

than a trial lawyer bonanza sure to disadvantage all employers and depress job growth to the disadvantage of all employees, which results in disadvantaged employees getting coupons while the trial lawyers keep most of the money.

I urge my colleagues to oppose this cloture vote.

Mr. President, I yield the floor, and I ask unanimous consent that the time during the quorum be equally divided between the two sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

### PAYCHECK FAIRNESS ACT— MOTION TO PROCEED

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3772, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 561, S. 3772, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

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

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 the debate on the motion to proceed to Calendar No. 561, S. 3772, the Paycheck Fairness Act.

Harry Reid, Patrick J. Leahy, John F. Kerry, Carl Levin, Jack Reed, Bernard Sanders, Benjamin L. Cardin, Frank R. Lautenberg, Ron Wyden, Tom Harkin, Amy Klobuchar, Sherrod Brown, Kirsten E. Gillibrand, Christopher J. Dodd, Patty Murray, Barbara Boxer.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3772, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, 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 legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 249 Leg.]

#### YEAS—58

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burris	Kohl	Shaheen
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Cooms	Lincoln	Warner
Dodd	Manchin	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	
Feinstein	Mikulski	

#### NAYS—41

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Nelson (NE)
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Collins	Johanns	Voinovich
Corker	Kyl	Wicker
Cornyn	LeMieux	

#### NOT VOTING—1

Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mrs. BOXER. Mr. President, I am very disappointed that the Paycheck Fairness Act was filibustered today.

The Paycheck Fairness Act passed the House on January 9, 2009, by a vote of 256–163 and Senate passage is long overdue.

This critical legislation will strengthen the Equal Pay Act and close the loopholes that have allowed employers to avoid responsibility for discriminatory pay.

Although the wage gap between men and women has narrowed since the passage of the landmark Equal Pay Act in 1963, gender-based wage discrimination remains a problem for women in the workforce.

According to the U.S. Census Bureau, women only make 77 cents for every dollar earned by a man. The Institute of Women's Policy Research found that this wage disparity will cost women anywhere from \$400,000 to \$2 million over a lifetime in lost wages. Today an average college-educated woman working full time earns as much as \$15,000 less than a college-educated male.

Working families lose \$200 billion in income per year due to the wage gap between men and women.

Pay discrimination is hurting our middle class families and hurting our economy. Loopholes created by the courts and weak sanctions in the law have allowed many employers to avoid liability for engaging in gender-based pay discrimination.

That is why the Paycheck Fairness Act is so important.

The bill closes loopholes that have allowed employers to justify pay discrimination and prohibits employers from retaliating against employees who share salary information with their co-workers. It puts gender-based discrimination sanctions on equal footing with other forms of wage discrimination—such as race, disability or age—by allowing women to sue for compensatory and punitive damages. And it also requires the Department of Labor to enhance outreach and training efforts to work with employers in order to eliminate pay disparities.

One of the 111th Congress's most important achievements was passing the Lilly Ledbetter Equal Pay Restoration Act. That legislation, which is now law, ensures that women who have been the victims of pay discrimination get their day in court and can challenge employers that willingly pay them less for the same work.

The Equal Pay Restoration Act honors the legacy of Lilly Ledbetter, a supervisor at a Goodyear Tire Plant in Alabama, who after 19 years of service discovered she had earned 20 to 40 percent less than her male counterparts for doing the exact same job.

Today we had another important opportunity to honor the legacy of women like Lilly Ledbetter by passing this legislation.

But instead of standing up for equal economic opportunity for women, Republicans said no, and filibustered this important bill.

I am very disappointed by this outcome, but I want my colleagues to know that we will not give up this fight.

Mr. WHITEHOUSE. Mr. President, I rise today to express my disappointment in the failure of the Senate to invoke cloture on the Paycheck Fairness Act. After our triumph 2 years ago in advancing gender equality through the Lilly Ledbetter Act, the first piece of legislation signed by President Obama, the Paycheck Fairness Act would have been another step towards ending gender discrimination in the workplace.

Four decades after the Equal Pay Act was signed into law, women still earn only 77 cents for every dollar earned by their male counterparts. That equates to almost \$11,000 less per year. In Rhode Island, women on average make approximately \$36,500 where men make \$49,000. For full-time, college educated Rhode Island workers over 25 years old, women make an average of \$55,000, while men average \$70,000. This is simply unacceptable and shows that the

remedies provided by current law are not adequate. Those who dismiss the disparity as a consequence of women's "choice of work" ignore the fact that the wage gap exists even in highly skilled industries such as aerospace engineering and network systems and data communications analysis.

The Paycheck Fairness Act would have required employers seeking to pay women less money than their male counterparts to justify the difference with legitimate business factors. It would also have allowed women to compare their wages to those of their colleagues in the same county, not just their own office, providing a larger and fairer pool of comparative examples. And the bill would have allowed women to receive punitive and compensatory damages equal to those in cases of race-based discrimination. We owe it to the hard-working women of the United States, especially in these difficult economic times, when every penny of every paycheck counts, to continue to fight for equality.

I commend the bill's original sponsor, Secretary Clinton, as well as Senator DODD and Senator MIKULSKI, who have worked so hard to bring attention to the issue of gender discrimination in the workplace. I will continue to fight alongside my colleagues for the passage of the Paycheck Fairness Act.

#### FDA FOOD SAFETY MODERNIZATION ACT—MOTION TO PROCEED

##### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

##### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 247, S. 510, the FDA Food Safety Modernization Act.

Harry Reid, Tom Harkin, Richard Durbin, Jeff Bingaman, Max Baucus, Tom Udall, Jon Tester, Benjamin L. Cardin, Jeanne Shaheen, Frank R. Lautenberg, Herb Kohl, Robert P. Casey, Jr., Jack Reed, Thomas R. Carper, Bill Nelson, Kent Conrad, Carl Levin, Mary L. Landrieu.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 74, nays 25, as follows:

[Rollcall Vote No. 250 Leg.]

##### YEAS—74

Akaka	Feingold	Merkley
Alexander	Feinstein	Mikulski
Barrasso	Franken	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Grassley	Pryor
Begich	Gregg	Reed
Bennet	Hagan	Reid
Bingaman	Harkin	Rockefeller
Boxer	Inouye	Sanders
Brown (MA)	Johanns	Schumer
Brown (OH)	Johnson	Shaheen
Burr	Kerry	Snowe
Burr	Klobuchar	Specter
Cantwell	Kohl	Stabenow
Cardin	Landrieu	Tester
Carper	Lautenberg	Thune
Casey	Leahy	Udall (CO)
Collins	LeMieux	Udall (NM)
Conrad	Levin	Vitter
Coons	Lieberman	Voinovich
Corker	Lincoln	Warner
Dodd	Lugar	Webb
Dorgan	Manchin	Whitehouse
Durbin	McCaskill	Wyden
Enzi	Menendez	

##### NAYS—25

Bennett	DeMint	McConnell
Bond	Ensign	Nelson (NE)
Brownback	Graham	Risch
Bunning	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Wicker
Cornyn	Kyl	
Crapo	McCain	

##### NOT VOTING—1

Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to be allowed to speak as in morning business.

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

Mr. CHAMBLISS. Mr. President, I am an original cosponsor of S. 510, the bill we just invoked cloture on, and as I said before the vote, I was going to actually have to vote against cloture and I would speak after the vote as to why because we were up against a timeline. I wish to take a minute to say I regret to have had to vote against cloture. Now that cloture has been invoked, I guess we will go to the bill, and, hopefully, we can make the necessary changes in it to improve this bill. But, frankly, the bill I originally cosponsored is not the bill that is coming to the floor today. It has been changed in some material ways. As late as this morning there were changes being made, and I understand there are discussions going on right now that may even change it again.

First, let me say that the issue of food safety is an issue that is of primary importance. We need to make sure the food that is put in the retail stores as well as in restaurants and every other location in America is absolutely the safest, highest quality food product anywhere in the world. That has always been our reputation.

But there are some gaps in the food safety inspection program in the United States today that have allowed some things to happen. We had a situation in Georgia 2 years ago where we found salmonella in some peanut butter in a location in south Georgia—a manufacturing location. And while FDA had the authority to go in and make an inspection, the way they actually inspected it was on a contract basis through the Georgia Department of Agriculture. They didn't have the resources to do the real oversight that needed to be done. Here we had a company that had found salmonella in peanut butter with their own inspections and their own product had been sent to their contractor and salmonella was found to be positive, and yet they didn't have to report that to FDA. That has been changed in this bill, but those are the types of gaps it is important to see changed.

What is a problem to me right now is a number of things, not the least of which is the definition of what is a small farmer. Small farmers have been granted an exemption, but that provision was changed as recently as this morning. I understand, also, that it is up for discussion again now. But the definition currently in the bill is that a small farmer is determined to be a farmer with gross receipts smaller than \$500,000. Well, unfortunately, or fortunately, in my part of the world, cotton today is selling at \$1.50 a pound. A bale is 500 pounds. It doesn't take many bales to reach \$500,000 in gross receipts from the sale of cotton, and that doesn't count peanuts and wheat and corn and whatever else may go along with it. So trying to put an arbitrary number such as that, and saying if you have gross receipts in excess of that number the FDA has the authority to come on your farm, but if you have less than that they do not have the authority, I think it is not the proper way to go.

Secondly, with respect to that issue, even if they are exempt as a small farmer, they still have a mandate of a huge amount of paperwork that has to go along with their production on an annual basis. So I don't know what is going to happen with respect to the amendment process. We have heard there may be a filling of the tree and there will be no amendments. I hope that is not the case. I hope we have the opportunity to have an unlimited amount of amendments and that we can get the bill corrected and can then make it, at the end of the day, a good bill that will generate a significant vote on this floor. We have also heard there may be no amendments that are