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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, June 5, 2012, at 12 p.m.

Senate

MONDAY, JUNE 4, 2012

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

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

Let us pray.

Eternal God, whose presence is the source of our strength, as we return from Memorial Day recess, we pause to thank You for those who have made the ultimate sacrifice for the freedoms we enjoy. Please hold all our service men and women in Your strong arms, protecting them from dangers seen and unseen. Bless the families of our servicemembers, fill their lives with Your peace and provision, strengthening them to trust in Your mighty power to sustain them.

Help our Senators this day to live lives worthy of Your goodness and grace. May they discover that real fulfillment comes when they seek to glorify You. Place Your hand on the Senators' shoulders today, reminding them that You are with them and will guide them.

We pray in Your great Name.
Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL 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. INOUE).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 4, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

PAYCHECK FAIRNESS ACT— MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 410, S. 3220.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

Motion to proceed to S. 3220, 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.

Mr. REID. Mr. President, we are now on the motion to proceed to this measure called the Paycheck Fairness Act. At 5 p.m. this afternoon the Senate will proceed to executive session to consider the nomination of Timothy Hillman to be U.S. District Judge for Massachusetts. There will be 30 minutes of debate at that time led by Senator LEAHY. At 5:30 p.m., there will be a rollcall vote on confirmation of the Hillman nomination.

MEASURE PLACED ON THE CALENDAR—
S.J. RES. 41

Mr. REID. Mr. President, S.J. Res. 41 is at the desk and now due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the joint resolution by title for the second time.

The bill clerk read as follows:

A joint resolution (S.J. Res. 41) expressing the sense of Congress regarding the nuclear program of the Government of the Islamic Republic of Iran.

Mr. REID. Mr. President, I would object to any further proceedings with respect to this joint resolution.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. Mr. President, back in 1963, when Congress passed the Equal Pay Act, women at that time were working year-round and took home about 59 cents for every dollar paid to their male coworkers doing the same job. While passage of that landmark legislation helped narrow the pay gap, today American women still only take home 77 cents on the dollar compared to their male colleagues for doing the exact same job.

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



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Jane, who works in a job, gets 77 cents, while Jack, who also works at that job, gets \$1. That is why women are concerned about how they are being treated. It is simply not fair that any woman working the same hours at the same job should make less money.

Often these inequities stretch over decades, and many women don't even know they are victims. It took one Las Vegas woman 15 years to find out she made \$20,000 per year less than her male colleagues although she did the same work and worked just as hard. That is \$20,000 a year over 15 years. She was paid about 66 cents on the dollar compared to her male coworkers despite being a top sales associate with a Las Vegas payroll company.

Over the decade and a half she worked there, her employers cheated her out of literally hundreds of thousands of dollars' worth of pay. Why? Because she is a woman. Her story, though, has a happy ending. She got a lawyer, settled out of court, and has now gone on with her own successful business.

But many victims don't have that happy ending. Many victims of years or even decades of gender-based pay discrimination have nothing to be happy about. The average woman who works full time, year-round in Nevada makes \$7,300 less than a man doing the same job. I am sure, Mr. President, it is about the same in Connecticut.

Although the wage gap has narrowed in the last half century since Congress declared women are entitled to equal pay for equal work, gender discrimination remains a serious problem in the workplace. That is why Democrats overcame the Republican obstructionism last Congress to pass the Lilly Ledbetter Fair Pay Act. It was the second thing we did in a very productive Congress.

Why did we do it? Lilly Ledbetter had worked for years and years doing the same job as her male counterparts until she finally found out one day they were being paid a lot more money than she was for doing the same work. So she went to court. The court said the statute of limitations had run out.

The Presiding Officer is one of the most gifted lawyers we have in the Senate. He was a long-time attorney general in the State of Connecticut and understands the law very well. Lilly Ledbetter's case was so unfair because she didn't bring her case soon enough. She didn't know she was being cheated. They said people have a certain period of time to bring up this matter—I think it was 3 years. Even though it had been well more than a decade she had been working there, she was out of luck.

So we passed the Lilly Ledbetter Pay Act. I met her on a number of occasions and, boy, she has a lot of spunk in her. And rightfully so because a lot of people would not have fought. She took her case to the U.S. Supreme Court and she lost there. That is why we had to do something legislatively.

This law, the Lilly Ledbetter legislation, makes it possible for victims of gender discrimination to successfully challenge unequal pay even if the indiscretion has been going on for years.

Despite that achievement in the last Congress, there is a great deal of work to be done to ensure that American women earn comparable pay for a day's work. It is crucial that we pass the bill that is now before this body, the Paycheck Fairness Act. It is common sense. It would give workers stronger tools to combat wage discrimination, bar retaliation against workers for discussing salary information, and help ensure more adequate compensation for victims with gender-based pay discrimination.

I am fortunate that I have five children. My oldest is my daughter. She was a good student and a wonderful daughter. No one could be a better daughter than my daughter Lana. She graduated from college, and she came to Washington to spend some time with her parents before she decided what she wanted to do permanently. She went around looking for a job on Capitol Hill.

The first question every person she interviewed with asked was, Do you type? Can you imagine that? She could type. How do you start a debate with that? They asked her that because she is a woman. Women get an unfair shake in modern-day America, and we are trying to do something about it.

We want workers to have stronger tools to combat wage discrimination. We want to bar retaliation against workers for discussing salary information. Some people get fired because they have gone around and found out that a man working the same job as them makes a lot more money than they do. They get fired for just telling another employee what they made.

We also want this paycheck fairness bill to pass because it would help ensure more adequate compensation for victims of gender-based pay discrimination. Today women make up nearly half of the workforce, and an increasing number of women are the primary wage earners for their families.

When I went to law school in Washington—a good school, George Washington University—I can only recall one woman in our class. There may have been two or three, but I don't think so. Now over half the women in law schools in America are women. There is no reason that a woman graduating from law school should get paid less than a man graduating from law school when they are doing the same work.

Today women make up nearly half of the workforce. As I said, an increasing number of women are the primary wage earners for the family. We can tell that by what is going on in college. More than half of the students in college are women. So this problem affects women, children, and families across the country. And it really does.

With the economy struggling and families stretching every dollar, clos-

ing the pay gap is more important than ever. No woman working to support herself or her family should be paid less than a male counterpart. They are doing the same job, so they should be paid the same.

Some employers have taken advantage of women, knowing they would work for less. It might be a single parent, and they have said: We don't have to pay her what we pay him. Now with all of this going on, with the examples I have given, the Republicans are filibustering this bill. They will not even let us vote on it. But what else is new? They have filibustered even what they agree with. They don't agree with this. They don't want women to make the same amount of money, so they are filibustering this bill—they are filibustering even letting us get on the bill. They are filibustering what is called a motion-to-proceed rule that I think needs to be changed in this body, and it will someday.

They are filibustering the Paycheck Fairness Act. This legislation would help even the playing field for women in the workplace. If it seems unbelievable that the Republicans would block such a commonsense measure. Consider their track record in this Congress. Republicans have blocked legislation to hire more teachers, cops, firefighters, and first responders. They blocked that. They stalled important jobs measures such as the aviation bill. The FAA bill had 22 extensions. They finally got it done, but it was so hard. The FAA was closed down on one occasion for a week.

The highway bill has been stalled for months. It is in conference now. They opposed legislation to restore basic fairness to our Tax Code. What does that mean? We agree with the American people. About 80 percent of the American people believe someone who is making more than \$1 million a year should pay more than somebody making \$100,000 a year. But not our Republican friends. So they opposed legislation to restore basic fairness to our Tax Code. They twice derailed attempts to stop interest rates on student loans from doubling which put affordable education at risk for 7 million students.

What I am saying is if we don't get something done by the end of this month, the interest on a large number of student loans—the so-called Stafford loans—will grow from 3.4 percent to 6.8 percent. It will double. They have stopped that twice.

They put women's lives at risk by holding the Violence Against Women Act in limbo on a hypertechnical issue. When I say "hypertechnical," I mean just that. They would not let us go to conference on what we had passed and done here because it had a tax measure in it. By Washington standards, almost no money, a few million dollars. I know that is a lot, but is it a reason to stop this bill? Of course not.

They launched a series of attacks on women, their access to health care, and

even contraception. They have amassed an impressive record of destruction, of being on the wrong side of almost every issue. Unfortunately, it seems that the Paycheck Fairness Act may have two strikes against it. No. 1, it will be good for women and good for the economy, so Republicans are going to oppose it. Paycheck fairness is right for the country, but it appears Republicans will wind up on the wrong side of this issue as well. They will send the message to little girls across the country that their work is less valuable because they happen to be born female.

Little kids are so impressionistic. I hope everybody in this country saw the picture that appeared in major newspapers around the country last week.

There is a man who served as a U.S. marine at the White House. It is an important job—helping to provide security to the White House. It is traditional for Democratic Presidents and Republican Presidents. When the marine finishes their tour, the President brings that person and their family into the Oval Office to say thanks and goodbye. Well, the man who came in and who is represented in these pictures had a wife and two children, including a cute little 5-year-old boy all dressed up with a tie. The President asked the boys if they had a question. The 5-year-old had a big brother who was 9 or 10 years old. The little boy had a question, demonstrating the honesty of a 5-year-old.

The President couldn't hear him the first time. He said: What did you say? The little boy said: Is your hair like mine?

He is a little African-American boy. Is your hair like mine?

I am sure this little boy—I don't know, but I am sure people had questioned his hair, and he wanted to know if the President of the United States had hair just like his.

So the President leaned over and said: You can feel it.

When he felt the President's hair, he said: It is just like mine.

Doesn't that speak volumes about little children? That is what I am talking about. This little boy knew that even though his hair was different than everybody's hair whom he went to school with, he could be President just like the man whose hair he was able to feel.

What I have said here today is that it appears Republicans wind up on the wrong side of this issue we have talked about—paycheck fairness—sending the message to little girls across the country that their work is less valuable because they happen to be born female. I hope the Republicans will change. They are not going to—we all know that—but hope springs eternal.

Will the Chair announce the business of the day.

RESERVATION OF LEADER TIME

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

Mr. REID. I note the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. 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.

RECOGNITION OF THE MINORITY LEADER

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

PRESIDENTIAL LEADERSHIP

Mr. MCCONNELL. Mr. President, I wish to start out this afternoon by calling attention to what appears to be a pretty serious disconnect over at the White House between the President's legislative advisers and his political team.

For weeks, President Obama has been running around ginning up college students and late-night television audiences over an impending interest rate change on college loans, pointing the finger at Republicans. But not only are Republicans supportive of solving this problem, we are the only ones who actually passed legislation to do so. House Republicans passed a bill weeks ago that would have preserved current rates, and late last week Speaker BOEHNER, Leader CANTOR, Senator KYL, and I sent a joint letter to the President proposing multiple solutions to the problem that were thoughtfully and carefully designed to gain the President's support. In fact, the solutions were based on the President's own proposals.

Let me say that again. We sent a letter to the President advocating continuing the current rate for another year and proposed pay-fors that he himself has endorsed. So one can imagine how surprised we were to see one of the President's political advisers say on one of the Sunday shows yesterday that Republicans in Congress are sitting on our hands and an op-ed this morning by the Education Secretary saying that Congress isn't lifting a finger to resolve the problem.

So let's be very clear about all of this. Republicans in Congress are the only ones actually working to solve the student loan issue. Unless the President isn't having his mail forwarded to him on the campaign trail, he knows it as well as I do.

I couldn't help but notice that the President is on a fundraising blitz in Manhattan today. No doubt it is easier to walk into these events when one has a good piece of fiction to sell about Republican obstructionism. But the President's campaign rhetoric is increasingly at odds with reality. On the student loan issue, at least, it is Republicans who have been working on a solution and the President who has been totally AWOL. All he has to do is pick up the phone and tell us which one of his own proposals he will accept. It is that easy. But the truth is that the President doesn't really want to solve

this problem. He seems to prefer the talking point, as disingenuous as it is.

Speaking of talking points, it has been suggested by some on the President's political team that Republicans are rooting for economic failure. That is absolutely preposterous. If Republicans wanted failure, we would support this President's misguided policies.

But the larger point is this: We will never solve any of these problems we face while the President continues to put his need for campaign rhetoric ahead of finding bipartisan solutions. And whether it is pretending that small-ball, Post-it note-quality proposals would have a major impact on the economy or pretending that Republicans, who are the only ones actually working on bipartisan solutions, are somehow sitting on our hands, he is doing a major disservice to the American people.

For the good of the country, it is time for the President to take yes for an answer. It is long past time for the President to lead.

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

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

The bill clerk proceeded to call the roll.

Mr. KYL. 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.

AVOIDING SEQUESTRATION

Mr. KYL. Mr. President, today I would like to address some of the recent press chatter that attempts to paint Republicans as closet Keynesians because we oppose the massive defense cuts that are contained in the Budget Control Act—the automatic sequestration or across-the-board cuts that occur unless Congress acts to avoid that before the end of this year.

The implication is that if we make economic arguments against these automatic cuts; namely, that they will result in massive job losses, we undercut our arguments against the President's stimulus spending, which is ostensibly created in order to stimulate consumer demand and therefore increase spending, which is supposed to get us out of the economic doldrums we are in. I wish to make two points in response.

First, of course, eliminating more than 1 million defense-related jobs, which is what will happen if the automatic sequestration occurs, will obviously hurt the economy. It will obviously result in job losses, and many people will suffer. That is what a George Mason University study said this \$492 billion in cuts will contribute to. In fact, the same point was made in a CBO study that was released a couple of weeks ago. How could such massive job losses not do economic harm? A million jobs—jobs in both the private and public sectors—comprise a substantial part of our economy. In fact,

just in my State of Arizona, there are about 33,200 private-sector jobs at risk if these automatic defense cuts were to take place.

But—and this is my second point—most Federal spending, certainly including defense spending, is for purposes other than stimulating the economy. I support spending for national security because it is necessary for the Nation, not because it also happens to provide jobs. And that is the way it is with a lot of Federal spending. We support the programs because they satisfy a need, and certainly the No.1 need of those of us in the Congress and the President is to provide for the national defense. So we spend what we think is necessary each year to provide for the national defense. The fact that also can create some jobs is a side benefit, if you will, in an economic sense, but it is not the reason we do the spending in the first place. If that spending is cut way back, however, there is no question that jobs will be lost, and I think that is worth pointing out in the context of a discussion about economic recovery.

What I would not do is support unnecessary spending on defense or anything else just to create more government-supported jobs, just for the sake of stimulating the economy. The taxpayers don't have enough money to contribute to the Federal Government for that purpose. We should spend what is necessary and no more. So supporting existing defense jobs is very different from supporting redistributionist government stimulus spending for jobs there is no demand for and on government payments for things such as food stamps and other transfer payments that don't necessarily translate to new jobs but simply move money around. The difference, really, is how you spend the money.

Just to reiterate, Republicans support defense jobs because they produce something essential to our national security and the things they relate to—intelligence and making equipment and weapons and so on. The jobs that produces are incidental to the primary reason we support those jobs.

Keynesians support redistributionist government stimulus spending because they think government spending boosts jobs and economic growth by increasing consumer demand, as I said. But this zero-sum thinking may result in the redistribution of resources from one group of Americans to another but doesn't necessarily result in any net new production or economic growth.

It is said, for example, that we could pay people to dig holes and then fill them up again and we would have created jobs but we wouldn't have created any productivity or growth for the economy per se. Unfortunately, very often the group left paying the bill is the very group of people we rely upon to create the new jobs—in this case, the taxpayers, especially small business folks, whom we call upon to create the jobs coming out of the recession.

The real trade-off is between government jobs and jobs created in the private sector. Leaving more money with the job creators in the private sector enables them to create those jobs. Taking more of it away and sending it to Washington for Washington to redistribute takes away from job creation.

As I have noted many times, the last 3-plus years have shown we can't spend our way to economic growth and prosperity; that is, we—the Federal Government—can't spend our way to growth and prosperity because the money we spend either has to come from taxpayers or be borrowed and eventually be paid back by taxpayers. The stimulus was supposed to keep unemployment below 8 percent, but we have just marked the 40th straight month of unemployment higher than 8 percent—above 8 percent. I think such outcomes demonstrate why Republicans oppose these Keynesian spending policies. They simply don't work. If they did, we would be rolling in dough right now after four consecutive trillion-dollar deficit spending sprees.

To set the record straight, Republicans are not arguing that the Department of Defense is a jobs program. It is necessary for our national defense. That is why we spend the money. We are not saying we are going to fix the economy by undoing the defense cuts under the sequestration. We are not even saying defense-related jobs are the most important sequester-related issue. What we are saying is that defense cuts are very dangerous for our national security, and if they go through, not only is our safety jeopardized, but we may have more than 1 million newly unemployed Americans. That is not a desirable outcome, and that is worth talking about. That is something we must keep in mind as this debate goes forward.

In conclusion, I renew my call to my Democratic colleagues and to our House colleagues to get together—Republicans and Democrats, House and Senate—to do something we all know is in the best interest of the country: avoid the automatic sequestration, half of which applies to defense—we are all for a strong national defense—and half of which applies to all the other discretionary spending programs. All those things will suffer if we don't reprioritize our spending and our reductions in spending as opposed to allowing this to happen across the board.

We do that by finding offsets we can agree upon in a way that will, as I said, set the priorities and enable the departments of government that have to plan for the future to do so in an intelligent way rather than simply knowing at the end of the year they are all going to have to have an across-the-board cut that isn't in anyone's best interest.

It is not as if we are suggesting doing away with the savings that would result from sequestration, which is \$109 billion for next year. Well, believe me, there is \$109 billion in the \$3-plus tril-

lion spending we will be doing here. There certainly is \$109 billion in savings we can achieve, and there have been several proposals already as to how that can be done. And it can be done without losing Federal jobs, it can be done without negatively impacting the economy, and it needs to be done under the law because Congress promised that we would save that \$109 billion next year. It is just a matter of whether we will do so intelligently, making the decisions we can make—and that our constituents expect us to make—in an intelligent way, setting priorities, or whether we will simply succumb to the notion that we can't make a decision, so we will let it happen across the board.

Just to give an illustration, how would you like to be a Navy admiral who hears the words: Here is your 80 percent of a submarine, admiral. It doesn't work that way. If we need the submarine, we need to pay for 100 percent of the submarine and cut somewhere else. That is all we are suggesting. We need to do that while the planning can be done for next year; otherwise, we are going to have a very inefficient and Draconian cut coming up that is not going to benefit anyone.

Again, I urge my colleagues, let's find a way to get together, find those savings, and get that done before we get toward the end of the year, when the departments can do the planning we will be asking them to do.

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

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

Mr. INHOFE. Madam President, let me first of all express my appreciation to the majority. I understand I am to be given some 40 minutes after the vote at the conclusion of the remarks by Senator BROWN of Ohio. I have a subject that is very significant, and it is one I cannot do while being interrupted. So I appreciate starting this period off after the recess being able to express my concern over what I refer to as President Obama's war on fossil fuels and specifically today on coal. I look forward to that sometime around the 6 o'clock hour.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CARDIN. Madam President, I rise to support the Paycheck Fairness

Act that we are going to have a chance to vote on tomorrow. I hope my colleagues will support the effort of my colleague Senator MIKULSKI in allowing S. 3220 to move forward. I congratulate my colleague Senator MIKULSKI for her incredible leadership on behalf of women's issues. She has done that throughout her entire career, and we knew she would be in the forefront of this effort for paycheck fairness. I am proud to stand shoulder to shoulder with her in this fight for basic justice in our Nation, to provide equality of pay in this country based upon a person's work and not a person's gender.

It builds on the Equal Pay Act of 1963 that was signed by President Kennedy. Yes, 1963 was the year Congress first spoke and said we are going to have equal pay for equal work in America, that America would show leadership internationally to say: Let's end discrimination against women in the workplace.

That legislation fought sex discrimination in employment wages, including the fact that such discrimination not only depressed wages and living standards for female employees, but it affected our entire labor resources here in America, holding back the development of our country. Title VII of the Civil Rights Act of 1964 prohibits employers from engaging in discrimination against their employees based on gender.

Today, women still face a pay gap. In 1963, women made 59 cents for every \$1 made by a man. Those were the numbers in 1963. Today, women make just 77 cents for every \$1 made by a man for equal work or comparable duties. That means a woman has to work 4 days to get 3 days' pay. That is not acceptable. I understand we have made some progress since 1963, but one would think that within a 50-year span we could have done better.

The Paycheck Fairness Act will allow us to reach our goal of equal pay for equal work. Estimates indicate that the wage gap costs women, on average, \$434,000 over their careers. While I am pleased we are making progress, this progress is just too slow, and we need to move more aggressively to close this pay gap in the year 2012.

Congress took another important step forward for equal rights for women by passing the Lilly Ledbetter Fair Pay Act. The legislation allows plaintiffs to sue for wage discrimination based on each new discriminatory paycheck they receive. In this case, Congress overturned a decision of the U.S. Supreme Court which held that women were only allowed to sue their employers within 180 days after the discrimination began, even if the women were not aware the discrimination was occurring, as a result of not knowing their coworkers' wages.

Quite frankly, I think the Supreme Court decision defies logic. How can someone possibly bring a case within 180 days if they do not know about the discriminatory pay differential? Con-

gress did the right thing. But basically we held the line on allowing enforcement rather than advancing what we need to, to make sure we have an effective remedy for discrimination against women in our workplaces.

That is exactly what the Paycheck Fairness Act does. It provides for an effective enforcement so women, in fact, can hold their employers responsible if the disparity is based upon their gender, which should not be in America.

The Paycheck Fairness Act would require employers to show pay disparity is truly related to business justifications and job performance and not gender. It prohibits employer retaliation for sharing salary information with co-workers. Under current law, employers can sue and punish employees for sharing such information. In addition, this legislation strengthens remedies for pay discrimination by increasing compensation women can seek.

The Paycheck Fairness Act also would strengthen the ability of the Department of Labor to help women achieve pay equity by requiring the Department of Labor to enhance outreach and training efforts to work with employers to eliminate pay disparities and to continue to collect and disseminate wage information based on gender.

The purpose of this act is to avoid discriminatory pay, not to sue employers after the fact. Therefore, this bill, the Paycheck Fairness Act, is well balanced in providing remedies, yes, if, in fact, an employer is discriminating on pay based on gender but to provide help to employers so they can take the appropriate steps to make sure, in fact, their workforce is fairly paying their employees.

The legislation makes clear that employers are liable only for wage differentials that are not bona fide factors. Bona fide factors include items such as education, training or experience and must be job related and consistent with business necessity. Employees will also be able to argue that employers should use alternative employment practices that would serve the same business purpose without producing the wage differential.

The legislation is crafted to avoid any undue burden on small businesses. I think the Presiding Officer and I both understand the importance of small businesses with the work we do on the Small Business Committee. This act is delayed from taking effect until 6 months after its passage so the Labor Secretary and EEOC can develop technical assistance materials to assist small businesses in complying with the new law, and the agencies are charged with engaging in research, education, and outreach on the new law.

The EEOC is charged with issuing regulations to provide for the collection of pay information from employers. The law specifically states that these regulations should "consider factors including the imposition of burdens on the employers, the frequency

of required data collection reports . . . and the most effective format for data collection."

We have heard about the cumulative information: Why can't we simplify it? Why can't we combine it? Why can't we be sensitive to small businesses? The Paycheck Fairness Act in our language makes it clear these regulations must be sensitive to the special needs of small businesses to make sure, in fact, this bill provides an effective remedy without excessive burdens on the business community.

In my own State of Maryland, the gender pay gap is 14.6 percent, according to the Joint Economic Committee. In Maryland, women's median weekly wage for full-time workers is \$822, while men's is \$962. That is not right. In Maryland, over one-third of married, employed mothers are their families' primary wage earner. Maryland women contribute, on average, over 40 percent of family wages and salary income to their households. It is time for women who live in Maryland—or who live in any State in our Nation—to get fair pay for the work they do.

I have the opportunity to chair the subcommittee on the Senate Foreign Relations Committee that deals with international development assistance. I have worked very closely with Secretary of State Clinton to deal with gender issues internationally.

We have discovered something that should be pretty obvious, but it is something that is very telling. The way a nation treats its women will very much be a barometer as to how well that nation is doing—how well they are doing with economic growth, how stable their government is. The United States has been a leader in working with countries around the world to treat women right, to do land reform so that the women who work the fields also own the property they are working, to make sure they share fairly in the fruits of their labor. We have been a leader internationally. I am proud of the progress we are making. I am proud of what Secretary Clinton and President Obama have done in showing the world that it is in a nation's interests to make sure women are properly dealt with, that they have proper education, that they are included in the system for education, for health care, for job training, for all of those issues, and are treated fairly when it comes to the economic rewards for the work they do. But it starts with us doing what is right in America.

Fifty years is too long for women to wait for equal pay after Congress took action in 1963. As a father and grandfather of strong, intelligent women, pay equity is a personal issue for me. I want my two granddaughters to know that when they grow up, they will be paid fairly for the work and not 77 cents for every dollar of their male counterparts.

I am proud to stand with Senator MIKULSKI in this fight to finally ensure that equal pay for equal work becomes

a reality for all women and men. I am pleased that this legislation is endorsed by a large number of organizations that have been in the forefront of fighting for equal justice in America. It is time to act and pass the Paycheck Fairness Act.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF TIMOTHY S. HILLMAN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Timothy S. Hillman, of Massachusetts, to be United States District Judge for the District of Massachusetts.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided in the usual form.

Mr. LEAHY. Madam President, today, the Senate will vote on the nomination of Timothy Hillman to fill a judicial vacancy in the U.S. District Court for the District of Massachusetts. Judge Hillman has the strong bipartisan support of his home state Senators. His nomination was reported with a near unanimous vote of 17-1 by the Judiciary Committee nearly 3 months ago, with the only objection coming from Senator LEE's customary protest vote. I thank the majority leader for his work in securing a vote on Judge Hillman's nomination.

I would note, however, that we have passed over consideration of four other nominees who are all listed on the executive calendar ahead of Judge Hillman. Those nominees—Andrew Hurwitz for the Ninth Circuit, Jeffrey Helmick for the Northern District of Ohio, Patty Shwartz for the Third Circuit, and Mary Lewis for the District of South Carolina—are all extremely well qualified, have the support of their home state Senators, were reported favorably out of the Judiciary Committee, and deserve an up-or-down vote. I hope we will have a vote on them soon.

Judge Hillman could and should have been confirmed back in March when the Majority Leader first filed cloture on his nomination. While I regret that he was not part of the original agreement reached by the Majority Leader and the Republican leader for a floor vote, I am glad that an agreement was

reached to consider his nomination today. Once we vote on Judge Hillman, we need to agree to vote on the 15 other judicial nominees stalled on the Executive calendar because there are still far too many vacancies plaguing our courts today.

The Congressional Research Service recently released a report about the treatment of President Obama's judicial nominations that confirms what we already know—that Senate Republicans have held President Obama's nominees to a different and unfair standard. For example, 95 percent of district court nominees in President George W. Bush's first term were confirmed, while only 78 percent of President Obama's district court nominees have been confirmed.

President Obama's nominees are also being delayed and forced to wait far longer on the Senate floor than President Bush's nominees. The median wait time for President Obama's district nominees after having been reported favorably out of Committee is more than 4 times longer than for President Bush's district nominees. The median wait time for President Obama's circuit nominees is 7.3 times longer than for President Bush's circuit nominees.

The simple fact is that the Senate is still lagging far behind what we accomplished during the first term of President George W. Bush. During President Bush's first term we reduced the number of judicial vacancies by almost 75 percent. When I became Chairman in the summer of 2001, there were 110 vacancies. As chairman, I worked with the administration and Senators from both sides of the aisle to confirm 100 judicial nominees of a conservative Republican President in 17 months.

Senate Democrats continued when in the minority to work with Senate Republicans to confirm President Bush's consensus judicial nominations well into 2004, a Presidential election year. At the end of that Presidential term, the Senate had acted to confirm 205 circuit and district court nominees. In May 2004, we reduced judicial vacancies to below 50 on the way to 28 that August. Despite 2004 being an election year, we were able to reduce vacancies to the lowest level in the last 20 years. At a time of great turmoil and political confrontation, despite the attack on 9/11, the anthrax letters shutting down Senate offices, and the ideologically-driven judicial selections of President Bush, we worked together to promptly confirm consensus nominees and significantly reduce judicial vacancies. By working together, we lowered vacancy rates more than twice as quickly as Senate Republicans have allowed during President Obama's first term.

In October 2008, another presidential election year, we again worked to reduce judicial vacancies and were able to get back down to 34 vacancies. I accommodated Senate Republicans and continued holding expedited hearings and votes on judicial nominations into September 2008.

By comparison, the vacancy rate remains nearly twice what it was at this point in the first term of President Bush. While vacancies were reduced below 50 by May of President Bush's fourth year, in June of President Obama's fourth year they remain in the mid-70s. They remained near or above 80 for nearly 3 years. We are more than 30 confirmations behind the pace we set in 2001 through 2004. Of course, we could move forward if the Senate were allowed to vote without further delay on the 16 judicial nominees ready for final action. The Senate could reduce vacancies below 60 and make progress.

The recently released CRS Report also notes that in five of the last eight Presidential election years, the Senate has confirmed at least 22 nominees after May 31. Because of how far we are lagging from President Bush's record of confirmations, we should be working to exceed those numbers. We can start today by confirming Judge Hillman and the other 15 judicial nominees ready for final Senate action. Another five judicial nominees were ready for final Judicial Committee action in May but held over by Committee Republicans. Those five nominees should be voted out of the Committee this Thursday. In addition, we are holding a hearing for another three judicial nominees this Wednesday. With cooperation from Senate Republicans the Senate could make real progress and match what we have accomplished in prior years.

Timothy Hillman was rated unanimously well qualified by the ABA's Standing Committee on the Federal Judiciary, the highest possible rating. He has been a federal magistrate judge on the court in which he has been nominated for nearly 6 years. Prior to his service as a magistrate judge, Judge Hillman served for 15 years as a state court judge on the Massachusetts Superior Court and the Massachusetts District Court. He has also spent significant time in private practice and several years of experience as an Assistant District Attorney in the Worcester County District Attorney's Office.

Judge Hillman is a respected and experienced jurist in Massachusetts. His nomination has the strong support of both his home state Senators, Senator JOHN KERRY and Senator SCOTT BROWN, who introduced him to the Judiciary Committee at his hearing in February. Senator BROWN said of Judge Hillman:

We have in Judge Hillman somebody who is greatly respected in Massachusetts and especially in the Worcester area through his innovation and integrity and dedication to fairness. He is really to be commended, and I want to thank he and his wife for, obviously, putting up with the process. And I am going to do everything in my power to encourage my colleagues to make sure that we get a vote on this right away, because Massachusetts needs a jurist like him right away to do the people's business, and that is so critically important.