they were at war with us. While our country took its peace dividend, our enemies continued to train, plot, and test. It was a peace dividend, a euphoric attitude that the Cold War is over, and we don't need a military anymore. That is what we were living with at the time.

International terrorism took the forefront as bin Laden began his war against freedom and specifically against the United States. Afghanistan was used as a training ground for terrorists, and the Taliban regime allowed al-Qaida unfettered mobility. They took advantage of this in major attacks.

Look at what happened back in the 1990s. This was a predicate leading to 9/11, the worst tragedy in the history of America. On February 26, 1993, a car bomb was planted in an underground parking garage below the World Trade Center. This was the first World Trade Center attack. On June 25, 1996, the Khobar Towers were bombed by Hezbollah, with intelligence pointing to support by al-Qaida. That was 1996. We knew al-Qaida was on the run at that time. We knew of their abilities, the increasing sophistication in their terrorist attacks. On August 7, 1998, we recall what happened in Tanzania and Kenya and Nairobi and Dar es Salaam. Our embassies were bombed. Links were at that time established with al-Qaida. In October 2000, suicide bombers used a boat to attack the USS *Cole* while it was moored in Yemen. It was

one we all remember well, and we remember how it happened. We know the terrorist links that took place at that time. The response of the United States was at best inconsistent.

Operation Infinite Reach included cruise missile strikes against Afghanistan and Sudan, but there was no real change. This inadequate response has been cited as a factor in emboldening al-Qaida's will to undertake more ambitious plans. That was simply kind of small. They had bigger plans. We know that now.

In Operation Restore Hope, we became entangled in Somalia. We remember that very well, with the naked bodies being dragged through the streets of Mogadishu, and America finally woke up, but we did not do anything. We kind of let it happen. We directed our forces to stop all actions against Adid except for those required for self-defense. Well, that is not a very good message, not a consistent message with our behavior in the past. So we withdrew from the country shortly thereafter.

We also failed to remain vigilant of the Chinese.

Security at our national labs was deliberately destroyed. We did away with—and this happened actually in the first few weeks of the Clinton-Gore administration. They went through the energy labs and they stopped the wire-tapping, they stopped the background checks they were conducting at the time. They stopped color-coded badges saying it was demeaning to have a color of a badge that was on a lower scale than somebody else's. So that is what happened. Of course, we know the results of that.

In 1995, we discovered that China had stolen our W-88 warhead plans. That was the crown jewel of our nuclear program, capable of attaching 10 nuclear missiles to a single warhead. But they had it. They got it. They got it because of a lack of security that was the policy of that administration at the time, and I was critical at that time.

I remember Bernard Schwartz of Loral Space and Communications. They were given a green light to improve the precision and reliability of China's satellites and nuclear missiles. To refresh our memories—I remember it very well—it required the President to sign a waiver, a special waiver, so the Chinese missile program would have greater accuracy. That happened during the 1990s.

China also gained the capability of accurately reaching the continental United States with missiles and targeted between 13 and 18 United States cities. I was critical of President Clinton for claiming, at that time—he said: Not one missile is pointed at American children, when in fact missiles were pointed at American children. That was happening during the 1990s.

Simultaneously, weapons of mass destruction proliferation throughout the world reached an unprecedented level. The Chinese Government learned that

it could rely on our acquiescence. They transferred prohibited weapons technology to North Korea, Pakistan, Iran, Iraq, Syria, and other countries, threatened to absorb Taiwan, and intimidated our regional treaty allies, South Korea and Japan.

The vast Soviet Union nuclear stockpile became fair game for entrepreneurs, with over 40 kilograms of Russian-origin uranium and plutonium being seized since 1991.

Then remember Abdul Qadeer Khan, the father of Pakistan's nuclear program, who began an international network of clandestine nuclear proliferation to Libya, Iran, and North Korea. North Korea withdrew from the Nuclear Non-Proliferation Treaty on March 12, 1993, and refused to allow inspectors access to its nuclear sites. And Libya further continued weapons of mass destruction research as a priority.

Now, despite the increase in terrorist activities around the world and the growing signs of a direct threat to this country, we essentially broke our intelligence community through the lack of funding, an inadequate number of linguists, and no interagency cooperation.

I have to say this. My predecessor to this job was former Senator David Boren. David Boren's young son DAN is a very talented young man now serving in the House of Representatives. I was in the House and came to the Senate in 1994. I took his seat.

He at that time was chairman of the Intelligence Committee of the Senate, and he made the statement to me—he called me up, and he said: INHOFE, I want you to try to do something I failed to do during the time I was chairman of the Intelligence Committee in the Senate. He said: We have all these agencies—the FBI, the NSA, all the defense intelligence agencies—and none of them talks to each other. Then I found out later on that was so true. He said: You have to get this done. That has to be a high priority. I told him it would be. We were not able to do anything until George W. Bush came in.

If this was not enough, with the demise of the Soviet Union, our military was essentially neutered to counter a "perceived" diminished world threat. I remember so well this euphoric attitude that everybody had: The Cold War is over. We don't need a military anymore.

The Clinton-Gore administration cut the defense budget by 40 percent, reducing it to its lowest percentage of the GNP since prior to World War II. As a result, President Bush inherited a force half the size of the military in 1990.

Now, as our forces decreased in size and capability, deployments and deployment times increased. We have all seen the results. We now have 15-month deployments. They used to be 9-month deployments. We have these because he inherited this military that was undersized for the threat we are facing.

I have a chart in the Chamber I will show as documentation of this fact. During the Clinton years—and I do not say this to denigrate the administration; I am saying we have to understand how we got in the position we are in today and that we have been in since 9/11. If you take the black line on the chart—this is during the Clinton administration—if he had taken the military budget as it was at that time and had the increase for inflation, it would have been this black line going up, shown on the chart. Instead, the red line shows what his budget request was. If you take the difference between the red line and the black line, that is \$412 billion reduced from when he took office.

That is how we got into this position. We downgraded our military, and a lot of people believed the threat was not there anymore because the Cold War was over, not looking at the new asymmetric threats, which are much greater.

I sometimes look back wistfully at the Cold War. Things were predictable back then. We knew what the Soviets were going to do—the Soviets, not the Russians—and we knew what their capabilities were. These were known things, known behavioral patterns. It was totally different than what we have today.

So the programs, the modernization efforts, and the equipment replacement costs were literally kicked down the road and left waiting in the wings. This happened to our modernization program. It happened in many areas. This has been very demoralizing to most of us who believe we have to keep America's national defense strong.

We saw countries coming up with better systems than we have. We have, for example, the artillery piece, the best one we have today now that we are modernizing. But we did not have that at that time. We had one called the Paladin. That was World War II technology. You have to get out and swab the breach after every shot.

There were five countries at that time, including South Africa, that made a better piece than we had, and we are still using this today. It was not until a very courageous general, GEN John Jumper, came up and admitted, in 1998, that the best strike vehicles we had—the F-15 and the F-16—were not as good as some of the SU series being developed in Russia and actually were being sold to the Chinese—we know of one sale where they bought 240 SU-30 type of vehicles—again, better than anything we had.

So, again, that is where we were before George W. Bush was elected.

Now enter President George W. Bush. Starting with his first budget submission after inauguration, he proposed increases in defense spending and focused his Pentagon team on reform. He started with recognizing and revitalizing the military for the post-Cold War world it now faced. He provided the military with the funding required

to develop force structure and modernize its aging force. So he was getting in there and starting to do something about the modernization program.

Then, of course, 9/11 happened. Well, 9/11, we all know about that. We know what a tragedy it was, with the most significant attack in America in our history. It came at a time when we had a downsized military, downsized by about 40 percent. So he was saddled with trying to respond to this situation, and he did.

He asked Congress for new authorities and began to implement sweeping changes in our national security policy. In this new policy he declared a war on terror. This is what he said—I want to read the quote from back at that time:

We will direct every resource at our command—every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war—to the disruption and to the defeat of the global terror network.

That is what he said at that time. Then he outlined the country's strategy. He said:

First, we're determined to prevent the attacks of terrorist networks before they occur. . . .

Unlike it was on 9/11.

Second, we're determined to deny weapons of mass destruction to outlaw regimes and to their terrorist allies who would use them.

Third, we're determined to deny radical groups the support and sanctuary of outlaw regimes. . . .

Fourth, we're determined to deny militants control of any nation.

And he did. He asked Congress for the PATRIOT Act—listen to the things he did—the PATRIOT Act to break down walls between Government agencies. That is getting back to what David Boren observed many years ago back in 1994 that had to be done.

In October of 2001, he initiated Operation Enduring Freedom to dismantle the Taliban regime in Afghanistan, which is harboring al-Qaida. Bombing runs and Tomahawk missile strikes were launched.

In October of 2001, President Bush established the Office of Homeland Security. This was a coordinating effort that corrects the problem that was called to my attention in 1994, so everything would be coordinated and everyone would know what everyone is supposed to be doing.

The 9/11 Commission was formed and he began implementing its recommendations, including intelligence reform, which included establishing the Director of National Intelligence. There you have it. That is the key. One Director over all intelligence: military intelligence, domestic intelligence—and it worked.

On March of 2003, President Bush launched Operation Iraqi Freedom, preemptive attacks against Saddam Hussein, a gathering threat to the United States, who was reportedly developing

ties with our enemies and who openly praised the 9/11 attacks.

I remember that very well because in the first gulf war—which we should have gone ahead and taken care of Saddam Hussein at that time; we did not do it, and there are some reasons it could not be done—I happened to be privileged to be with nine other people on the first freedom flight that went into Kuwait after the war was over. Now, it was so close to the time the first Persian Gulf war was over that there was still burning off the fields, and there were a lot of them. The Iraqis did not know the war was over, the ones who were in there.

I remember so well one of the parties who was going over was the Ambassador from Kuwait to the United States and his daughter. I think she was around 7 years old. What they wanted to do was go back and see what was left in Kuwait of their mansion on the Persian Gulf. We got back there, and I remember going back to see their mansion, only to find out Saddam Hussein had used this for one of his headquarters. They took the little girl up to her bedroom—she wanted to see her little animals and all that—to find out it had been used as a torture chamber, with body parts stuck to the walls around there. This is what we were looking at at that time.

Well, President Bush established the National Counterterrorism Center to assist in analyzing and integrating foreign and domestic intelligence acquired from all U.S. Government Departments and agencies—so, again, putting this all together.

He established the Domestic Nuclear Detection Office, in the Department of Homeland Security, to provide a single Federal organization to develop and deploy a nuclear detection system to thwart the importation of illegal nuclear or radiological materials.

In order to consolidate terrorist watch lists and provide around-the-clock operational support for Federal and other governmental law enforcement personnel across the country and around the world, President Bush created the Terrorist Screening Center to ensure that Government investigators, screeners, and agents are working with the same unified, comprehensive set of information about terrorists.

He transformed the FBI to focus on preventing terrorism.

He strengthened the Transportation Security Administration through screening and prevention. He improved border screening.

All of these things he did in a very short period of time that had to be done and had never been done before.

He expanded shipping security through container security initiatives. He developed Project Bioshield to increase preparedness against chemical, biological, and radiological, or nuclear attack, potential attack against this country. Finally, he aggressively cracked down on terrorist financing with many international partners.

Over 400 individuals and entities have been designated pursuant to Executive order, resulting in nearly \$150 million in frozen assets and millions more blocked in transit or seized at the borders.

President Bush also rallied international support to fight terrorism with a coalition of more than 90 countries. We didn't do this alone. He brought in neighboring countries, other countries with the same problems that we had, and the same exposure. This coalition of nations has actively worked to synchronize diplomatic intelligence, law enforcement, economic and financial and military power to attack terrorism globally. One man did this. This is George W. Bush.

The result of all of these efforts is what I refer to as the Bush invisible legacy. Now, why is this an invisible legacy? I am going to show my colleagues things that were out there that could very well have happened to the United States of America—and some would have happened—but since they didn't happen, that legacy is invisible because they never happened. That, to me, is going to go down as one of the great legacies of any President in the history of the United States.

There has not been another attack on this country since 9/11, and do not think this was due to a lack of effort on the part of terrorists. In fact, there have been many attempts. I am going to give my colleagues a partial list of the attacks that were stopped as a result of all of these policies and programs I just outlined that our President—current President George W. Bush—was responsible for.

First, December of 2001: This is the first post-9/11 plot that was thwarted. It was the capture of an al-Qaida operative named Ali Salih Mari in the United States who was targeting water reservoirs and the New York Stock Exchange at that time. Also, he was targeting—he had his programs outlined in documents that we found through all of these efforts to attack our various military academies. He offered himself as a martyr to Khalid Sheikh Mohammad. Of course, we know he was the mastermind of 9/11. Anyway, all of this was planned, but I believe Bush policies stopped the attacks.

I have to say at this point that I have served on the Intelligence Committee. I served for a number of years—ever since 1994—on the Senate Armed Services Committee. So I have been involved in these issues. We know this had a lot to do with stopping some of these potential attacks.

Remember Jose Padilla. He is the guy who had the dirty bomb plot, an American citizen accused of seeking radioactive-laced dirty bombs to use in attacks against America. Again, this was a Bush program that brought him down.

The 2002 aviation plots: An al-Qaida leader in Southeast Asia known as Humbali recruited several other

operatives of Asian origin. The plot was derailed in early 2002 with international cooperation. The Library Tower is the tallest building west of the Mississippi. It was among the 25 tallest buildings in the world. There was a written program about how to bring this building down, and our policies—the Bush policies, primarily—stopped that from taking place.

In September of 2002, Lackawanna Six: We all remember that. The FBI thwarted the locally recruited terrorist cell, the Lackawanna Six, by the capturing of Juma all-Dosari in Afghanistan and a subsequent interrogation while in prison in Guantanamo Bay. By the way, I disagree with the current attitude toward what is going to happen at Guantanamo Bay. I have had occasion to be there, probably more than any other Member. I can remember so well early on, those who were in prison, incarcerated in Guantanamo Bay actually had better treatment, better living quarters, and better health attention than our own troops did at that time. I think it is going to be imperative that whoever wants to close that down ask: Where are all of these people going to go?

Six American citizens of Yemeni origin were convicted of supporting al-Qaida after attending a Jihadist camp in Pakistan. Five of the six were from Lackawanna, NY. The six were arrested and convicted. They are out now. They performed terrorist attacks. They were very specific. They are gone. I think the new Bush programs at that time were primarily responsible for that.

In May of 2003, we had the Brooklyn Bridge plot: An American citizen was charged with plotting to use blow torches to collapse the Brooklyn Bridge. After being introduced to al-Qaida operatives, New York and Federal authorities intercepted a plan to collapse the Brooklyn Bridge by cutting suspension cables, as well as potentially derailing a train en route to Washington, DC. Iyman Faris was arrested, brought to justice, and was successfully stopped.

In June of 2003 in Virginia, a Jihad network that was taking place, 11 men from Alexandria, VA—just south of here—trained for Jihad against American soldiers and were convicted of violating the Neutrality Act, a conspiracy. Eleven Muslim men were charged in the U.S. district court in Alexandria with training with and fighting with a group that was associated with al-Qaida. Several members of the group were found to have trained for future attacks by using paint ball facilities in the Northern Virginia area. It was stopped. The Bush policies were primarily responsible for giving us the resources to stop attacks such as those I am outlining.

In 2004, August of 2004, the financial centers plot: This was the Indian-born leader of a terror cell who plotted the bombing on the financial centers. His name was Barot. He plotted a “memo-

orable black day of terror” via a dirty bomb that targeted financial institutions in New York, Washington, DC, and in Newark. Barot was arrested at his home in Pakistan with the cooperation of others, but again, these were the Bush policies and resources that we used to make this happen.

In August of 2004—the same month—a Penn Station plot: This was James Elshafay and two accomplices who sought to plant a bomb at New York’s Penn Station near Madison Square Garden during the Republican National Convention. The New York City Police Department’s intelligence division helped to conduct an investigation leading to their arrest, again, using the policies that President Bush had put in place.

The same month, the Pakistani diplomat assassination plot: We all remember that. Two leaders of an Albany, NY, mosque, Yassin and Mohammed Hossain, were charged with plotting to purchase a shoulder-fired grenade launcher to assassinate a Pakistani diplomat. An investigation took place by the FBI, and all of these other agencies coordinating under the single leadership of the new system put in place, they stopped it. With the help of an informant, the perpetrators of that plot have been brought to justice. Again, that was stopped.

August of 2005, Orange County, CA, a terror plot: Seven people were involved and were arrested in Los Angeles and charged with conspiracy to attack Los Angeles National Guard facilities and synagogues, several synagogues. The plan was there; it is in writing. We know it was going to happen. Kevin James allegedly founded a radical Islamic prison group and converted Levar Washington and others to the group which was known as the JIS. After Washington and Patterson were arrested for robberies, police and Federal agents began a terrorist investigation where the search of Washington’s apartment revealed a suspicious target list.

We had a list of targets in Orange County that were going to be brought down. Again, these policies weren’t available to us before the Bush administration, and we were able to stop that.

December of 2005, the gas lines plot: Michael Reynolds was arrested by the FBI in December of 2005 and charged with being involved in a plot to blow up a Wyoming natural gas refinery, the Transcontinental Pipeline. That is a national gas pipeline that goes from the gulf coast to the east coast and into New Jersey. I believe it is owned by the New Jersey Standard Oil refinery. Reynolds was convicted for providing materials for supporting terrorists and soliciting a crime of violence. Again, we used the new resources that were available because of our President, George W. Bush.

In April of 2006, the U.S. Capitol and World Bank plot: Syed Haris Ahmed and another one whose name is

Ehsanul Islam Sadequee from Atlanta, GA, were accused of conspiracy, having discussed terrorist targets with alleged terrorist organizations. They met with Islam extremists and received training and instruction on how to gather videotape surveillance of potential targets in the Washington area. Their targets happened to be the U.S. Capitol—right here where we are standing today—and the World Bank headquarters. They were the targets and, again, we were able to intercept this and to bring them to justice under these new policies that were put in place by our current President.

We had Narseal Batiste, and he had six others who were involved in a Sears Tower plot. They were arrested in Miami and in Atlanta in June of 2006 for being in the early stages of a plot to blow up the Sears Tower in Chicago as well as FBI offices and several other buildings. Arrests resulted from an investigation involving an FBI informant and all of the rest of them working together with the new resources they had, and they were brought to justice. Again, this was the new system we had in place.

July of 2006, New York City, the train tunnel plot: It is frightening to think this could have happened. There were eight suspects, including Assem Hammoud, an al-Qaida loyalist living in Lebanon. They were arrested for plotting to bomb the New York City train tunnels. He was a self-proclaimed operative for al-Qaida. He admitted that he was with al-Qaida when we brought him to justice, and he admitted to the plot. He is currently in custody in Lebanon and his case is pending. Two other suspects are in custody in other locations. The bottom line is it didn’t happen. It was precluded from happening as a result of the new resources that were put in place and the coordination of all of our intelligence committees.

In March of 2007, a skyscraper plot: This was Khalid Sheikh Mohammed. He was the mastermind of 9/11 and the author of numerous other plots confessed in court. People think of him as only 9/11. He also had plans in writing to destroy skyscrapers in New York, Los Angeles, and Chicago, as well as a plot of an assassination of Bill Clinton and Pope John Paul II. Again, that was stopped.

In May of 2007, the Fort Dix plot: This was another one. I will not go into detail, but this was one where the Fort Dix six were thought to be leaderless. We found that they were a homegrown cell of immigrants from Jordan, Turkey, and Yugoslavia and they had ties to al-Qaida. They were stopped, the plot was stopped, and they were brought to justice. I believe this was due to the new programs that were put together by the Bush administration.

June of 2007, the JFK plot: Suspects planned to hit fuel farms and a 40-mile aviation field supply pipeline. Specifically, they targeted the symbolism of JFK, seeking to invoke an emotional

reaction, saying it is like killing the man twice. We all know and remember that, and we were able to stop it.

I think the bottom line has been that there hasn't been another successful attack on this country since 9/11. It didn't just happen. What this administration has accomplished in the last 5 years is phenomenal. In the aftermath of 9/11, he brought us together as a nation, prevented our enemies from striking again, and captured many who would have tried. President Bush woke the Nation so we could begin to deal aggressively with the threats that were facing us.

Because of President Bush, we no longer treat terrorists like common criminals but as enemy combatants. We no longer turn a blind eye to nuclear proliferation by negotiating without the real threat of military action. We fully funded a readiness-challenged, cold-war-equipped, and organized military that had suffered from a decade of no modernization. We have removed threatening regimes in Iraq and Afghanistan, freeing 50 million people. We have weakened the al-Qaida network and its affiliates. We have disrupted terrorist plots and built a coalition of more than 90 nations to fight terrorism. We have transformed our approach to combating terrorism after the 9/11 attacks.

So we ask the question: Would all of these terrorist attacks have been successful? Obviously, no, but I honestly believe—it is my judgment from having the background of years of serving on the Armed Services Committee and the Intelligence Committee, that some of these—to me, it is not conceivable that none of these would have occurred. I believe this invisible legacy—keep in mind, it is an invisible legacy of George W. Bush because they didn't happen. If they didn't happen, they are invisible, but nonetheless they were stopped.

The bottom line is this: The New York Stock Exchange was not bombed, the military academies were not bombed, the Brooklyn Bridge was not bombed, New York and DC financial centers were not bombed, Penn Station was not bombed, Los Angeles synagogues were not bombed, and New Jersey Standard Oil refineries were not bombed.

The transcontinental pipeline was not bombed. The World Bank was not bombed. The Chicago Sears Tower was not bombed. New York City train tunnels were not bombed. JFK Airport was not bombed. And our Nation's Capitol Building was not bombed. Clearly, the Bush invisible legacy may go down in history as perhaps the greatest legacy in history. I know people don't want to give credit where credit is due. This is something that took almost all of his energies at a time when otherwise something could very well have happened. It is my honest judgment that had it not been for his changes in our intelligence process, that one or more of these terrorist attacks would have

been successful. I believe that in my heart, I think history will treat that as the case. Clearly, the Bush invisible legacy may go down as the greatest legacy in history.

I ask unanimous consent to have printed in the RECORD an Oklahoman editorial dated January 13, 2009, and a Heritage Foundation Backgrounder No. 2085.

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

[From the Oklahoman, Jan. 13, 2009]

HISTORY WILL CREDIT BUSH WITH KEEPING COUNTRY SAFE

George W. Bush surely is right when he insists the fairest histories of his presidency will be written years from now—contrasting with the quick assessments and snapshot rankings that are being done even before he hands the Oval Office keys to Barack Obama.

The president asserted that and more in his last official news conference Monday, parrying with reporters over the accomplishments, mistakes and disappointments of eight years in the White House.

The Bush years have been difficult, which he acknowledged. Bush is a war president, and thus has been challenged to make momentous decisions that involve sacrifice, trial and loss.

In Bush's case, a war against the forces of terror that lacked the usual metrics—territory to be gained, discernible armies to be defeated—made it difficult for Americans to see progress, much less victory. This very much tints contemporary views of the 43rd president.

It will take years to create perspective and permit credible historic assessment of Bush's response to 9/11 and his forward-leaning strategy against terrorists and their allies, exemplified in the decision to topple Saddam Hussein's regime in Iraq.

If democracy or something like it thrives in Iraq, creating a democratic bulwark in the Middle East, Bush ultimately will be awarded praise. If free government fails and Iraq descends into ethnic chaos—or worse, becomes a new base for terrorists—then the expenditures in blood and treasure under Bush no doubt will be seen as a waste, to his historic detriment. Same for Afghanistan.

Economically, the Bush years were mixed. His stewardship is marked by the recession he inherited and the one he bequeaths to Obama. While there were 52 months of uninterrupted job growth in between, Bush likely is to be remembered for failing to control government spending and not more forcefully monitoring various institutions and certain sectors of the economy that collapsed last year, triggering the current downturn.

Even so, our early assessment of President Bush invariably returns to his performance as commander in chief. Bottom line: Since 9/11, the United States hasn't suffered another terrorist attack.

That alone is remarkable. While critics would attribute that to blind luck, we think history will credit Bush for strengthening U.S. intelligence-gathering capabilities and for refusing to run away from Iraq when conditions there were most grave.

Instead of delegating American security to allies or international organizations, he accepted the obligation knowing it probably would consume his presidency.

Certainly, President Bush made mistakes, and he conceded a few Monday. But in the supreme test of his watch he was steadfast, and the country is safe for it—which most likely will be history's focus.

[From the Heritage Foundation
Backgrounder No. 2085, Nov. 13, 2007]
THWARTED TERROR PLOTS AGAINST THE U.S.
SINCE SEPTEMBER 11, 2001

Sept. 11, 2001. Nineteen terrorists hijack four commercial jetliners and aim them at targets in New York and Washington, DC. Two airplanes strike the twin towers at the World Trade Center and one strikes the Pentagon. Passengers in the fourth airplane fight back, and the plane crashes in rural Pennsylvania. More than 3,000 people die in the attacks.

Dec. 2001. Richard Reid. Attempts to blow up an airplane heading to Miami from Paris using explosives hidden in his shoes.

May 2002. Jose Padilla. Charged with conspiring with Islamic terrorist groups, planning to set off a "dirty bomb" in the U.S.

Sept. 2002. Lackawanna Six. Six men from the Buffalo, NY, area are arrested and charged with conspiring with terrorist groups.

May 2003. Lyman Faris. A naturalized U.S. citizen from Columbus, Ohio, Faris is charged with plotting to collapse the Brooklyn Bridge using blowtorches.

June 2003. Virginia "jihad" Network. Eleven men from Alexandria, VA, are charged with conspiracy to support terrorists.

Aug. 2004. Dihren Barot. Members of a terrorist cell led by Barot are accused of plotting to attack financial institutions in the United States and at other sites in England.

Aug. 2004. James Elshafay and Shahawar Matin Siraj. Charged with plotting to bomb a subway station near Madison Square Garden in New York.

Aug. 2004. Yassin Aref and Mohammed Hossain. Albany, NY, mosque leaders are charged with plotting to purchase a grenade launcher to assassinate a Pakistani diplomat in New York.

June 2005. Umer Hayat and Hamid Hayat. California father-son team is charged with supporting terrorism.

Aug. 2005. Kevin James et al. Four men in Los Angeles are accused of conspiring to attack National Guard facilities in Los Angeles and other targets in the area.

Dec. 2005. Michael C. Reynolds. Arrested and charged with planning to blow up refineries in Wyoming and New Jersey and a natural-gas pipeline.

Feb. 2006. Mohammed Zaki Amawi et al. Three men from Toledo, Ohio, are arrested and charged with providing material support to terrorist organizations.

April 2006. Syed Haris Ahmed and Ehsanul Islam Sadequee. Atlanta natives are accused of conspiring with terrorist organizations to attack targets in Washington, DC.

June 2006. Narsearl Batiste et al. Seven men are arrested in Miami and Atlanta and charged with plotting to blow up the Sears Tower in Chicago.

July 2006. Assem Hammoud. Arrested and charged with plotting to bomb train tunnels in New York City.

Aug. 2006. Liquid Explosives Plot. British authorities stop a plot to load 10 commercial airliners with liquid explosives and attack sites in New York, Washington, DC, and California. Fifteen men have been charged.

March 2007. Khalid Sheikh Mohammed. Senior operative for Osama bin Laden, already in custody, confesses to planning Sept. 11 attacks; he said he had also planned attacks in Los Angeles, Chicago, New York, and other sites.

May 2007. Fort Dix Plot. Six men are arrested and charged with plotting to attack soldiers at Fort Dix, NJ.

June 2007. JFK Airport Plot. Four men charged with plotting to blow up jet fuel in residential neighborhoods near John F. Kennedy International Airport in New York City.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 248 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

THE BUSH PRESIDENCY

Mr. HATCH. Mr. President, I rise to offer some thoughts and observations about the Presidency of George W. Bush as his time in office comes to a close. This is truly a time to thank God for our country, for our system of government, and for our liberty—unparalleled in the history of the world.

President Bush served at a time of great challenge and even crisis for our country and I wish to focus on him both as a President and a person.

When America's Founders gathered in Philadelphia in 1787, it is said someone asked Benjamin Franklin, the Constitutional Convention's oldest delegate, what form of government was under construction. He famously answered: A republic, if you can keep it. James Madison defined a republic as a government which derives its powers from the people, a principle enshrined in the Declaration of Independence.

One way we work to keep our Republic is by the people choosing those who will govern them. In his farewell address in 1837, President Andrew Jackson said:

But you must remember, my fellow citizens, that eternal vigilance by the people is the price of liberty, and that you must pay the price if you wish to secure the blessing.

Elections and transitions of power are part of that vigilance; part of keeping our Republic in order that we might, in the words of the Constitution's preamble, secure the blessings of liberty to ourselves and our posterity. Every transition goes from something to something and is an occasion to look at what is concluded as well as what is beginning. With the inauguration of President-elect Obama around the corner and the flurry of confirmation activity in the Senate regarding his nominees and the intense focus on economic and other challenges, much of our attention is rightfully focused on the future. But we look to the future from a present shaped by the past. Only by understanding where we have been can we have the ability, perspec-

tive, and confidence to act today and plan for tomorrow.

Although a Presidency has a beginning and an end, it is simply part of the flow of events. Presidents inherit situations they did not create and create situations that they then leave to their successors. They may get credit for successes they did not produce and escape blame for failures that do not materialize until after they leave office. That is the nature of political life in America. While we focus on the individual—the President—I think it is more appropriate to speak of an administration—the Presidency.

There are hundreds and hundreds of people who serve at the pleasure of the President to develop and implement his agenda. All this makes very difficult even describing, let alone evaluating, something as multifaceted as the Bush Presidency. Some of President Bush's critics almost reflexively look at opinion polls, noting his approval rating has sunk. I do not have to tell anyone serving in public office about the allure as well as the danger of this particular reflex. Polls are snapshots, they are not motion pictures. The pollster is the photographer. He chooses the subject, the lighting, and the angle. He frames the shot and determines how the final picture turns out.

The Bush Presidency was book-ended by national crises—the terrorist attacks of September 11, 2001, and the financial crisis before us today. Not surprisingly, as the Washington Post pointed out a few days ago, President Bush enjoyed the highest approval rating in late 2001 and nearly the lowest in late 2008 in the history of the Post's reporting. Once again, that is the nature of political life in America and comes with the Presidential territory.

While President Bush's approval rating has many ups and downs, one thing has remained absolutely constant: His approval rating has been consistently higher than ours in the Congress. The Web site pollingreport.com shows that dozens of national polls in the last couple years have given Congress an approval rating in the tens, down to a measly 12 percent, while President Bush has never had one that low. We in the Congress have the advantage of getting lost in the crowd when we want to, blaming such dismal public sentiment on the institution, while insisting that as individual Members we are certainly much more popular. The President never has that luxury.

The polls do not ask whether Americans approve of his administration but whether they approve of him. President Bush knows it is tough to lead if you follow the polls. As he said in an interview last month, he did not compromise his soul to be a popular guy. George W. Bush is not leaving the Presidency with chapped fingers from holding them up to the political wind. His critics spin that as stubbornness, saying he wants to go it alone. I fully expect many of those same Bush critics

will praise the next President for the very same thing.

One man's principle, I suppose, is another man's inflexibility.

But as President Bush said at Texas A&M University, popularity is fleeting but character and conscience are sturdy.

The only test that matters, he said, is going home at night, looking in the mirror and being satisfied that you have done what is right.

Politics, of course, is about disagreement and competing ideas, priorities, and policies. Conservative leader and thinker Paul Weyrich, who passed away last month, has written about what he called constructive polarization.

That is the idea that clearly defined, and clearly different, choices and alternatives can be constructive for the electoral and political process.

Disagreement and competition help us to focus and refine ideas, to work harder at finding the best solution.

But I regret to say that there is often today more effort at enraging than engaging, and that along with disagreement has come disrespect.

Too often an opponent is treated not simply as wrong but as rotten, and that is when the distinction between an office and the individual who holds it breaks down and political objectives take precedence over institutional principles.

I have seen that destructive trend over the last 8 years and I hope, for the sake of the next president and for our country, it does not continue.

I join President Bush who has said that the tone in Washington got worse rather than better during his presidency and I urge my colleagues, and all others who participate in so many ways in our political process, to do some real soul-searching about this.

In addition to looking at the polls, it is easy when looking back at a presidency to look no further than the most recent events.

The financial and economic situation has deteriorated so fast in the last several months, and the difficulties have spread so quickly and loom so large, that it is difficult to see anything that came before.

The truth is, however, that we experienced a record economic expansion before that downturn occurred, 52 months of uninterrupted job creation.

Another mistake in evaluating a Presidency is a simple one.

We act as if we know everything that can be known, that the jury could possibly have already come back with the verdict.

The jury is still out, and will remain there for a long time, which is why we more properly talk about history judging a President.

As President Bush put it in one interview, folks are still writing books analyzing President George Washington.

President George Bush is not going to worry about it.

President Harry Truman's own party discouraged him from running for re-

election and he left office with an approval rating even lower than President Bush will, yet today is mentioned among the twentieth century's best presidents, and one of my personal favorite Presidents of all time.

The facts of what President Bush has done, not to mention their effects, will not be fully understood or even known by most Americans for many years to come.

In evaluating a Presidency, we should also look not only at individual programs or neatly numerical accomplishments but also at the challenges that cannot be reduced to charts, graphs, or bullet points.

President Bush certainly came into office with goals to achieve, problems to solve, and situations to handle.

He had offered concrete proposals and made campaign promises.

There is a long list of bills he signed, programs he initiated, appointments he made, and other concrete achievements that can be measured and listed.

I will mention some of those in a minute.

But the President-elect has already shown us how quickly those promises get tossed on the cutting-room floor.

The Washington Post just reported that, before Mr. Obama has even taken the oath of office, his proposal for a tax credit for job creation, which he had touted on the campaign trail, has been dumped from the economic stimulus package now under construction.

But in addition to specific programs or proposals, President Bush has worked hard to get us to think differently, to shift paradigms, to re-order our understanding of America, the world, and our relationship to it.

That is more qualitative than quantitative, and perhaps it is harder to measure with numbers or notches on a board somewhere, but it is as much a part of leadership and vigilance that is necessary to keep this Republic as anything else.

We are in the eighth year since the terrorist attacks of September 11, 2001.

What a way for a President to begin his first term.

The world changed, and American changed with it.

Previous generations saw the struggle against global communism define much of what America did and how we did it.

Today, it is the struggle against global terrorism.

It may have begun in earnest with President Bush in office, but it will continue long afterward.

And so national security has defined the Bush Presidency.

Not simply the subject of national security, but the reality of national security. From retooling the Department of Justice and FBI, creating the Department of Homeland Security, revamping the intelligence community, to engaging dozens of other nations, and liberating millions in the Middle East, President Bush took bold steps to confront this new international menace.

In short, he led.

President Bush has sought to lead us to think differently about war and terrorism, and to understand both that terrorism is a global threat and that freedom is terrorism's worst enemy.

He has said throughout his Presidency that freedom comes from God and is a universal human right.

Freedom is better than tyranny, liberty is better than oppression.

I am so grateful that President Bush refused to accept this moral-equivalency nonsense that one way of life is just as good or bad as the next.

Not only does that view make no sense on its face, but with it no one would ever see liberation from disease, hunger, slavery, or deprivation.

That is a philosophical perspective, to be sure, and perhaps it is difficult to communicate in the 21st century, perhaps it does not lend itself to a text message or a posting on Facebook.

But where you start determines the road on which you travel and where you eventually arrive, both for individuals and nations.

President Bush told the American Enterprise Institute last month that a President's job is not only to tackle problems but to look over the horizon.

That is real leadership.

Let me move to some of those concrete accomplishments.

Though some may wish to forget it, I remember when so many dismissed President Bush's strategy in Iraq that we have come to call "the surge."

Once again, he was thinking outside the box, changing the way we think about dealing with challenges and problems.

The surge was more than simply sending more troops to Iraq, but implemented a comprehensive counterinsurgency strategy.

It provided for one of the most dramatic comebacks in the history of modern warfare.

In less than 2 years, what some had said was a hopeless situation saw an 80 percent reduction in violence.

Cities and provinces whose names were literal synonyms for violence—Ramadi, Fallujah, Baghdad, and others—are now largely free of al-Qaida's operatives.

And let me say at this point that President Bush has reaffirmed our sacred commitment to our veterans.

His administration has more than doubled funding for veterans' medical care, cutting the time to process disability claims almost in half and reducing homelessness among veterans by 40 percent.

It is, of course, much easier, much more natural, to think about what has happened rather than what has not happened.

This is true for many reasons, not the least of which is that we often simply do not know what has not happened. But think about this. We do know that America has not been attacked since September 11, 2001. That is 88 months.

I know that no one listening to me speak is foolish enough to think this is because the terrorists, the terrorist networks, the terrorist movement at work today have simply lost interest.

No one is foolish enough to think the terrorists have just moved on to other things.

No, they want more than ever to attack and destroy this country, if only because their first attack failed to bring us down.

It has not happened in more than 7 years.

President Bush's leadership has helped prevent another attack.

His leadership in creating an international coalition, in working with other individual nations, in transforming and redirecting intelligence and law enforcement agencies, has helped prevent another attack.

We have fought over these issues here in Congress, and I for one agree with President Bush that we must, for example, monitor international communication involving suspected terrorists if we are to protect ourselves.

Doing so is both necessary and constitutional, and I am glad President Bush stood firm on those principles.

President Bush has also helped protect us here at home by reducing the threat of rogue nations or groups launching a missile attack against the United States.

President Bush fielded an operational missile defense system, which will require additional investment and development.

But because of his leadership, we have already developed significant anti-ballistic missile capability both on the ground and at sea.

Also looking abroad, President Bush has led us to rethink how we approach foreign aid with a new model of assistance to other countries.

He signed millennium challenge account agreements with nearly a dozen African nations and put more emphasis on holding governments that receive our aid accountable for how they treat their people and whether they promote economic growth.

This approach actually invites competition, utilizes criteria, and requires progress, and it requires a strong link between our security objectives, accountability, and foreign-assistance funding.

Linking these together serves both American and foreign interests better and it took bold leadership to shift into this new way of approaching foreign assistance.

In his 2003 State of the Union Address, President Bush introduced the President's Emergency Plan for AIDS Relief, or PEPFAR. I happened to have been very interested in that and worked hard to get that done, too, because—along with Senator KENNEDY—we are the authors of these three anti-AIDS bills, so I take a great interest in what he has done and he is the first to have really done it.

This program focuses on both prevention and treatment of HIV/AIDS and care.

Billions of dollars have already gone to prevent the spread of HIV/AIDS and opportunistic diseases such as malaria and tuberculosis that often kill people with AIDS.

This program has prevented HIV transmission from mother to child during more than 12 million pregnancies and provided antiretroviral drugs for nearly 2 million people, up from only 50,000 receiving such drugs when the program began.

PEPFAR has helped support care for nearly 7 million children and more than 33 million counseling and testing sessions for men, women, and children.

This program launched by President Bush, which was reauthorized last year with increased funding, is the largest international health initiative in history dedicated to a single disease.

Shifting the focus to right here at home, even though the downturn of the last year has been severe, it was preceded by a record 52 months of job creation.

Productivity in his first term grew at the fastest rate in more than half a century.

Before the recent spike, the average seasonally adjusted unemployment rate during President Bush's tenure was the lowest in 60 years.

President Bush cut taxes for every American who pays taxes, doubled the child tax credit to help American families, provided marriage penalty relief, and began phasing out the estate tax.

The roots of the current financial crisis extend before President Bush took office and his warnings went unheeded.

In April 2001, just 3 months in office, he warned that financial trouble at Fannie Mae and Freddie Mac could have strong repercussions in financial markets.

In May 2002, he called for disclosure and corporate governance principles to be applied to those agencies.

In February 2003, the Bush administration warned that unexpected problems at Fannie and Freddie could immediately spread beyond the housing market.

Seven months later, the Treasury Secretary called for prudent minimum capital adequacy requirements for Fannie and Freddie.

In February 2004, President Bush called for stronger regulation of Fannie and Freddie because of their low levels of required capital, that is, subprime mortgages.

Warnings continued month after month, year after year.

The notion that the Bush administration sat by while the problem developed or, worse yet, fought increased regulation is simply a lie.

President Bush campaigned on education reform, having the courage to speak of what he called the bigotry of low expectations.

He delivered education reform with the No Child Left Behind Act, and I can tell you what a difference it has made.

One example is Dee Elementary School in Ogden, UT.

Nearly every student in that school is economically disadvantaged, more than 80 percent are minorities, more than 44 percent are learning the English language, and 10 percent are homeless.

Those are challenging demographics no matter where they are found.

At the beginning of the 2003-04 school year, only 13 percent of Dee Elementary third-graders were reading at grade level.

In just 5 years, after Dee Elementary was chosen to participate in the Reading First program, that figure quadrupled to 52 percent.

The school jumped from only the 9th percentile in fifth grade reading to the 43rd percentile.

And I am so proud to say that Dee Elementary has now met Adequate Yearly Progress standards for 3 consecutive years.

Lives are changed, hopes are kindled, and futures are brighter as a result.

Empowering teachers to help students meet higher expectations works, and that has become Federal educational policy under President Bush.

The educational achievement gap between White and minority students narrowed and both fourth and eighth graders achieved their highest reading and math scores on record.

I am hopeful that the new President's Secretary of Education will recognize and build on the reform-oriented approach of the Bush administration through supporting policies such as charter schools and school choice.

President Bush campaigned on Medicare reform, and he delivered with the Medicare Modernization Act, the most significant reform of the Medicare Program since it was created in 1965.

As a result of this law, 40 million Americans have better access to prescriptions and have choices in their health coverage.

It also provided for health savings accounts, which President Bush insisted not be limited solely to Medicare beneficiaries.

These accounts are portable and give people more choices and more ways to improve their lives.

I served on the House-Senate conference committee on this legislation and attribute its success to President Bush's leadership.

President Bush has challenged all Americans, and his own party, to change the way we address real human needs in this country.

This includes increasing the impact of nonprofit organizations, ending discrimination against faith-based groups that can provide services, and promoting volunteerism.

As a result, chronic homelessness has dropped by nearly 30 percent in just the last few years.

President Bush also advanced a culture of life.

Our Declaration of Independence recognizes that we are endowed by our Creator with an inalienable right to life.

That is a foundational principle.

In an interview a year ago, President Bush said that his belief that every human life has dignity has informed his policies and programs.

I do not understand where the compassion and commitment comes from for hundreds of programs and billions of dollars to help millions of people without believing that those people's very lives are worth protecting.

The conviction that life itself is sacred is the best foundation for liberty and prosperity, for human and civil rights.

President Bush shares that conviction and signed into law the ban on the horrific practice of partial birth abortion, which the Supreme Court has upheld.

He also signed the Born Alive Infant Protection Act and the Unborn Victims of Violence Act.

President Bush also appointed judges who know their proper place in our system of government.

Our liberty depends on limited government, and that means government limited by a written Constitution that actually means something.

The Constitution cannot limit government if government defines the Constitution. President Bush appointed judges who know that this principle applies to them. This is one of the most important, and most long-lasting, results of President Bush's leadership.

Others believe that judges not only apply the law, but make the law they apply.

Others believe that judges should decide cases based on where their personal empathy lies, based on the political interests that can be served.

Others believe that judges should take sides in a case before those sides even appear in court.

That activist, politicized view of judging will destroy our liberty and I am glad that President Bush sided with America's Founders and appointed judges who will interpret and apply the law and leave politics to the people.

President Bush charted a new course for energy security.

This is another area which the recent financial crisis can easily obscure, but President Bush's first order of business was producing a major energy plan and task force.

That plan became the Energy Policy Act of 2005.

It included a proposal I authored called the CLEAR Act, which provided incentives for hybrid and alternative fuel vehicles.

President Bush's advocacy of plug-in hybrid vehicle technology resulted in passage of the FREEDOM Act, which I drafted along with Senators Barack Obama and MARIA CANTWELL.

And President Bush called for developing our Nation's unconventional fuel resources, including oil shale and tar sand.

Only the most willful denial or ideological distortion will buy the spin from environmental extremists that

President Bush has done nothing to protect the environment or to move us away from our dependence on oil.

At the same time, knowing that our current transportation needs depend on oil, President Bush has led the way to doubling domestic oil and gas production on public lands.

I could go on about issue after issue, listing one accomplishment after another, but my remarks today are intended to be more than just a factual recitation.

Many others are writing and analyzing the Bush presidency and record from many different perspectives.

Mr. President, I ask unanimous consent to have an editorial titled "Bush's Achievements" from the January 19 issue of the *Weekly Standard* printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. HATCH. Before I close, I have to say a word about our wonderful and gracious First Lady, Laura Bush.

Her strength, dignity, and grace will leave a lasting mark on the role of First Lady.

She was a kind, steady presence, advocating for causes in her own right as the President led the Nation in his.

And in times of great tragedy, she was the voice and personification of comfort and kindness.

She confidently balanced the public and private aspects of life and family. Like her husband, Laura Bush was just what our country needed.

President Bush has been our leader, our chosen leader, for the past 8 years.

He has been a man of principle, conviction, and action.

He has had to tackle challenges, both here and abroad, that are difficult even to describe, let alone comprehend.

There have been many successes, and this has been a time of transition, adjustment, and change.

President Bush, as is his way, takes a very practical view of his contribution to America.

He says he will be remembered as someone who dealt with tough issues head on, helping our country protect itself, and who was unashamed about spreading certain fundamental values such as liberty.

At home, he says, he trusts individual Americans to make the best decisions for themselves and their families.

In his last State of the Union Address, President Bush said that our Nation will prosper, our liberty will be secure, and our union will remain strong if we trust in the ability of free people to make decisions.

Protecting America from outside enemies and strengthening America from within.

That is a legacy to be proud of, and I am so thankful for President Bush's leadership and courage and I pray for God's richest blessings for him, for First Lady Laura Bush, and their family in whatever lies ahead for them.

Let me close with a quote from President Theodore Roosevelt, whom I know President Bush admires.

President Roosevelt said this in Paris in 1910 and it expresses my sentiments about President Bush as his time in office ends.

It is not the critic who counts: not the man who points out how the strong man stumbles or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again, because there is no effort without error or shortcoming, but who knows the great enthusiasms, the great devotions, who spends himself for a worthy cause; who, at the best, knows, in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who knew neither victory nor defeat.

EXHIBIT 1

[From the *Weekly Standard*, Jan. 19, 2009]

BUSH'S ACHIEVEMENTS—TEN THINGS THE PRESIDENT GOT RIGHT.

(By Fred Barnes)

The postmortems on the presidency of George W. Bush are all wrong. The liberal line is that Bush dangerously weakened America's position in the world and rushed to the aid of the rich and powerful as income inequality worsened. That is twaddle. Conservatives—okay, not all of them—have only been a little bit kinder. They give Bush credit for the surge that saved Iraq, but not for much else.

He deserves better. His presidency was far more successful than not. And there's an aspect of his decision-making that merits special recognition: his courage. Time and time again, Bush did what other presidents, even Ronald Reagan, would not have done and for which he was vilified and abused. That—defiantly doing the right thing—is what distinguished his presidency.

Bush had ten great achievements (and maybe more) in his eight years in the White House, starting with his decision in 2001 to jettison the Kyoto global warming treaty so loved by Al Gore, the environmental lobby, elite opinion, and Europeans. The treaty was a disaster, with India and China exempted and economic decline the certain result. Everyone knew it. But only Bush said so and acted accordingly.

He stood athwart mounting global warming hysteria and yelled, "Stop!" He slowed the movement toward a policy blunder of worldwide impact, providing time for facts to catch up with the dubious claims of alarmists. Thanks in part to Bush, the supposed consensus of scientists on global warming has now collapsed. The skeptics, who point to global cooling over the past decade, are now heard loud and clear. And a rational approach to the theory of manmade global warming is possible.

Second, enhanced interrogation of terrorists. Along with use of secret prisons and wireless eavesdropping, this saved American lives. How many thousands of lives? We'll never know. But, as Charles Krauthammer said recently, "Those are precisely the elements which kept us safe and which have prevented a second attack."

Crucial intelligence was obtained from captured al Qaeda leaders, including 9/11 mastermind Khalid Sheikh Mohammed, with the help of waterboarding. Whether this tactic—it creates a drowning sensation—is torture is a matter of debate. John McCain and many Democrats say it is. Bush and Vice

President Cheney insist it isn't. In any case, it was necessary. Lincoln once made a similar point in defending his suspension of habeas corpus in direct defiance of Chief Justice Roger Taney. "Are all the laws but one to go unexecuted, and the government itself go to pieces, lest that one be violated?" Lincoln asked. Bush understood the answer in wartime had to be no.

Bush's third achievement was the rebuilding of presidential authority, badly degraded in the era of Vietnam, Watergate, and Bill Clinton. He didn't hesitate to conduct wireless surveillance of terrorists without getting a federal judge's okay. He decided on his own how to treat terrorists and where they should be imprisoned. Those were legitimate decisions for which the president, as commander in chief, should feel no need to apologize.

Defending, all the way to the Supreme Court, Cheney's refusal to disclose to Congress the names of people he'd consulted on energy policy was also enormously important. Democratic congressman Henry Waxman demanded the names, but the Court upheld Cheney, 7-2. Last week, Cheney defended his refusal, waspishly noting that Waxman "doesn't call me up and tell me who he's meeting with."

Achievement number four was Bush's unswerving support for Israel. Reagan was once deemed Israel's best friend in the White House. Now Bush can claim the title. He ostracized Yasser Arafat as an impediment to peace in the Middle East. This infuriated the anti-Israel forces in Europe, the Third World, and the United Nations, and was criticized by champions of the "peace process" here at home. Bush was right.

He was clever in his support. Bush announced that Ariel Sharon should withdraw the tanks he'd sent into the West Bank in 2002, then exerted zero pressure on Sharon to do so. And he backed the wall along Israel's eastern border without endorsing it as an official boundary, while knowing full well that it might eventually become exactly that. He was a loyal friend.

His fifth success was No Child Left Behind (NCLB), the education reform bill cosponsored by America's most prominent liberal Democratic senator Edward Kennedy. The teachers' unions, school boards, the education establishment, conservatives adamant about local control of schools—they all loathed the measure and still do. It requires two things they ardently oppose, mandatory testing and accountability.

Kennedy later turned against NCLB, saying Bush is shortchanging the program. In truth, federal education spending is at record levels. Another complaint is that it forces teachers to "teach to the test." The tests are on math and reading. They are tests worth teaching to.

Sixth, Bush declared in his second inaugural address in 2005 that American foreign policy (at least his) would henceforth focus on promoting democracy around the world. This put him squarely in the Reagan camp, but he was lambasted as unrealistic, impractical, and a tool of wily neoconservatives. The new policy gave Bush credibility in pressing for democracy in the former Soviet republics and Middle East and in zinging various dictators and kleptocrats. It will do the same for President Obama, if he's wise enough to hang onto it.

The seventh achievement is the Medicare prescription drug benefit, enacted in 2003. It's not only wildly popular; it has cost less than expected by triggering competition among drug companies. Conservatives have deep reservations about the program. But they shouldn't have been surprised. Bush advocated the drug benefit in the 2000 campaign. And if he hadn't acted, Democrats

would have, with a much less attractive result.

Then there were John Roberts and Sam Alito. In putting them on the Supreme Court and naming Roberts chief justice, Bush achieved what had eluded Richard Nixon, Reagan, and his own father. Roberts and Alito made the Court indisputably more conservative. And the good news is Roberts, 53, and Alito, 58, should be justices for decades to come.

Bush's ninth achievement has been widely ignored. He strengthened relations with east Asian democracies (Japan, South Korea, Australia) without causing a rift with China. On top of that, he forged strong ties with India. An important factor was their common enemy, Islamic jihadists. After 9/11, Bush made the most of this, and Indian leaders were receptive. His state dinner for Indian prime minister Manmohan Singh in 2006 was a lovefest.

Finally, a no-brainer: the surge. Bush prompted nearly unanimous disapproval in January 2007 when he announced he was sending more troops to Iraq and adopting a new counterinsurgency strategy. His opponents initially included the State Department, the Pentagon, most of Congress, the media, the foreign policy establishment, indeed the whole world. This makes his decision a profile in courage. Best of all, the surge worked. Iraq is now a fragile but functioning democracy.

How does Bush rank as a president? We won't know until he's judged from the perspective of two or three decades. Hindsight forced a sharp upgrading of the presidencies of Harry Truman and Dwight Eisenhower. Given his achievements, it may have the same effect for Bush.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO DON MEYER

Mr. THUNE. Mr. President, today I recognize Don Meyer, men's basketball coach at Northern State University, in Aberdeen, SD, for his 903rd career coaching victory. The historic win occurred January 10, 2009, as his NSU Wolves defeated the University of Mary by a score of 82–62. That victory placed Coach Meyer atop the NCAA men's all-time wins list, one victory ahead of legendary coach Bob Knight.

Since their arrival in 1999, Coach Meyer and his wife Carmen have been incredible assets to the Aberdeen community and Northern State University. The Meyers participate in countless civic events, displaying great community pride. As his players, assistants, coaching colleagues, participants, and fans can attest, Coach Meyer is a world-class basketball instructor. More importantly, however, he is a world-class teacher and mentor on the fundamentals of everyday life. He is able to not only mold his athletes into great basketball players, but also into outstanding young adults equipped to have positive impacts on the world around them.

Coach Meyer's courageous journey is made even more remarkable due to the fact he was involved in a near fatal automobile accident in September of 2008 on the way to an annual team retreat. Coach Meyer credits his team with saving his life, as players and assistant coaches rushed to his aid while waiting for help to arrive. Throughout his hospitalization, Coach Meyer maintained his selfless nature and admirable character by always looking for the positive and keeping his faith steadily intact. His strong spirit, optimistic attitude, and unprecedented determination remained constant even amidst the amputation of his lower left leg and the pronouncement of an unexpected cancer diagnosis. This amazing man was at his team's 5 a.m. practice immediately following his hospital dismissal, ready to use his life experiences as a tool to enrich the lives of others. Those who know him appreciate his wealth of knowledge, distinctive outlook on life and his unique sense of humor.

Coach Meyer began his college basketball career as a standout player at the University of Northern Colorado, earning NCAA All-American status. Upon graduation, he served as an assistant coach at Western State College of Colorado and the University of Utah. He landed his first head coaching position at Hamline University in St. Paul, MN, in 1972. After 3 years with Hamline, which included a 1975 trip to the NCAA Division III Elite Eight, Coach Meyer traveled to Nashville, TN, to become the head coach for Lipscomb University.

During his tenure at Lipscomb, Coach Meyer amassed 665 wins. His teams qualified for 13 national tournaments and won the 1986 NAIA National Championship. He was named NAIA Coach of Year in both 1989 and 1990. He coached 22 All-Americans and 3 National Players of the Year while in Nashville. In 1993, Coach Meyer was elected to the NAIA Hall of Fame. After 24 successful seasons, he left Lipscomb to become head coach for Northern State University in Aberdeen, SD.

Under Coach Meyer's tutelage, Northern State has reached the NCAA postseason-play four of the past five seasons. Included in this postseason run are two appearances in the North Central Region Championship game in 2006 and 2008. His NSU teams have surpassed the 20-win mark in seven consecutive seasons and captured four Northern Sun Intercollegiate Conference regular season and conference tournament championships. Currently, his Wolves squad holds a 12–2 record and is ranked 11th in the Nation in NCAA Division II.

It is my great privilege to congratulate one of the most amazing, admirable, well-respected coaches of all time, Coach Don Meyer. He is a humble man of great integrity—a true inspiration and moral icon. It has been a true pleasure to have the opportunity to

know him personally and an honor to call him my friend. On behalf of the city of Aberdeen, the State of South Dakota, and our great Nation, I am pleased to say congratulations, Coach Meyer. You have made us all incredibly proud. Your legacy will flourish throughout the lives that you have so profoundly touched. Congratulations and best wishes, Coach, and may God bless you.

LILLY LEDBETTER FAIR PAY ACT

Mrs. CLINTON. Mr. President, I am so pleased to join my fellow Senators to press for passage of the Lilly Ledbetter Fair Pay Act. In particular, I would like to salute Chairman KENNEDY, a champion of equality for decades in this body, and Senator MIKULSKI, who has been a tireless leader in the effort to achieve equal pay for equal work and who is heading the effort to pass this legislation on the floor of the Senate.

This legislation would help us deliver on the promise of equality and fairness in the workplace—not just for women but for all workers, men and women, subject to discrimination on the basis of gender, race, ethnic background, age, and disability. That is why I have supported the Lilly Ledbetter Fair Pay Act so strongly—and will continue to support it until the Senate passes it and our new President can sign it into law.

In America today, women earn only 78 cents on the dollar for doing the same jobs as men—far less if they are women of color. And we still don't value or recognize some of the hardest and most productive work done in our society: caring for children, elderly parents, and the seriously ill—work that is largely done by women.

The disparities in income, just one important example, are not only harmful to women. It is not just a mother who suffers when she is denied equal pay for equal work; her children and family suffer too. Families earn an average of \$4,000 less each year because of pay disparities. It is not just a wife who loses out when she is not valued for the hours she spends caring for a sick relative or a child in need; her husband and family lose out too.

The failure to defend the civil rights of women and men facing discrimination affects real lives. That is why this act is named for one such person—someone who didn't have a lot of money or a lot of options but believed, and still believes, that we all deserve a fair chance to defend our civil rights in the courts.

Lilly Ledbetter was one of only a few female supervisors at a Goodyear Tire plant. She endured insults from her male bosses and shifts that ran to 18 hours. She kept her head down, worked hard in a traditionally male job.

Near the end of her 20 years at the factory, she discovered she was being paid less than all of her 15 male counterparts—a lot less. The male supervisors earned 25 to 40 percent more

than she did. And so she took her case to court, and a jury of her peers concluded that she had been paid less because of her gender in violation of the law, awarding full damages. But in a 5-to-4 decision, the Supreme Court reversed the jury, overturned decades of bipartisan rules and judicial precedent, and told Lilly that she was entitled to nothing. The Court ruled that if you are discriminated in your salary, you only have 180 days to seek action even if that discrimination is ongoing—and even if you didn't know about it.

The legislation we will vote on tomorrow morning is simple: it will reverse the Supreme Court's decision in Ledbetter and take us back to the rule that prevailed for years, when women had a reasonable opportunity to sue if they were being denied equal pay. That is all this legislation does—restore us to the rule before 2007.

In fact, this legislation should just be a down payment on much-needed reform to close the wage gap. The House earlier this year passed the Paycheck Fairness Act, legislation that I introduced in the Senate to close the pay gap. The bill takes critical steps to empower women to negotiate for equal pay, to close loopholes that courts have created in the law, to create strong incentives for employers to obey the laws that are in place, and to strengthen Federal outreach and enforcement efforts.

Our pay equity laws are replete with holes and lax enforcement that has prevented them from serving as a real check on pay discrimination. As a result, there has not been enough meaningful progress to close the wage gap. We need not only the Lilly Ledbetter Fair Pay Act but also the Paycheck Fairness Act, and I urge my colleagues to take up the Paycheck Fairness Act as soon as possible.

Throughout my lifetime of public service, I have been proud to join many in the fight to change laws to ensure fairness and equality for all of our citizens. We have achieved great progress, but great progress, especially for women, remains to be made.

This is part of the unfinished business of America, unfinished business that holds back all people, weakens our prosperity, and jeopardizes our progress as a nation. Now is the time to help end pay disparity and ensure that women earn equal pay for equal work.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Omnibus Public Land Management Act of 2009.

I commend my colleagues who support this comprehensive public lands bill, and I thank Chairman BINGAMAN for his leadership. He and his staff should be congratulated for their perseverance and patience in shepherding this important bill through the legislative process.

I would like to speak first about one of the bill's provisions, which has major implications for California; and that is, the legislation to implement

the historic San Joaquin River Restoration Settlement, which I have sponsored with my colleague from California, Senator BOXER.

This measure would restore California's second longest river, while maintaining a stable water supply for the farmers who have made the San Joaquin Valley the richest agricultural area in the world.

Once enacted, this bill would bring to a close 19 years of litigation between the Natural Resources Defense Council, the Friant Water Users Authority, and the U.S. Department of the Interior. And it does so within a framework that the affected interests can accept—and have all agreed to.

The Settlement has two goals: to restore and maintain fish populations in the San Joaquin River in good condition, including a self-sustaining salmon fishery; and to avoid or reduce adverse water supply impacts to long-term Friant water contractors.

Consistent with the terms of the settlement, I expect that both of these goals will be pursued with equal diligence by the Federal agencies.

This historic agreement would not have been possible without the participation of a remarkably broad group of agencies, stakeholders, and legislators, including: the Department of the Interior; the State of California; the Friant Water Users Authority; the Natural Resources Defense Council on behalf of 13 other environmental organizations; and countless other stakeholders who came together and spent countless hours with legislators in Washington to ensure that we found a solution that the large majority of those affected could support. Without this consensus, the parties would no doubt continue the fight, resulting in a court-imposed judgment—one which would likely be worse for all parties.

I spoke at greater length about the purposes and benefits of this legislation during my statements upon introduction of the omnibus lands bill and when introducing the San Joaquin River Settlement legislation in December 2006 and January 2007 in previous Congresses.

I would like to take a moment to highlight several important changes that were made to this version of the legislation—which improved upon the initial bill, first introduced in December 2006.

First, the legislation reflects an agreement reached in November 2008 to ensure that the implementing legislation is pay-go neutral, which means that the restoration program allocates no more in direct spending than it brings in.

The agreement also protects the rights of third parties. These protections are accomplished while ensuring a timely and robust restoration of the river and without creating any new precedents for implementing the Endangered Species Act.

Similarly, there is no preemption of State law and nothing in the bill

changes any existing obligations of the United States to operate the Central Valley Project in conformity with State law.

Second, the bill incorporates amendments made by the Energy and Natural Resources Committee in May 2008 to enhance implementation of the settlement's "Water Management Goal" to reduce or avoid adverse water supply impacts to Friant Division long-term water contractors.

It also includes provisions approved by the committee that will increase the amount of upfront funding available for the settlement by allowing most Friant Division contractors to accelerate repayment of their construction cost obligation to the Treasury. In exchange for early repayment, Friant water agencies will be able to convert their 25-year water service contracts to permanent repayment contracts.

Now, I would like to speak at greater length about the legislation's substantial protections for other water districts and private landowners in California that were not party to the original settlement negotiations.

I think it is important to note that these protections have been agreed to by all of the settling parties as well as the third-party water agencies in the San Joaquin Valley who requested them, and that they will be accomplished while ensuring a timely and robust restoration of the river.

Section 10004(d) requires that the Secretary of the Interior identify; first, the impacts associated with the proposed action or actions; and second, the measures that will be implemented to mitigate those impacts.

Sections 10004(f), 10004(g) and 10004(j) protect third party water users by clarifying that implementation of the settlement will cause no involuntary reductions in contract water allocations to long-term CVP contractors—other than Friant contractors—by making it clear that the bill does not, except as actually provided in the settlement and this bill, modify the rights and obligations of parties to existing water service, repayment, purchase, or exchange contracts, and by specifying that the rights and obligations under what is known as the Exchange Contract—with downstream districts—are not modified.

Further, section 10006(b) makes it clear that the bill does not preempt State law or modify any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law.

Some third parties had expressed concerns about potential conflicts between the provision of flows under the restoration program, and the rights of the exchange contractors to water from the San Joaquin River.

The Bureau of Reclamation has provided a letter that complements the language in the legislation and explains that such a conflict is extremely unlikely, but should such a conflict

arise the Bureau will continue to make water available to the San Joaquin River exchange contractors consistent with its contractual requirements.

I will ask to have the letter, dated November 6, 2008, from Mr. Donald Glaser, regional Director of the Bureau of Reclamation for the Mid-Pacific Region of California, to Mr. Steve Chedester, executive director of the San Joaquin River Exchange Contractors Water Authority, be printed in the RECORD.

Concerns about potential damage to downstream farmers and landowners from water seepage resulting from interim restoration flows under the settlement are addressed by section 10004(h).

That section directs the Secretary, before releasing interim flows, to prepare an analysis of channel conveyance capacities and the potential for seepage, describe an associated seepage monitoring program, and evaluate possible seepage impacts and mitigation measures for impacts that are significant.

The section also directs that interim flows may only be released to the extent they will not impede completion of the channel restoration work or exceed downstream channel capacities.

And finally the section directs the Secretary to reduce interim flows if necessary to address material adverse impacts from groundwater seepage that the Secretary identifies through the Secretary's monitoring program.

Some of the third-party agencies have expressed concerns about the effectiveness of a fish barrier in the San Joaquin River near the confluence of the Merced River in preventing the upstream migration of anadromous fish prior to reintroduction of salmon and implementation of the restoration flow program.

This concern has been addressed in part with the addition of section 10004(i)(4), which calls for an evaluation of the temporary fish barrier, and the funding of fish screens and facilities under certain circumstances.

To further address the concerns regarding the effectiveness of the fish barrier, the Bureau of Reclamation and the California Department of Fish and Game have exchanged letters confirming their willingness to cooperate in the operation and evaluation of the Hills Ferry Fish Barrier during the interim flows period.

More specifically, these letters discuss future efforts by these agencies to achieve a barrier program that effectively prevents unintended upstream passage of salmonids during the interim flow period.

I applaud these efforts and look forward to their successful implementation.

I will ask to have the agencies' letters, dated December 22, 2008, from Mr. Jason Phillips, Program Manager, Bureau of Reclamation; and January 5, 2009, from Jeffery Single, Ph.D., Regional Manager, California Department of Fish and Game, printed in the RECORD.

Third parties had also requested that actions to increase the channel capacity in Reach 2B of the river be prioritized. The legislation directs the Secretary to implement the channel improvements that are listed in paragraph 11 of the settlement necessary to achieve the restoration goal.

Among the highest priority restoration improvements identified in the settlement are modifications to increase the channel capacity of Reach 2B of the river. I am pleased that work in that reach will be a priority for the restoration program and as a result will also address the third party concerns.

Finally, Section 10011 of the bill provides that the Central Valley Spring Run Chinook Salmon reintroduced into the San Joaquin River will be classified as an "experimental population" under the Endangered Species Act.

This section also makes clear that it establishes no precedent with respect to any other application of the Endangered Species Act, ESA.

It also provides that the Secretary of Commerce shall issue a rule under section 4(d) of the ESA which shall provide that the reintroduction of the spring run salmon under this section shall not impose more than de minimis water supply reductions, additional storage releases or bypass flows on unwilling third parties.

In closing, in addition to the protections listed above, I wish to highlight one further provision of the settlement that reflects some of the significant themes of this historic agreement.

In paragraph 13(h) of the settlement agreement, the settling parties agreed that the Secretary of the Interior should apply to the State of California to protect the restoration flows from Friant Dam to the Delta, subject to existing downstream diversion rights.

In my view, this underscores that this settlement is intended to conform to State law and that the Interior Department will seek appropriate actions by the State Water Resources Control Board to ensure that the water released for the settlement is controlled and managed from Friant Dam to the Delta to accomplish the restoration goal and water management goal purposes.

The Bureau of Reclamation has made significant progress on environmental and engineering studies necessary to implement the settlement.

Passage of the legislation will allow the agency to undertake specific programs and projects to implement the settlement's restoration and water management goals.

For example, with approval of the legislation, interim flows can begin this fall as scheduled, once a required environmental study is completed.

These limited water releases will provide essential information on channel capacity, fishery needs and water recovery opportunities as well as potential third-party impacts, such as seepage, and measures that may be needed to mitigate them.

The information will be used to shape other important aspects of the restora-

tion goal program, such as the release of full restoration flows, scheduled to begin in 2014.

Passage of the legislation also will allow the Bureau to take immediate steps toward achieving the water management goal, including undertaking a project to restore the water-carry capacity of the Friant-Kern and Madera Canals and the installation of pump-back systems on the canals to help recapture water losses resulting from the settlement.

In addition, the agency is charged with implementing a cost-sharing program for local groundwater recharge and recovery projects that will help mitigate water losses.

Before I conclude, I would like to also briefly discuss the other 19 California bills in the omnibus legislation approved today.

First, wilderness provisions: The three wilderness bills in this package would together protect a wilderness about 735,000 acres of land in Mono, Riverside, Inyo, and Los Angeles Counties, and within Sequoia-Kings Canyon National Park.

The bills include three additions to National Wilderness Preservation System: Eastern Sierra and Northern San Gabriel Wilderness, Riverside County Wilderness, and Sequoia and Kings Canyon National Parks Wilderness.

This package of wilderness bills would help expand lasting Federal protection for some of California's important natural resources.

Second: water project authorizations.

In the West, drought, population growth, increasing climate variability, and ecosystem needs make managing water supplies especially challenging.

The nine California water recycling projects included in the omnibus bill offer a proven means to develop cost effective alternative water supply projects.

The water projects in the bill would fall under the auspices of the Bureau of Reclamation, and include San Diego Intertie feasibility study, Madera Water Supply Enhancement Project authorization, Rancho California Water District project authorization, Santa Margarita River project authorization, Elsinore Valley Municipal Water District project authorization, North Bay Water Reuse Authority project authorization, Prado Basin Natural Treatment System Project authorization, Bunker Hill Groundwater Basin project authorization, GREAT Project authorization, Yucaipa Valley Water District project authorization, Goleta Water District Water Distribution System title transfer, San Gabriel Basin Restoration Fund, and Lower Colorado River Multi-Species Conservation Program.

Together they will help our State reduce its dependence on imported water from both the Lower Colorado River and Sacramento/San Joaquin Delta.

Third: other public lands bills to help preserve California's historic legacy.

These include: Bureau of Land Management: Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria land exchange; Forest Service: Mammoth Community Water District land conveyance; National Park Service: Tule Lake Segregation Center Resource Study

There is an old saying when it comes to water: Whiskey's for drinking, water's for fighting over." There is no area where this has been more the case than the future of the San Joaquin River.

The passage of this omnibus legislation means we are one step closer toward resolving the longstanding conflict over the future of the San Joaquin River.

This is a bill whose time is long overdue, and I strongly urge my colleagues in the House of Representatives to promptly join us in approving this critical piece of legislation.

I ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Sacramento, CA, November 6, 2008.

Subject: San Joaquin River Restoration Settlement Legislation—Exchange Contractors Water Deliveries.

Mr. STEVE CHEDESTER,
Executive Director, San Joaquin River Exchange Contractors Water Authority, Los Banos, CA

DEAR MR. CHEDESTER: This is in response to concerns that you raised during our meeting in Los Banos on October 21, 2008. At that meeting, you expressed concern that the Settlement in NRDC v. Rodgers, which was approved by the Court on October 23, 2006, and the San Joaquin River Restoration Act that is currently pending in Congress could be interpreted as modifying the contract between the Exchange Contractors and the United States (Contract # Ilr-1144, as amended February 14, 1968).

As I said at the meeting in Los Banos, and I reiterate again, Reclamation does not interpret the Settlement or the proposed legislation as modifying the obligations of the United States under the Exchange Contract. Instead, Reclamation's obligations under the Contract remain unchanged. As a result, if a situation were to occur where Settlement flows conflicted with Reclamation making necessary deliveries under the Contract with the Exchange Contractors, which as we discuss below is highly unlikely, Reclamation would make water available to meet the contractual requirements, consistent with the Contract.

My understanding is that the reason you are elevating this issue now is because of a recent Federal District Court decision affecting the operations of the Central Valley Project (CVP) operations in the Delta. At the meeting in Los Banos, a chart was handed out that was said to represent the likely future CVP water supply south of the Delta given pumping restrictions that result from the Federal District Court's decision. The Exchange Contractors interpreted this chart to show that in two out of every ten years, Reclamation would not be able to fully meet the Exchange Contractor demands from the Delta, thus requiring Reclamation to make deliveries to Mendota Pool via the San Joa-

quin River from Friant Dam. You expressed a specific concern that the flows required by the Settlement for restoration could cause interference with your water deliveries, in that available channel capacity will be used to deliver the flows required by the Settlement at times when the Exchange Contractors need to receive water from Friant Dam.

After further review of the chart that was distributed in Los Banos, Reclamation does not concur with the findings presented on the chart. Since receiving your chart, Reclamation completed some preliminary analysis based on information developed for our on-going consultation on the continued long-term operations of the CVP and State Water Project. Our assessment is that, even with the current Interim Federal District Court order in place, we are able to fully meet the Exchange Contractor demands from the Delta in all years. I would also point out that you provided no credit at the meeting as to who completed the analysis, nor could anyone describe the assumptions that were used to generate the chart.

As a way to move forward with addressing your concerns, I suggest representatives of the Exchange Contractors meet with Reclamation to discuss the long-term CVP delivery projections, as well as various operational scenarios for the Settlement flows. Such discussions should alleviate your concerns with regard to the risk to your water deliveries.

I look forward to working with you as we implement the restoration program. Please contact Jason Phillips if you have any questions.

Sincerely,

DONALD R. GLASER,
Regional Director.

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Sacramento, CA, December 22, 2008.
Subject: San Joaquin River Restoration Settlement Act (S 27/H.R. 4074; H.R. 151)—Hills Ferry Barrier Effectiveness Evaluation.

Mr. JEFFREY R. SINGLE,
Regional Manager, California Department of Fish and Game, Fresno, CA.

DEAR MR. SINGLE: Third Parties have expressed new concerns related to the operation of the Hills Ferry Barrier (Barrier) in response to recent amendments to the proposed San Joaquin River Restoration Settlement Act. In addition, during discussions among the Settling Parties and Third Parties, Reclamation agreed to exchange letters with the California Department of Fish and Game (DFG) regarding the evaluation of the effectiveness of the Barrier in preventing the upstream migration of anadromous fish, such as adult Chinook salmon, steelhead, and sturgeon. This letter explains Reclamation's commitment to assist DFG in its operation of the Barrier program as needed during the Interim Flows program.

As you are aware, the relationship of the Barrier operation and the San Joaquin River Restoration Program (Program) have already been discussed by the Program's Fisheries Management Work Group (FMWG). I propose that the issue regarding evaluation of the effectiveness of the Barrier, as well as all other actions associated with the relationship of the Barrier operations to the Program, continue to be addressed by the FMWG. The FMWG, in cooperation with DFG, will assess whether alternative designs to maximize the Barrier effectiveness are needed in an effort to reduce unintended anadromous fish migrations upstream of the Barrier on the San Joaquin River. If it is determined that any such migration past the Barrier is caused by the introduction of In-

terim Flows, and that the presence of such fish will result in the imposition of additional regulatory actions against Third Parties, the Secretary would be authorized under the proposed legislation to assist DFG in making improvements to the Barrier as necessary, or to take other equivalent actions, such as assisting with the salvage of fish that get past the Barrier, if DFG requests such assistance.

I look forward to working with you as we implement the restoration program. Please contact me if you have any questions.

Sincerely,

JASON PHILLIPS,
Program Manager.

DEPARTMENT OF FISH AND GAME,
Fresno, CA, January 5, 2009.
Subject: San Joaquin River Restoration Settlement Act (S 27/H.R. 4074; H.R. 151)—Hills Ferry Barrier Effectiveness Evaluation.

Mr. JASON PHILLIPS,
Program Manager, San Joaquin River Restoration Program, U.S. Bureau of Reclamation, Sacramento, CA.

DEAR MR. PHILLIPS: Per your recent letter dated December 22, 2008, the California Department of Fish and Game (Department) thanks you for communicating the U.S. Bureau of Reclamation's (Reclamation) commitment to assist the Department with the operation of the Hills Ferry Barrier (Barrier) during implementation of the San Joaquin River Restoration Program's (SJRRP) Interim Flows.

We concur with your proposal that issue regarding evaluation of the effectiveness of the Barrier, as well as all other actions associated with the relationship of the Barrier operations to the Program, continue to be addressed by the Fisheries Management Working Group (FMWG). Such actions could include assessing more effective designs for the barrier, assisting the Department in making improvements to the Barrier as necessary, or taking other equivalent actions, such as assisting with the salvage of fish that get past the Barrier, if the Department requests such assistance.

The Department looks forward to the continued cooperation and assistance provided by Reclamation and the SJRRP's Program Fisheries Management Work Group to preclude and/or resolve issues.

Sincerely,

JEFFREY R. SINGLE, Ph.D.,
Regional Manager.

Mr. SALAZAR. Mr. President, I rise today to briefly discuss the Dominguez-Escalante National Conservation Area and Dominguez Canyon Wilderness Area Act, which is included in the omnibus public lands package, S. 22, that we are currently considering on the floor.

The Dominguez-Escalante National Conservation Area and Dominguez Canyon Wilderness Area Act would designate approximately 210,000 acres of federally-owned land on the Uncompahgre plateau as the Dominguez-Escalante National Conservation Area, NCA, of which approximately 65,000 acres would be designated as the Dominguez Canyon Wilderness Area.

The legislation is the product of several years of work in local communities to find a way of better protecting these Federal lands in Montrose, Delta, and Mesa Counties in

Senate, and I am not prepared to accept the abdication of these traditions for the purpose of political expediency for the majority party.

In the 110th Congress, the majority leader used this tactic to block Republican amendments on 16 different occasions. Important legislation such as FAA reauthorization, climate change legislation, an energy speculation legislation and energy speculation legislation were all derailed because the majority leader's decision to deviate from regular order and deny minority participation in the debate.

Mr. President, as my colleagues have mentioned, it has been over 120 days since a Republican amendment has received consideration on the floor. It is my hope that the Senate will return to fair procedures for debate, which have well served this proud institution since its inception.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 22 AND S. 181

Mr. REID. Mr. President, I ask unanimous consent that at 12 noon tomorrow, Thursday, January 15, all postcloture time be considered yielded back except for 10 minutes to be equally divided and controlled between Senators BINGAMAN and COBURN or their designees; that upon the use or yielding back of that time, the pending amendments be withdrawn, that the managers' amendments which have been cleared by the leaders and managers be in order, and that if cleared, the amendments be considered and agreed to; that the bill, as amended, be read a third time and the Senate proceed to vote on passage of the bill; that upon passage, the motions to reconsider be laid upon the table; and the Senate then vote on the motion to invoke cloture on the motion to proceed to S. 181.

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

ORDER OF BUSINESS

Mr. REID. Mr. President, we are trying to work out a time agreement as to how much debate is necessary on the consideration of the Emergency Economic Stabilization Act.

We understand statutorily there is 10 hours. We will finish this tomorrow. We will have a vote on this tomorrow. If the people want to use all the 10 hours, we will vote when the 10 hours is up.

MORNING BUSINESS

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

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

TRIBUTE TO TOM WATSON

Mr. McCONNELL. Mr. President, I rise today to honor a well-respected Kentuckian, Mr. Tom Watson. Throughout his life, Mr. Watson has contributed immensely to Owensboro and to the Commonwealth.

Recently the Messenger-Inquirer in Owensboro, KY., published a story about Tom and his work as mayor of Owensboro. Throughout his career as a public servant, Tom has worked hard to give back to the community that he loves so dearly. I have worked closely with Tom over my career and have seen firsthand his dedication to the people of Owensboro.

I ask my colleagues to join me in honoring Mayor Watson and wish him the very best as he embarks on new challenges. I further ask unanimous consent that the full article be printed in the RECORD.

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

[From the Owensboro Messenger-Inquirer, Dec. 19, 2008]

WATSON BIDS FAREWELL

(By Owen Covington)

Owensboro Mayor Tom Watson closed out his term Thursday night in the lobby of the RiverPark Center, just yards away from where work has begun on a \$37 million river walk for which he helped secure funding.

The farewell reception attended by dozens of friends, families and colleagues was just two blocks away from The Commerce Center, a "one-stop-shop" for business and economic development that became a reality at Watson's urging.

"I, for one, look forward to what he'll do next," City Commissioner David Johnson told the crowd. "Everything he does is special, and he does it well and he does it with a passion."

This week, Watson talked with the Messenger-Inquirer about his four years in office and said he had no regrets about his decision to leave city government.

"I'm just happy I had a chance to serve, and I'm humbled that I made it through four years," Watson said.

UNIFIED GOVERNMENT

Watson jumped in the mayoral race in 2004 as a former chairman of the Greater Owensboro Chamber of Commerce who had built a successful prosthetics and orthotics business with offices in Owensboro and Evansville.

Central to Watson's campaign was a drive for unified government, a push to bring city and county government under one entity to "speak with one voice."

That push took Watson to Frankfort in 2006 when he helped lobby support for a bill that would put cities and county on a more even footing as they looked at unified government.

That bill became law, and Watson and the commission adopted an ordinance in early

2007 to create a commission to study merger, but inaction by Daviess Fiscal Court meant Watson's merger push went no further.

"I feel good we tried, but it didn't work out," Watson said. "It was something you've got to try to do."

Greater Owensboro Chamber of Commerce President Jody Wassmer said Watson's election in 2004 is evidence that the issue is one that will not go away.

"I think we've been able to move some things to the forefront that will pay off in future administrations," Wassmer said. "I think Tom will probably be known as the man that brought government merger back to the forefront."

At Thursday night's reception, Watson was made an honorary judge-executive by Daviess County Judge-Executive Reid Haire, with Haire noting with a smile that the title was probably something the mayor had "lusted for" in the past.

"We have worked well together," Haire told Watson.

STATE, FEDERAL ATTENTION

As mayor, Watson was able to use his connections with state and federal elected officials to help bring the community notice when in the past it had been overlooked.

"I think one of his greatest strengths was the relationships that he developed with state and federal officials, and those efforts brought Owensboro an unprecedented amount of state and federal funding," said former City Manager Bob Whitmer, who served for three of Watson's four years.

U.S. Sen. Mitch McConnell said during a phone interview Thursday that Watson is responsible for making him realize how important riverfront development was to the community.

"He had a lot to do in getting me even more interested and enthusiastic about the future of the Owensboro riverfront," McConnell said. "Tom deserves a lot of credit for pushing that project, believing it was important and believing it would transform the city."

ECONOMIC DEVELOPMENT

Just months after taking office, Watson along with Haire unveiled a "white paper" that presented a plan with a broader look at economic development efforts and resulted in a more coordinated effort by the community.

The paper also led to the creation of the separate Greater Owensboro Economic Development Corp. and The Commerce Center, which is now home to EDC, the chamber, the office of Downtown Development Director Fred Reeves and the Owensboro Metropolitan Planning Commission.

"I certainly think he and the judge presented and articulated a vision about how they wanted economic development to be a little more streamlined," said Nick Brake, EDC president and CEO. "He had some real strong ideas about doing some things much differently than what we've done in the past."

Thursday night, EDC board chairman Darrell Higginbotham presented Watson with a framed copy of the cover of the "white paper" and said a duplicate will be hung in the EDC's offices.

"Your vision for The Commerce Center is a reality today," Higginbotham told the mayor.

"MAN OF GREAT ENERGY"

Commissioner Al Mattingly Jr. noted Thursday night that he got to know Watson as the two squared off in the mayoral election in 2004 and has seen the sacrifices that Watson has made as mayor.

"I know of no other man in the city of Owensboro that is as compassionate, is as