Forces, including reserve components thereof, and supporting civilian and contractor personnel continue to receive pay and allowances for active service performed when a funding gap caused by the failure to enact interim or full-year appropriations for the Armed Forces occurs, which results in the furlough of non-emergency personnel and the curtailment of Government activities and services.

S. 726

At the request of Mr. RUBIO, the names of the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. MCCAIN) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 726, a bill to rescind $45 billion of unobligated discretionary appropriations, and for other purposes.

S. 733

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 733, a bill to amend part B of title XVIII of the Social Security Act to exclude customary prompt pay discounts from manufacturers to wholesalers from the average sales price for drugs and biologicals under Medicare.

S. 740

At the request of Mr. REED, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 740, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 782

At the request of Mrs. BOXER, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 782, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes.

S. RES. 109

At the request of Ms. SNOWE, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Colorado (Mr. UDALL), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. Res. 109, a resolution honoring and supporting women in North Africa and the Middle East whose bravery, compassion, and commitment to putting the wellbeing of others before their own have proven that courage can be contagious.

S. RES. 127

At the request of Mr. KERRY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 127, a resolution designating April 2011 as ''National Child Abuse Prevention Month''.

S. RES. 132

At the request of Mr. NELSON of Nebraska, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 132, a resolution recognizing and honoring the zoos and aquariums of the United States.

S. RES. 138

At the request of Mrs. GILLIBRAND, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Missouri (Mr. BLUNT), the Senator from Maine (Ms. COLLINS), the Senator from Maryland (Mr. CARDIN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. Res. 138, a resolution calling on the United Nations to rescind the Goldstone report, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. KERRY, Mr. AKAKA, Mrs. BOXER, Mrs MURRAY, Mr. LAUTENBERG, and Mr. MERKLEY):

S. 788. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today Americans observe Equal Pay Day—the date that marks the extra days that women must work into 2011 in order to equal what men earned in 2010. On this day, I am proud to introduce the Fair Pay Act of 2011, a bill I have introduced every Congress since 1996.

In 1963, Congress enacted the Equal Pay Act to end unfair discrimination against women in the workforce. While we have made progress toward this important goal, nearly half a century later, too many women still do not get paid what men do for the same or nearly the same work. On average, a woman makes only 77 cents for every dollar that a man makes. That translates into an average of $400,000 over her lifetime that a woman loses because of unequal pay practices. The circumstances are even worse for Latinas and women of color.

This is wrong, it is unjust, and it threatens the economic security of our families. The fact is millions of Americans are dependent on a woman's paycheck just to get by, to put food on the table, pay for child care, and deal with rising health care bills. Two-thirds of mothers bring home at least a quarter of their family's earnings. In many families, a woman is the sole breadwinner.

The evidence shows that discrimination accounts for much of the pay gap, and our laws have not done enough to prevent this discrimination from occurring. That is why passage of the Lilly Ledbetter Fair Pay Act was a critical first step, and why it is important to pass the Paycheck Fairness Act, introduced today by Senator MIKULSKI and Representative DELAURO, of which I am a proud original cosponsor. There are too many loopholes and barriers to effective enforcement of our existing laws. We need to strengthen penalties and give women the tools they need to confront discrimination.

At the same time, we must recognize that the problem of unequal pay goes beyond insidious discrimination. As a nation, we unjustly devalue jobs traditionally performed by women, even when they require comparable skills to jobs traditionally performed by men.

Today, millions of female-dominated jobs—for example, social workers, teachers, child care workers and nurses—are equivalent in skills, effort, responsibility and working conditions to similar jobs dominated by men. But, the female-dominated jobs pay significantly less. This is inexplicable. Why is a housekeeper worth less than a janitor? Why is a parking meter reader worth less than an electrical meter reader? Why is a social worker worth less than a probation officer?

To address this more subtle, deep-rooted discrimination, today I am joining with Representative ELEANOR HOLMES NORTON to introduce the Fair Pay Act, which will ensure that employers provide equal pay for jobs that are equivalent in skill, effort, responsibility and working conditions.

This important legislation would also require employers to publicly disclose their job categories and their pay scales, without requiring specific information on individual employees. If we give women information about what their male colleagues are earning, they can negotiate a better deal for themselves in the workplace.

Right now, women who believe they are the victim of pay discrimination must file a lawsuit and endure a drawn-out legal discovery process to find out whether they make less than the man working beside them. With pay statistics readily available, this expensive process could be avoided.

The number of lawsuits would surely go down if employees could see up front whether they are being treated fairly. In fact, I once asked Lilly Ledbetter: if the Fair Pay Act had been law, would it have averted her wage discrimination case? She said that with the information about pay scales that the bill provides, she would have known that she was a victim of discrimination and could have tried to address the problem sooner, rather than suffering a lifelong drop in her earnings and a trip all the way to the Supreme Court to try to make things right.

On this Equal Pay Day, let us make sure that what happened to Lilly never happens again by recommitting to eliminate discrimination in the workplace and make equal pay for equal work a reality. America's working women and the families that rely on them deserve fairness on the job. Hopefully, soon, we can achieve true equality in the workplace so there is no need to commemorate equal pay day any more.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Fair Pay Act of 2011''.

(b) REFERENCE.—Except as provided in section 8, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

SEC. 2. FINDINGS.

Congress finds the following:

(1) Wage rate differentials exist between equivalent jobs segregated by sex, race, and national origin in Government employment and in industries engaged in commerce or in the production of goods for commerce.

(2) The existence of such wage rate differentials—

(A) depresses wages and living standards for employees necessary for their health and efficiency;

(B) prevents the maximum utilization of the available labor resources;

(C) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce;

(D) burdens commerce and the free flow of goods in commerce; and

(E) constitutes an unfair method of competition.

(3) Discrimination in hiring and promotion has played a role in maintaining a segregated work force.

(4) Many women and people of color work in occupations dominated by individuals of their same sex, race, and national origin.

(5)(A) In 2009, a woman in the United States working in a full-time, year-round job earned 77 cents for every dollar earned by a man working in a full-time, year-round job.

(B) A 2007 study found that - even when accounting for key factors generally known to influence earnings such as race, educational attainment, and experience - nearly half (49.3 percent) of the pay gap can be explained by differences in the industries and occupations that men and women work in, and 41 percent of the pay gap cannot be accounted for but may be partially explained by discrimination in the workplace.

(6) Section 6(d) of the Fair Labor Standards Act of 1938 prohibits discrimination in compensation for ''equal work'' on the basis of sex.

(7) Artificial barriers to the elimination of discrimination in compensation based upon sex, race, and national origin continue to exist more than 4 decades after the passage of section 6(d) of the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963, and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.). Elimination of such barriers would have positive effects, including—

(A) providing a solution to problems in the economy created by discrimination through wage rate differentials;

(B) substantially reducing the number of working women and people of color earning low wages, thereby reducing the dependence on public assistance; and

(C) promoting stable families by enabling working family members to earn a fair rate of pay.

SEC. 3. EQUAL PAY FOR EQUIVALENT JOBS.

(a) AMENDMENT.—Section 6 (29 U.S.C. 206) is amended by adding at the end the following:

''(h)(1)(A) Except as provided in subparagraph (B), no employer having employees subject to any provision of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex, race, or national origin by paying wages to employees in such establishment in a job that is dominated by employees of a particular sex, race, or national origin at a rate less than the rate at which the employer pays wages to employees in such establishment in another job that is dominated by employees of the opposite sex or of a different race or national origin, respectively, for work on equivalent jobs.

''(B) Nothing in subparagraph (A) shall prohibit the payment of different wage rates to employees where such payment is made pursuant to—

''(i) a seniority system;

''(ii) a merit system;

''(iii) a system that measures earnings by quantity or quality of production; or

''(iv) a differential based on a bona fide factor other than sex, race, or national origin, such as education, training, or experience, except that this clause shall apply only if—

''(I) the employer demonstrates that—

''(aa) such factor—

''(AA) is job-related with respect to the position in question; or

''(BB) furthers a legitimate business purpose, except that this item shall not apply if the employee demonstrates that an alternative employment practice exists that would serve the same business purpose without producing such differential and that the employer has refused to adopt such alternative practice; and

''(bb) such factor was actually applied and used reasonably in light of the asserted justification; and

''(II) upon the employer succeeding under subclause (I), the employee fails to demonstrate that the differential produced by the reliance of the employer on such factor is itself the result of discrimination on the basis of sex, race, or national origin by the employer.

''(C) The Equal Employment Opportunity Commission shall issue guidelines specifying criteria for determining whether a job is dominated by employees of a particular sex, race, or national origin for purposes of subparagraph (B)(iv). Such guidelines shall not include a list of such jobs.

''(D) An employer who is paying a wage rate differential in violation of subparagraph (A) shall not, in order to comply with the provisions of such subparagraph, reduce the wage rate of any employee.

''(2) No labor organization or its agents representing employees of an employer having employees subject to any provision of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1)(A).

''(3) For purposes of administration and enforcement of this subsection, any amounts owing to any employee that have been withheld in violation of paragraph (1)(A) shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this section or section 7.

''(4) In this subsection:

''(A) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

''(B) The term 'equivalent jobs' means jobs that may be dissimilar, but whose requirements are equivalent, when viewed as a composite of skills, effort, responsibility, and working conditions.''.

(b) CONFORMING AMENDMENT.—Section 13(a) (29 U.S.C. 213(a)) is amended in the matter before paragraph (1) by striking ''section 6(d)'' and inserting ''sections 6 (d) and (h)''.

SEC. 4. PROHIBITED ACTS.

Section 15(a) (29 U.S.C. 215(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(2) by adding after paragraph (5) the following:

''(6) to discriminate against any individual because such individual has opposed any act or practice made unlawful by section 6(h) or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce section 6(h); or

''(7) to discharge or in any other manner discriminate against, coerce, intimidate, threaten, or interfere with any employee or any other person because the employee inquired about, disclosed, compared, or otherwise discussed the employee's wages or the wages of any other employee, or because the employee exercised, enjoyed, aided, or encouraged any other person to exercise or enjoy any right granted or protected by section 6(h).''.

SEC. 5. REMEDIES.

(a) ENHANCED PENALTIES.—Section 16(b) (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: ''Any employer who violates subsection (d) or (h) of section 6 shall additionally be liable for such compensatory or punitive damages as may be appropriate, except that the United States shall not be liable for punitive damages.'';

(2) in the sentence beginning ''An action to'', by striking ''either of the preceding sentences'' and inserting ''any of the preceding sentences of this subsection'';

(3) in the sentence beginning ''No employees'', by striking ''No employees'' and inserting ''Except with respect to class actions brought under subsection (f), no employee'';

(4) in the sentence beginning ''The court in'', by striking ''in such action'' and inserting ''in any action brought to recover the liability prescribed in any of the preceding sentences of this subsection''; and

(5) by striking ''section 15(a)(3)'' each place it occurs and inserting ''paragraphs (3), (6), and (7) of section 15(a)''.

(b) ACTION BY SECRETARY.—Section 16(c) (29 U.S.C. 216(c)) is amended—

(1) in the first sentence—

(A) by inserting ''or, in the case of a violation of subsection (d) or (h) of section 6, additional compensatory or punitive damages,'' before ''and the agreement''; and

(B) by inserting before the period the following: '', or such compensatory or punitive damages, as appropriate'';

(2) in the second sentence, by inserting before the period the following: ''and, in the case of a violation of subsection (d) or (h) of section 6, additional compensatory or punitive damages''; and

(3) in the third sentence, by striking ''the first sentence'' and inserting ''the first or second sentence''.

(c) FEES.—Section 16 (29 U.S.C. 216) is amended by adding at the end the following:

''(f) In any action brought under this section for a violation of section 6(h), the court shall, in addition to any other remedies awarded to the prevailing plaintiff or plaintiffs, allow expert fees as part of the costs. Any such action may be maintained as a class action as provided by the Federal Rules of Civil Procedure.''.

SEC. 6. RECORDS.

(a) RECORDS.—Section 11(c) (29 U.S.C. 211(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) Every employer subject to section 6(h) shall preserve records that document and

support the method, system, calculations, and other bases used by the employer in establishing, adjusting, and determining the wage rates paid to the employees of the employer. Every employer subject to section 6(h) shall preserve such records for such periods of time, and shall make such reports from the records to the Equal Employment Opportunity Commission, as shall be prescribed by the Equal Employment Opportunity Commission by regulation or order as necessary or appropriate for the enforcement of the provisions of section 6(h) or any regulation promulgated pursuant to section 6(h).''.

(b) SMALL BUSINESS EXEMPTIONS.—Section 11(c) (as amended by subsection (a)) is further amended by adding at the end the following:

''(3) Every employer subject to section 6(h) that has 25 or more employees on any date during the first or second year after the effective date of this paragraph, or 15 or more employees on any date during any subsequent year after such second year, shall, in accordance with regulations promulgated by the Equal Employment Opportunity Commission under paragraph (8), prepare and submit to the Equal Employment Opportunity Commission for the year involved a report signed by the president, treasurer, or corresponding principal officer, of the employer that includes information that discloses the wage rates paid to employees of the employer in each classification, position, or job title, or to employees in other wage groups employed by the employer, including information with respect to the sex, race, and national origin of employees at each wage rate in each classification, position, job title, or other wage group.''.

(c) PROTECTION OF CONFIDENTIALITY.—Section 11(c) (as amended by subsections (a) and (b)) is further amended by adding at the end the following:

''(4) The rules and regulations promulgated by the Equal Employment Opportunity Commission under paragraph (8), relating to the form of such a report, shall include requirements to protect the confidentiality of employees, including a requirement that the report shall not contain the name of any individual employee.''.

(d) USE; INSPECTIONS; EXAMINATION; REGULATIONS.—Section 11(c) (as amended by subsections (a) through (c)) is further amended by adding at the end the following:

''(5) The Equal Employment Opportunity Commission may publish any information and data that the Equal Employment Opportunity Commission obtains pursuant to the provisions of paragraph (3). The Equal Employment Opportunity Commission may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based on the information and data as the Equal Employment Opportunity Commission may consider appropriate.

''(6) In order to carry out the purposes of this Act, the Equal Employment Opportunity Commission shall by regulation make reasonable provision for the inspection and examination by any person of the information and data contained in any report submitted to the Equal Employment Opportunity Commission pursuant to paragraph (3).

''(7) The Equal Employment Opportunity Commission shall by regulation provide for the furnishing of copies of reports submitted to the Equal Employment Opportunity Commission pursuant to paragraph (3) to any person upon payment of a charge based upon the cost of the service.

''(8) The Equal Employment Opportunity Commission shall issue rules and regulations prescribing the form and content of reports required to be submitted under paragraph (3) and such other reasonable rules and regulations as the Equal Employment Opportunity Commission may find necessary to prevent the circumvention or evasion of such reporting requirements. In exercising the authority of the Equal Employment Opportunity Commission under paragraph (3), the Equal Employment Opportunity Commission may prescribe by general rule simplified reports for employers for whom the Equal Employment Opportunity Commission finds that because of the size of the employers a detailed report would be unduly burdensome.''.

SEC. 7. RESEARCH, EDUCATION, AND TECHNICAL ASSISTANCE PROGRAM; REPORT TO CONGRESS.

Section 4(d) (29 U.S.C. 204(d)) is amended by adding at the end the following:

''(4) The Equal Employment Opportunity Commission shall conduct studies and provide information and technical assistance to employers, labor organizations, and the general public concerning effective means available to implement the provisions of section 6(h) prohibiting wage rate discrimination between employees performing work in equivalent jobs on the basis of sex, race, or national origin. Such studies, information, and technical assistance shall be based on and include reference to the objectives of such section to eliminate such discrimination. In order to achieve the objectives of such section, the Equal Employment Opportunity Commission shall carry on a continuing program of research, education, and technical assistance including—

''(A) conducting and promoting research with the intent of developing means to expeditiously correct the wage rate differentials described in section 6(h);

''(B) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the various media of communication, and the general public the findings of studies and other materials for promoting compliance with section 6(h);

''(C) sponsoring and assisting State and community informational and educational programs; and

''(D) providing technical assistance to employers, labor organizations, professional associations and other interested persons on means of achieving and maintaining compliance with the provisions of section 6(h).

''(5) The report submitted biennially by the Secretary to Congress under paragraph (1) shall include a separate evaluation and appraisal regarding the implementation of section 6(h).''.

SEC. 8. CONFORMING AMENDMENTS.

(a) CONGRESSIONAL EMPLOYEES.—

(1) APPLICATION.—Section 203(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1313(a)(1)) is amended—

(A) by striking ''subsections (a)(1) and (d) of section 6'' and inserting ''subsections (a)(1), (d), and (h) of section 6''; and

(B) by striking ''206 (a)(1) and (d)'' and inserting ''206 (a)(1), (d), and (h)''.

(2) REMEDIES.—Section 203(b) of such Act (2 U.S.C. 1313(b)) is amended by inserting before the period the following: ''or, in an appropriate case, under section 16(f) of such Act (29 U.S.C. 216(f))''.

(b) EXECUTIVE BRANCH EMPLOYEES.—

(1) APPLICATION.—Section 413(a)(1) of title 3, United States Code, as added by section 2(a) of the Presidential and Executive Office Accountability Act (Public Law 104–331; 110 Stat. 4053), is amended by striking ''subsections (a)(1) and (d) of section 6'' and inserting ''subsections (a)(1), (d), and (h) of section 6''.

(2) REMEDIES.—Section 413(b) of such title is amended by inserting before the period the following: ''or, in an appropriate case, under section 16(f) of such Act''.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

By Mr. AKAKA:

S. 790. A bill to provide for mandatory training for Federal Government supervisors and the assessment of management competencies; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to reintroduce the Federal Supervisor Training Act.

Properly trained supervisors are critical to the federal government's ability to efficiently and effectively provide essential services to the American people. First-level supervisors have close contact and frequent interaction with our Federal employees and thus have the most significant impact on employee performance.

Investing in first-level supervision could yield enormous positive returns. Research has shown that supervisory skills strongly predict agency performance and that improving the quality of first-level supervision is one of the most effective ways to improve an agency's performance. According to a 2010 Merit Systems Protection Board report entitled ''A Call to Action: Improving First-Level Supervision of Federal Employees,'' the fastest and most direct way to strengthen Federal workforce performance is to improve the supervision employees receive.

For managers and supervisors in the Federal Government, few things are more important than training. Supervisor training programs improve communication, promote stronger manager-employee relationships, reduce conflict, and cultivate efficiency.

Conversely, poor supervision can damage agency performance and employee morale, which undermines agency performance and wastes money. The National Academy of Public Administration reported that while it is difficult to quantify the precise cost of supervisory deficiencies, even a small deficiency could result in a loss of billions of dollars, and that without solid programs for developing first level supervisors, agencies pay an enormous price. Simply stated, investing in supervisory training in the Federal Government now will save us money later.

The need for effective supervisor training is becoming even more pressing given the large number of Federal employees who are expected to retire in the next few years. The Office of Personnel Management estimates that by the year 2014, approximately 53 percent of permanent full-time Federal employees will be eligible to retire, and the majority of those eligible will retire. Because supervisors tend to be older and have more years of service than non-supervisors, supervisors are likely to retire at faster rates than non-supervisors. In light of the expected retirement wave, training a new

generation of federal supervisors is a matter of national urgency.

The Federal Supervisor Training Act will require that new supervisors receive training on specified topics, including whistleblower and anti-discrimination rights, during their initial 12 months on the job, unless the Office of Personnel Management grants an extension to their employing agency. Supervisors will be required to update their training once every three years. Current supervisors will have three years to obtain their initial training. This bill will also require agencies to implement a program whereby experienced supervisors mentor new supervisors.

In addition, the Federal Supervisor Training Act will require the Office of Personnel Management to issue guidance to agencies on competencies supervisors are expected to meet in order to effectively supervise employees. Based on this guidance, or any additional competencies established by employing agencies, each agency will be required to assess the performance of its supervisors.

This bill builds upon supervisor training requirements under the Federal Workforce Flexibility Act of 2004, which directs agencies to establish training programs that develop supervisors, and to establish programs to provide additional training to supervisors in three areas—dealing with poor performers, mentoring employees and improving their performance, and conducting performance appraisals.

I am delighted that this bill has received support from the Government Managers Coalition, which represents members of the Senior Executives Association, the Federal Managers Association, the Professional Managers Association, the Federal Aviation Administration Managers Association, and the National Council of Social Security Management Associations. Additionally, it is supported by some of the largest federal sector labor organizations, including the American Federation of Government Employees, the National Treasury Employees Union, the National Federation of Federal Employees, and the International Federation of Professional and Technical Engineers. Finally, this bill is supported by the Partnership for Public Service, a non-profit, non-partisan organization which works to find ways to improve the government's ability to provide services to citizens. I believe the broad support from management associations, labor organizations, and outside good government groups demonstrates the need for this bill.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Supervisor Training Act of 2011''.

SEC. 2. MANDATORY TRAINING PROGRAMS FOR SUPERVISORS.

(a) IN GENERAL.—Section 4121 of title 5, United States Code, is amended—

(1) by inserting before ''In consultation with'' the following:

''(a) In this section, the term 'supervisor' means—

''(1) a supervisor as defined under section 7103(a)(10);

''(2) a management official as defined under section 7103(a)(11); and

''(3) any other employee as the Director of the Office of Personnel Management may by regulation prescribe.'';

(2) by striking ''In consultation with'' and inserting ''(b) Under operating competencies prescribed by, and in consultation with,''; and

(3) by striking paragraph (2) (of the matter redesignated as subsection (b) as a result of the amendment under paragraph (2) of this subsection) and inserting the following:

''(2)(A) a program to provide training to supervisors on actions, options, and strategies a supervisor may use in—

''(i) developing and discussing relevant goals and objectives together with the employee, communicating and discussing progress relative to performance goals and objectives and conducting performance appraisals;

''(ii) mentoring and motivating employees and improving employee performance and productivity;

''(iii) fostering a work environment characterized by fairness, respect, equal opportunity, and attention paid to the merit of the work of employees;

''(iv) effectively managing employees with unacceptable performance;

''(v) addressing reports of a hostile work environment, reprisal, or harassment of, or by, another supervisor or employee;

''(vi) meeting supervisor competencies established by the Office of Personnel Management or the employing agency of the supervisor; and

''(vii) otherwise carrying out the duties or responsibilities of a supervisor;

''(B) a program to provide training to supervisors on the prohibited personnel practices under section 2302 (particularly with respect to such practices described under subsection (b) (1) and (8) of that section), employee collective bargaining and union participation rights, and the procedures and processes used to enforce employee rights; and

''(C) a program under which experienced supervisors mentor new supervisors by—

''(i) transferring knowledge and advice in areas such as communication, critical thinking, responsibility, flexibility, motivating employees, teamwork, leadership, and professional development; and

''(ii) pointing out strengths and areas for development.

''(c) Training in programs established under subsection (b)(2) (A) and (B) shall be—

''(1) interactive training which may include computer-based training; and

''(2) to the extent practicable as determined by the head of the agency, training that is instructor-based.

''(d)(1)(A) Not later than 1 year after the date on which an individual is appointed to the position of supervisor, that individual shall be required to have completed each program established under subsection (b)(2).

''(B) The Director of the Office of Personnel Management may establish and administer procedures under which the head of an agency may extend the 1-year period described under subparagraph (A) with respect to an individual.

''(2) After completion of a program under subsection (b)(2) (A) and (B), each supervisor shall be required to complete a program under subsection (b)(2) (A) and (B) at least once every 3 years.

''(3) Each program established under subsection (b)(2) shall include provisions under which credit shall be given for periods of similar training previously completed.

''(4) Each agency shall measure the effectiveness of training programs established under subsection (b)(2).

''(e) Notwithstanding section 4118(c), the Director of the Office of Personnel Management shall prescribe regulations to carry out this section, including the monitoring of agency compliance with this section. Regulations prescribed under this subsection shall include measures by which to assess the effectiveness of agency supervisor training programs.''.

(b) REPORT ON EXTENSIONS FOR TRAINING REQUIREMENTS.—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term ''appropriate congressional committees'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Director of the Office of Personnel Management shall submit a report with respect to the preceding fiscal year to the appropriate congressional committees on—

(A) the number of extensions granted under section 4121(d)(1)(B) of title 5, United States Code, as added by subsection (a) of this section; and

(B) the number of individuals completing the requirements of section 4121(d)(1)(A) of title 5, United States Code, as added by subsection (a) of this section.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management shall prescribe regulations under section 4121(e) of title 5, United States Code, as added by subsection (a) of this section.

(d) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act and apply to—

(A) each individual appointed to the position of a supervisor, as defined under section 4121(a) of title 5, United States Code (as added by subsection (a) of this section), on or after that effective date; and

(B) each individual who is employed in the position of a supervisor on that effective date as provided under paragraph (2).

(2) SUPERVISORS ON EFFECTIVE DATE.—Each individual who is employed in the position of a supervisor on the effective date of this section and is not subject to an extension under section 4121(d)(1)(B) of title 5, United States Code (as added by subsection (a) of this section) shall be required to—

(A) complete each program established under section 4121(b)(2) of title 5, United States Code (as added by subsection (a) of this section), not later than 3 years after the effective date of this section; and

(B) complete programs every 3 years thereafter in accordance with section 4121(d) (2) and (3) of that title (as added by subsection (a) of this section).

SEC. 3. MANAGEMENT COMPETENCIES.

(a) IN GENERAL.—Chapter 43 of title 5, United States Code, is amended—

(1) by redesignating section 4305 as section 4306; and

(2) inserting after section 4304 the following:

''§ 4305. Management competencies

''(a) In this section, the term 'supervisor' means—

''(1) a supervisor as defined under section 7103(a)(10);

''(2) a management official as defined under section 7103(a)(11); and

''(3) any other employee as the Director of the Office of Personnel Management may by regulation prescribe.

''(b) The Director of the Office of Personnel Management shall issue guidance to agencies on competencies supervisors are expected to meet in order to effectively manage, and be accountable for managing, the performance of employees.

''(c) Based on guidance issued under subsection (b) and on any additional competencies developed by an agency, each agency shall assess the performance of the supervisors and the overall capacity of the supervisors in that agency.

''(d) Every year, or on any basis requested by the Director of the Office of Personnel Management, each agency shall submit a report to the Office of Personnel Management on the progress of the agency in implementing this section, including measures used to assess program effectiveness.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 43 of title 5, United States Code, is amended by striking the item relating to section 4305 and inserting the following:

''4305. Management competencies.
''4306. Regulations.''.

(2) REFERENCE.—Section 4304(b)(3) of title 5, United States Code, is amended by striking ''section 4305'' and inserting ''section 4306''.

By Mr. UDALL of New Mexico (for himself, Mr. BINGAMAN, Mr. BENNET, Mr. CRAPO, Mr. UDALL of Colorado, and Mr. RISCH):

S. 791. A bill to amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, and for other purposes; to the Committee on the Judiciary.

Mr. UDALL of New Mexico. Mr. President, I rise today to introduce the Radiation Exposure Compensation Act Amendments of 2011. The Radiation Exposure Compensation Act, known as RECA, was first passed in 1990 after years of work and litigation. The act was later improved in 2000 through amendments made by Congress, and today I am joined by my colleagues, Senators BINGAMAN, BENNET, CRAPO, MARK UDALL, and RISCH, to once again improve the act through introduction of this legislation.

This bill honors the individuals who unwittingly gave their health and even their lives to national efforts to develop uranium and a Cold War nuclear arsenal during the mid-20th century. Some Americans were sickened through exposure to aboveground atomic weapons tests, and others were exposed to heavy doses of radiation from working in the uranium mining industry. All the while, the government was slow to implement Federal protections. As a result, a generation of Americans who worked in the mines and lived near testing sites became sick with serious diseases like lung cancer and kidney disease.

Much of the United States' uranium development and weapons testing occurred in New Mexico and the West. Mines and mills drew workers into rural communities. These workers, and much of the country, were unaware of the dangers of radiation exposure. As mining and milling continued and our national understanding of the dangers of radiation exposure developed, the Federal Government continued to fail to ensure that uranium workers and their families were safe from the hazards of exposure to radioactive materials. As a result, numerous illnesses and cancers began to emerge in the men and women who worked in the uranium mining industry and lived downwind of weapons testing sites.

In my home State of New Mexico, the Pueblo of Laguna was home to the nation's largest open pit uranium mine. Additionally, many large and small mines and mill sites were opened within the Navajo Nation. In fact, much of the State's northwestern area is spackled with hundreds of abandoned uranium mines. Workers from across the State came to these mines and mills, especially from the economically struggling communities of rural New Mexico.

In the late '70s, my father, Stewart Udall, took up the fight for these workers. In 1979, my father filed 32 claims against the Department of Energy on behalf of widows of deceased Navajo uranium miners. In many ways, this marked the beginning of the fight for compensation for all uranium workers. I remember working those years with my whole family to collect information and push for recognition. It was a family effort to fight injustice, and for me, it continues to be a family priority. Ten years later, the original RECA legislation was passed in the United States Congress, giving a level of restitution to sick miners and millers, as well as individuals downwind of nuclear tests. The RECA legislation was later expanded upon through an amendment adopted in 2000.

The legislation we introduce today takes the next step to address the remaining shortfalls of the Radiation Exposure Compensation Act.

Specifically, the bill would include post-1971 uranium workers as qualified claimants. While the Federal Government ceased purchase of domestic uranium in 1971, implementation of Federal work safety standards was slow and regulation of mines was poor. As a result, thousands of miners and millers were never made aware of the dangers of the yellow cake they handled on a regular basis. In recently conducted surveys, the majority of uranium workers from this time period report that they did not have showers or washbasins in the mines where they worked. They often took contaminated clothing home for laundering, unaware of the hazards and with no other option for cleaning. Many also report that ventilation to prevent unnecessary exposure was not provided in their work areas.

Today, these workers continue to suffer and die from illnesses related to radiation exposure. But because their employment dates began after 1971, the cut-off included in the original RECA legislation, they have no opportunity for compensation. Our bill changes that. If the measure passes, individuals working between 1971 and 1990 will qualify to claim compensation for exposure-related diseases.

The bill we're introducing today would also expand the geographic areas that qualify for downwind compensation to include New Mexico, Idaho, Montana, Colorado, and Guam. And for the first time, the bill recognizes downwind exposure from the original atomic weapons test site—the Trinity Site in New Mexico.

Those exposed as a result of aboveground weapons tests would receive increased compensation as a result of passage of the bill being introduced today. This would make their compensation consistent with their counterparts who worked in mines and mills.

Comprehensive epidemiological research on the impacts of uranium development on communities and families of uranium workers is long overdue. Our legislation would authorize funding for the National Institute of Environmental Health Sciences to award grants to universities and nonprofits to carry out such research.

Many who have suffered as a result of cold war uranium and weapons development do not have the documentation to prove their exposure. Often, mines and mills did not keep proper documentation of their workers, and many communities impacted do not have a tradition of keeping birth and marriage certification. The RECA Amendments of 2011 would broaden the use of affidavits to substantiate employment history and residence in an affected downwind area.

Employees would also be able to combine their time worked in multiple positions to meet the work-time requirements for compensation in the original RECA legislation if today's legislation is adopted.

Finally, this legislation would allow miners to be compensated for kidney disease. And it would allow core drillers to join miners, millers, and ore transporters on the current list of uranium workers who qualify for compensation under the Act.

For more than two decades now, the United States has tried to compensate in some way for the sickness and loss of life that came as a result of cold war era uranium and weapons development. Much has been accomplished, but today we are taking the next step to close

this sad chapter in history and to improve the reach of compassionate compensation to those Americans who have suffered, but have not qualified under RECA in its current form.

Thousands continue to suffer from deadly illnesses as a result of radiation exposure, but many do not qualify for compensation because they began employment after 1971, or because they worked for a short time in several different mines and mills. Others qualify for a level of compensation, but still struggle to pay the expensive medical bills associated with their illnesses.

I look forward to working with my colleagues to recognize these individuals and expand RECA to include all who are justified in receiving radiation exposure compensation, and I urge the Judiciary Committee, the committee of jurisdiction, to expedite hearing on this important piece of legislation.

By Mr. PRYOR:

S. 792. A bill to authorize the waiver of certain debts relating to assistance provided to individuals and households since 2005; to the Committee on Homeland Security and Governmental Affairs.

Mr. PRYOR. Mr. President, I want to talk just for a few minutes about an incident that is unfolding in Arkansas, and that I am sure is unfolding in other States as well.

Less than 2 weeks ago, a 73-year-old woman and her husband received a letter from FEMA, where FEMA demanded that this couple pay back $27,000 in FEMA assistance they had received 3 years earlier, and that they do so within 30 days or face penalties, interest, et cetera. Well, this was devastating news for her. These are Social Security recipients. They lost everything in a flood.

But let me back up and tell the full story, and then tell the rest of the story. Three years ago, Arkansas had some floods on the White River, and the folks in the Mountain View area, some of them, experienced very severe flooding. FEMA actually came to this couple's house, walked around, and told them on the spot they were eligible to receive FEMA assistance for the flooding. The maximum you can receive is $30,000. So they filled out the paperwork.

In fact, FEMA helped them do some of that, like I said, on the spot, while FEMA was visiting their home and looking at their property. FEMA assured her they would qualify for this assistance. So they filled out the paperwork and they went through the process.

Apparently, at some point, there was even an appeal or some sort of clarification. So it went through the proper channels at FEMA. Remember, FEMA was there, they took pictures, and the whole deal. They verified the damage. So this couple received $27,000 in FEMA assistance.

They put every dime back into their home. This is a couple who basically lost almost all their worldly possessions in this flood. I talked to her a week or so ago, and she told me they were able to save a few items of glassware and a few keepsakes from the family, but basically everything was either washed away in the water or so caked with mud it was ruined during the flood. The $27,000 helped repair their home and make it habitable, but it didn't restore their home anywhere close to the condition it was before the flood. This was their dream home—their retirement home. They live right there on the White River. It is a beautiful part of the State.

So they got this letter a couple of weeks ago. Now, bear in mind this flood happened 3 years ago—the flood happened 3 years ago—and they are now required, under the rules and regs and the law that FEMA works with, to pay all this money back. As I said before, this is a terrible hardship.

As it turns out, what happened is these folks, although they were assured by FEMA they were eligible, they were actually never qualified to receive this money. They didn't know that. They had FEMA in their living room telling them they were qualified and they should receive the money; that they met all the tests and standards and that is what this program was for, to help people like them. However, there was one technicality, and that was that the county in which they lived had not passed an ordinance to go into the FEMA flood insurance program. Here, again, FEMA should have known this.

FEMA apparently went to some of the county meetings where it was discussed and voted down. But, nonetheless, FEMA assured these people they would be covered under this program.

The irony of all this is that the couple, when they bought their home on the White River, one of the preconditions or requirements they set for themselves was they would purchase flood insurance. They had it for a number of years. They paid premiums for a number of years. They never experienced a flood, but they paid premiums for a number of years.

Finally, the insurance company that offered the flood insurance got out of the business, and so they even went to the extent of going through Lloyds of London to get flood insurance. They paid a lot of money for a premium, but they, nonetheless, carried that as long as it was offered. Finally, it wasn't offered any longer, and the only thing left was the FEMA National Flood Insurance Program. But because the county had not done what they were supposed to do, this couple, therefore, was not eligible to receive the FEMA flood money—again, no fault of their own. They had done everything anybody could do. They had paid their premiums out of their pockets as long as they could, as long as they could find insurance, and as that was canceled over the years, the county hadn't come through. But, apparently, FEMA was actually there at the county meetings and knew, or should have known, this couple wasn't eligible. Yet they gave her this money, and now they want it all back with penalties and interest, et cetera.

So I have filed the Disaster Assistance Recoupment Fairness Act, and we actually have it in two forms. We have it as a stand-alone measure, and we also have it as an amendment to the bill that is pending on the floor right now.

The important point of this story is that all of the mistakes that were made were on FEMA's side of the equation. The couple in Arkansas made no mistakes. They followed the rules, went through the process, went through the hearings. There is no allegation of fraud or that the couple in any way misled anyone. They gave them the documents and did everything they were supposed to do. It was textbook. They did everything they were supposed to do, but FEMA is now coming back and asking for recoupment.

So our bill will not give a blanket exception, but what it will do is give the FEMA Administrator the authority, under circumstances he deems fit, to waive the debt that is owed to the United States in cases where funds were distributed by a FEMA error, as in this case. Also, it gives them the discretion that they do not have under current Federal law.

I met with Director Fugate on this a week or two ago, and actually we had a very constructive meeting. I think probably on a personal level he understands this. He feels bad about this. But he believes his hands are tied under the statute. I am not 100 percent sure they are but he says they are. He tried to be very helpful, very accommodating. I think he does want to work with all the parties involved to try to clean this up. But he says he does not have the authority.

That is where this bill comes in. We wish to give the FEMA Director the authority to have some discretion on some of these hardship type cases, especially where the person who received the benefit did it purely by a FEMA error. Again, in their case, they put every dime of their recovery back into their home to have it livable. Otherwise they probably would have had to abandon their home or sell the property or whatever the case may have been.

That is what we are asking of the Senate, if they would consider this at the proper time. I ask my colleagues to take a look at it. My guess is, since we have 35 households in our State that are receiving these types of letters from FEMA, these demand letters where they are giving a notice of debt to folks who have received money, my guess is if we have 35 in our State there are hundreds and maybe thousands around the country in a similar situation.

Again, our bill is just for FEMA's mistakes. This is probably an example

of the cleanup from the previous FEMA administration. I think Director Fugate had nothing to do with this. It took them 3 years because there was a lawsuit in the meantime.

What this is doing is creating a hardship for folks who had been playing by the rules. It gives FEMA the flexibility to do some of the cleanup in a way that doesn't harm ordinary citizens here in the United States. I ask my colleagues to take a look at it. I would be pleased to answer any questions. If anyone has those, they can always contact me in my office. What I wish to do is not call it up at this point or anything like that but maybe be in the queue and be available at sometime in the future.

By Mr. LEAHY (for himself and Mr. WHITEHOUSE):

S. 794. A bill to amend the Internal Revenue Code of 1986 to disallow any deduction for punitive damages, and for other purposes; to the Committee on Finance.

Mr. LEAHY. Mr. President, today I am introducing legislation that will stop businesses from deducting costs that result from their misconduct as a cost of doing business under our tax laws. Under current law, a corporation or individual business owner may deduct the cost of a punitive damage award paid to a victim as an ''ordinary'' business expense. This is wrong. It undermines one of the primary deterrent functions of our civil justice system, and American taxpayers should not subsidize this misconduct.

Punitive damage awards serve in part to correct dangerous or unfair practices. These awards are reserved for the most extreme and harmful misconduct. Our legal history contains prominent examples of corporate misconduct that resulted in the deaths of Americans, and by virtue of our civil justice system was not only punished, but led to broad changes to improve the safety and security of American consumers. The justice system has and will continue to encourage the positive changes that cannot be brought about by regulation alone. But our current tax laws work against the well-established role of the justice system as a backstop to health and safety regulation.

One year ago, the Deepwater Horizon drilling rig exploded, killing 11 Americans and leading to the worst oil spill in American history. Just over a year ago, an explosion in the Upper Big Branch Mine in West Virginia claimed the lives of 29 miners. In both of these cases, I expect that all Americans, and particularly the family members of the victims, would be shocked to learn that any punitive damages that may result from these events will amount to a tax break for the corporations responsible.

I was disgusted to learn that Transocean, the owner of the Deepwater Horizon, recently announced that it was giving ''safety bonuses'' to its executives. Maybe that company believes that the American people have forgotten about this tragedy. I have met with the families of the 11 men killed, and I will never forget them. The tax treatment that the responsible companies will receive if we do not act will just add insult to injury.

Let us also not forget Exxon's misconduct in 1989. I have chaired several hearings on Exxon's misconduct, which led to an ecological and human disaster that affects Alaskans even today. A jury awarded $5 billion in punitive damages against Exxon for its actions, which devastated an entire region, the livelihoods of its people, and destroyed a way of life. For more than a decade Exxon fought this measure of accountability all the way to the United States Supreme Court. A divided Supreme Court invented a novel rule and held that in maritime cases, punitive damage awards could not exceed twice the amount of compensatory damages. I support Senator WHITEHOUSE's wise legislation to overturn that Supreme Court decision, but some in Congress do not want corporate accountability. If we cannot muster the votes to make corporations that engage in such extreme misconduct accountable, we need to at least stop subsidizing it through our tax laws.

Like so many Americans, I am weary of the preferential treatment that large corporations obtain at virtually every turn. It is disheartening to hear reports about enormously profitable corporations paying lower income tax rates than middle class American workers by exploiting loopholes or sheltering profits in foreign countries. It is unconscionable that big oil companies continue to be subsidized by taxpayers to the tune of billions of dollars each year, especially when Americans are facing increasingly high gasoline prices. I share the frustration of so many Americans who are making great sacrifices, yet who are not seeing their sacrifices shared by the most powerful in our society. As we approach the national tax filing deadline, I expect most Americans would agree that this punitive damages tax deduction is not only bad tax policy, but offensive to our basic notions of justice and fair play.

In his fiscal year 2012 budget recommendations, President Obama and his administration requested an end to this deduction in the tax code. The Congressional Budget Office has estimated that doing so will result in increased revenues of $315 million over 10 years. As we collectively work to reduce the Federal deficit, it is important to recognize that increasing revenues will play an important part in this effort; particularly when those revenues are lost to a policy that is without any defensible justification.

I hope all Senators will join me to protect American taxpayers. This legislation should be part of our bipartisan fight to reduce the national debt. When corporate wrongdoers can write off a significant portion of the financial impact of punitive damages, the incentives in our justice system that promote responsible business practices lose their force. These difficult financial times require us to close irresponsible tax loopholes. We can start with this one, which treats corporate misconduct as a cost of doing business.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting American Taxpayers from Misconduct Act''.

SEC. 2. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) of such Code is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 of such Code is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

By Mr. ROCKEFELLER (for himself, Mr. KERRY, Mr. HARKIN, Mr. BEGICH, and Mr. JOHNSON of South Dakota):

S. 796. A bill to amend the Internal Revenue Code to extend qualified school construction bonds and qualified zone academy bonds, to treat qualified zone academy bonds as specified tax

credit bonds, and to modify the private business contribution requirement for qualified zone academy bonds; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today, along with my colleagues Senator KERRY of Massachusetts, Senator HARKIN of Iowa, Senator BEGICH of Alaska, and Senator JOHNSON of South Dakota, I am introducing legislation to extend and improve two important programs that create good jobs and help our nation's schools. In order for America to out-innovate, out-educate, and out-build the rest of the world, we must begin with our schools, and this legislation will make it easier to create spaces where 21st century learning can occur. The Qualified School Construction Bond, QSCB, and Qualified Zone Academy Bond, QZAB, programs have helped schools begin to address their construction and renovation needs, as well as creating construction jobs in their communities. Because of the tax credit associated with these bonds, the schools essentially do not have to pay interest which makes it much easier for them to fund their significant construction and renovation needs.

The Qualified School Construction Bond program was created in 2009, and bond proceeds can be used for construction, rehabilitation, or repair of a public school or for land for a facility. The total amount of bonds allowed was $11 billion in 2009 and $11 billion in 2010. This national allocation is distributed by formula to the states and larger school districts. West Virginia, for example, was able to issue its full allocation of $72.3 million in bonds in 2010. Construction workers in West Virginia are building schools for their children. West Virginia is rightfully paying for the construction, but this bond program means their dollars go further. My legislation extends this important program through 2015 with the same $11 billion per year total national allocation of bonds.

The Qualified Zone Academy Bond, QZAB, program was created in 1997. While it also helps schools issue bonds by providing favorable tax status, participating schools must be located in an empowerment zone or enterprise community or expect that at least 35 percent of the students will be eligible for free or reduced-cost lunches. Bonds cannot be used for new construction, but can be used for the rehabilitation or repair of schools, equipment, course development, and teacher training. The national limitation for bonds issued under this program was $1.4 billion for 2009 and 2010 and my legislation extends that annual limit through 2015. This program has historically required a 10 percent match from private entities, and this requirement has proven a significant barrier to its use in some communities. My legislation provides an option to waive this match in some cases. It also allows the bond issuer to receive the tax credit as a payment. The Hiring Incentives to Restore Employment—HIRE—Act which became law last spring made this change for both bond programs and it resulted in greater use of the bonds. The huge Middle Class Tax Relief Act of 2010 which we passed in December repealed this change for QZABs, and my legislation makes the credit once again refundable. We know this helps schools utilize this program, and we need to give our schools every incentive to invest in education.

It is important that we continue both of these important programs. The school infrastructure needs of our country are immense. A recent report estimated the total school infrastructure needs across the 50 States was over $250 billion. We won't meet that need in a year, or in 2 years, but we need to commit ourselves to keep at it. I urge my colleagues to support this bill.

By Ms. MIKULSKI (for herself, Mr. AKAKA, Mrs. BOXER, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Mr. COONS, Mr. DURBIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. HARKIN, Mr. KERRY, Ms. KLOBUCHAR, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. MCCASKILL, Mrs. MURRAY, Mr. REED, Mr. REID, Mrs. SHAHEEN, Ms. STABENOW, Mr. WHITEHOUSE, Mr. WYDEN, Mr. MERKLEY, and Mrs. HAGAN):

S. 797. 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; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I rise today to reintroduce the Paycheck Fairness Act, an important piece of legislation that is even more poignant today, Equal Pay Day, which is the day in 2011 where women earn as much as men did in 2010. It is also unfortunately marked by families doing more with less, and making tough decisions to make ends meet. I thank the 24 of my colleagues that have joined me as original cosponsors of this important legislation today.

As a U.S. Senator, I am fighting for jobs today and jobs tomorrow. I am on the side of a fair economy and I am on the side of good-guy businesses. We need an economy that works for everyone, and works for the American family. But that means equal pay for equal work, and that individuals are judged solely by their individual skills, competence, unique talents and nothing else. The Paycheck Fairness Act gives us the much needed tools to make this happen.

Women make this country run—we are business leaders, entrepreneurs, politicians, mothers and more. We also bring home a growing share of the family pocketbook, as evidenced by a recent White House report, ''Women In America''. But we earn just 77 cents for every dollar our male counterpart makes, and women of color get even less. Inexplicably, these disparities exist across all levels of education and occupation. In my home State of Maryland, the average woman has to receive a bachelor's degree before she earns as much as the average male high school graduate. This is unacceptable.

The Paycheck Fairness Act picks up where we left off with the Lilly Ledbetter Fair Pay Act last Congress. Enactment of this legislation will mean real progress in the fight to eliminate the gender wage gap and help families. It has the teeth that are needed to keep discrimination from happening in the first place, and makes the consequences tougher. The Act ensures that employers who try to justify paying a man more than a woman for the same job must show the disparity is not sex-based; but job related and necessary. It prohibits employers from retaliating against employees who discuss or disclose salary information with their coworkers. The bill would also make it easier for women to file class-action lawsuits against employers they accuse of sex-based pay discrimination. And it strengthens the available remedies to include punitive and compensatory damages, thus bringing equal pay law into line with all other civil rights law. The bottom line is that this bill ensures that women are treated fairly in the workplace, something that is a matter of basic equality and civil rights.

So this Equal Pay Day, let's recommit to closing the wage gap. It is my hope that one day, there is no need for an Equal Pay Day—that every year, women earn the same as men. Until then, we link up, press on, and push for passage of this important legislation, so that for all victims of pay discrimination, there is a new day ahead.

Mr. LEAHY. Mr. President, today, the Nation commemorates Equal Pay Day, an annual occasion that celebrates the gains that women have made in the workplace over the last century, but which also reminds us all that pay discrimination still exists in the United States. In today's economy, a troubling constant remains: women continue to earn less than men. According to the United States Bureau of Labor Statistics, on average, women working full-time still make only 78 cents for every dollar working men receive. For minority women, this statistic becomes even more sobering.

The U.S. Department of Labor also reports an increasing number of families where women are the head of the household, and correspondingly, the primary source of income. Despite the signs of economic recovery, many women and families continue to struggle to make ends meet. This issue is not one that just impacts one individual; it creates additional economic hardship for entire families. Vermont is a leader in the Nation on fair pay practices, and 8 years ago, the State acted to pass an equal pay act, which prohibits compensating women and

men differently for equal work that requires equal skill, effort, and responsibility under similar working conditions. Now in Vermont, employers cannot require wage nondisclosure agreements, and employees are protected from retaliation for disclosing their own wage. Still, there is room for improvement. The Bureau of Labor Statistics reports that Vermont women working full-time earn wages amounting to 81.9 percent of what men earn. We must work harder to ensure that women are paid equal wages for equal work, across the country.

The 1963 Equal Pay Act was enacted to protect employees against discrimination with respect to compensation because of an individual's race, color, religion, sex or national origin. While we have made progress, our work is not done. Hardworking women—and the American people—earned a long fought victory in early 2009, when President Obama signed into law the Lilly Ledbetter Fair Pay Act to reverse the U.S. Supreme Court's devastating decision in Ledbetter v. Goodyear Tire, a decision that rolled back years of progress to eliminate workplace discrimination. But the efforts to achieve parity for women in the workplace continues.

Two bills introduced today will help the United States reach that goal. These bills include provisions similar to those enacted in Vermont. The Paycheck Fairness Act, which was introduced by Senator MIKULSKI and which I am proud to cosponsor, creates stronger incentives for employers to follow the law; strengthens penalties for equal pay violations; and prohibits retaliation against workers for disclosing their own wage information. This bill passed the House of Representatives with bipartisan support over a year ago, and deserves action in the Senate. The Fair Pay Act, which was introduced by Senator HARKIN and which I am also proud to cosponsor, requires employers to pay equally for jobs of comparable skill, efforts and working conditions, and to disclose pay scales and rates for all job categories at a given company. To effectively close the wage gap we must address the systemic problems that are resulting in pay disparities. I believe both these bills are essential steps to closing the wage gap.

Equal pay for equal work is neither a Democratic nor Republican issue; it is an American value. It is neither a private sector nor a public sector issue; it is a fundamental issue of fairness. Sadly, wage discrimination affects women of every generation and every socioeconomic background. It is not limited to one career path or level of education. The Senate should pass the Paycheck Fairness Act and the Fair Pay Act, and work toward other solutions to ensure our daughters and granddaughters, and all future generations of Americans, are not subject to the same discrimination that has plagued women for decades.

By Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. BROWN of Massachusetts):

S. 801. A bill to amend chapter 113 of title 40, United States Code, to require executive agency participation in real-time transparency of investment projects, to require performance and governance reviews of all cost overruns on Federal information technology investment projects, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President. I rise to join Senators CARPER, LIEBERMAN, and BROWN in introducing a bill that would bring more management and oversight of major information technology, IT, investments across the federal government.

In fiscal year 2011 alone, the federal government plans to spend nearly $80 billion on IT investments, about half of which is for major IT investments. According to the Government Accountability Office, nearly 40 percent of those major IT investments, totaling nearly $20 billion, are at risk for significant cost overruns, schedule delays, and performance problems.

Rampant cost and performance problems in IT investments occur across the government. Most recently, we have seen a total breakdown in the National Archives and Records Administration's, NARA, Electronic Records Archive initiative.

Since 2001, NARA has tried to develop a system to preserve and provide access to a massive volume of electronic records. Originally slated for a 2012 rollout at a cost of $317 million, NARA has had to repeatedly revise the plan and cost estimate and finally decided to produce a scaled-down system this year. Last month GAO estimated the project would cost between $762 million and $1 billion—three times more than originally planned.

We see time and time again with these big IT contracts that requirements are not clear up front, leading to chaos down the road that wastes hundreds of millions of dollars.

Such was the case with the 2010 Decennial Census handheld devices. After spending eight years developing a completely new approach to census-taking, the Census Bureau scrapped plans for using handheld computers and reverted instead back to paper and pencil.

Problems managing the contractor, major flaws in the Bureau's cost-estimates, and kicking the can down the road added about $3 billion to the census price tag. Three billion!

The problems keep coming. DHS has tried twice—since 2004—to integrate its many-siloed financial management systems. The Department spent approximately $52 million on one failed attempt before abandoning the project nearly two years later. DHS tried again only to encounter severe schedule delays. The Department is now planning to roll out the project incrementally, which is of course how they should have started years ago, and is what is recommended under the OMB guidance for managing large IT projects.

Large IT project failures have cost U.S. taxpayers literally billions of dollars in wasted expenditures. While never acceptable, especially now given our current fiscal crisis, we just cannot afford to accept this type of incompetence and mismanagement one more day. Perhaps even more troubling is the fact that, when federal IT projects fail, they can undermine the government's ability to defend the nation, enforce its laws, or deliver critical services to citizens.

Again and again, we have seen IT project failures grounded in poor planning, ill-defined and shifting requirements, undisclosed difficulties, poor risk management, and lax monitoring of performance.

For the last several years, Senator CARPER and I have pushed the Office of Management and Budget to improve the management and oversight of these IT investments. To help address the concerns we have raised, OMB has instituted several new initiatives over the last year and a half.

For example, in June 2009, OMB announced the creation of the ''IT Dashboard,'' which is a website that displays cost and schedule information about major IT investments, as well as the agency Chief Information Officer's, CIO, evaluation of the status of each project. OMB has also instituted comprehensive face-to-face reviews of these investments, known as ''TechStat'' sessions.

As a result, OMB has reported reducing the life-cycle costs of 15 investments by approximately $3 billion by narrowing the scope of some projects and even shutting down others and cutting the losses. Added transparency from the IT Dashboard, as well as comprehensive reviews via TechStat sessions, should improve agency management and Congressional oversight of the projects.

The bill Senator CARPER and I introduce today would require agencies to use the Dashboard in a standardized way. It would also expand inputs to include cost, schedule, and performance data, using a metric called Earned Value Management, EVM. EVM prevents the kind of ''hide the ball'' game that agencies often play to cover up performance shortfalls, cost overruns, or schedule slips.

The bill institutes triggers so that, if an investment deviates more than 20 percent from its original cost, schedule, and performance targets, CIOs would be required to conduct the type of comprehensive TechStat sessions currently taking place at OMB on a more limited scale. These sessions would generate information for Congress as well as the public, by requiring agencies to post the results of the TechStat sessions on the IT Dashboard. These reports would have to describe in detail how the failures occurred, naming names, and describing how exactly the shortcomings are going to be fixed.

If an investment deviates more than 40 percent, the TechStat session would get bumped up to the OMB level, to be run by the Federal Chief Information Officer. In addition to information about how to improve the performance of the project, OMB would be required to provide to Congress a recommendation of whether the project should be pared back or cancelled if it cannot be overhauled.

On top of this aggressive oversight ramp-up, the bill would require agencies to identify and heighten the planning and management for a handful of top priority, most expensive projects. For these ''core'' investments, agencies would submit additional data on performance, key milestones, and lifecycle costs.

Because of their scope and importance to agency missions, these core projects would have lower thresholds for oversight triggers and would get bumped up to OMB TechStat review with a deviation of 20 percent. The ''get-well'' plan would then be sent to Congress and published on the Dashboard for maximum accountability. This early intervention at the highest level would ensure that these critical projects are either saved or scrapped long before they can threaten to waste billions of dollars or endanger agency missions.

If an agency fails to comply with the requirements in the bill for any given project, that would be the end of taxpayer support for the project until it is brought into compliance.

If this bill had been law during the past decade, early warning signs would have alerted Congress and possibly saved some of the billions wasted on so many IT projects currently crowding various high-risk lists.

I urge every Senator to support this much-needed and bipartisan bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 140—COMMEMORATING THE 50TH ANNIVERSARY OF THE BAY OF PIGS OPERATION AND COMMENDING THE MEMBERS OF BRIGADA DE ASALTO 2506 (ASSAULT BRIGADE 2506)

Mr. RUBIO (for himself, Mr. MENENDEZ, Mr. INHOFE, Mr. NELSON of Florida, Mr. MCCAIN, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 140

Whereas April 17, 2011, marks the 50th anniversary of the Bay of Pigs operation, an event held in the hearts of all who long for the return of freedom to Cuba;

Whereas the Communist Government imposed in Cuba since January 1959 has systematically denied the most basic human freedoms to the Cuban people;

Whereas on April 17, 1961, men and women from the United States and from Cuba selflessly volunteered to help the Cuban people free themselves from communist tyranny;

Whereas during the next few days and in the course of a battle against a military force superior in manpower and firepower, nearly 100 men lost their lives, including 4 pilots from the United States;

Whereas, in September 1961, the Cuban Government executed 5 soldiers that had been captured alive;

Whereas the greater part of the remaining assaulting forces were captured, imprisoned in deplorable conditions for close to 18 months, sentenced without due process to 30 years of imprisonment, and finally returned to the United States by the Cuban Government;

Whereas the Cuban soldiers who returned from the operation have made valuable contributions to the United States, while never forgetting their beloved native country;

Whereas on December 29, 1962, President John Fitzgerald Kennedy was presented with the Brigade 2506 banner that had reached Cuban shores during the invasion and the president pledged, ''I can assure you that this flag will be returned to this brigade in a free Havana'';

Whereas on April 24, 1986, a joint resolution was passed (Public Law 99-279) ''Commemorating the twenty-fifth anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny''; and

Whereas the Cuban people continue to struggle and demand respect for their civil liberties: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and pays tribute to the brave service of all members of Brigada de Asalto 2506 (Assault Brigade 2506), both living and deceased; and

(2) calls on the United States to continue policies that promote respect for the fundamental principles of freedom, democracy, and human rights in Cuba, in a manner consistent with the aspirations of the people of Cuba.

Mr. RUBIO. Mr. President, on April 17, 1961, 1,500 individuals from the United States and Cuba valiantly volunteered in the Bay of Pigs mission to liberate Cuba from Fidel Castro's grip. They were a diverse group from all backgrounds of Cuban society, all united by the ideal that freedom is a God-given, inalienable right.

Having lost their country a couple of years earlier, these brave men took up arms on the beaches of Playa Giron. Over the course of 4 days and facing daunting odds against a better-armed and trained Cuban military, nearly 100 members of the Brigada de Asalto 2506, Assault Brigade 2506, lost their lives, including 4 American pilots. Five others were captured and executed. The majority were captured and imprisoned for many months and years in inhumane conditions.

Many of the captured men were fortunate to be eventually released and exiled to the United States, where they restarted their lives, raised families and made it their life's ambition to give their children the opportunities they would not have.

I am proud to join my colleagues in the U.S. Senate in paying tribute to the survivors of that mission—several of whom made the journey to Washington this week—and honoring the memories of the deceased.

As the son of Cuban exiles, I am proud to represent an entire community of people who lost everything to an accident of history, but came to cherish the freedoms they found in America. The story of the Brigade 2506 veterans, in particular, is worthy of special recognition.

To some, the Bay of Pigs battle is just one episode in the long annals of the cold war. But to those involved, the mission was a defining moment in their lives that, for others, illuminated the righteousness of the cause to free Cuba. It is a heartbreaking story of men who fought so valiantly for their beloved homeland's freedom, only to come up short. But it is also an inspiring story—one that says as much about their resilience as it does about America.

Having endured a traumatic life experience 50 years ago at the Bay of Pigs, many of them came back to the U.S. with nothing—not a penny and often without any English skills. They went to work and embraced America's blessings, but they never forgot their beloved homeland.

Some made it their life's work to promote the cause of a free Cuba. Others went to work on other endeavors to provide for their families, but dedicated countless hours as faithful volunteers of the cause. In doing so, they served as teachers to an entire community. Today in Miami, for example, a Brigade 2506 monument and museum now exist as much to commemorate these heroes as it does to educate others.

Like so many Cuban exiles, their stories taught us that human rights and liberty are not conditional on where someone is born, but are instead the birthrights of every single one of God's children. They taught us why the Cuban condition, like everywhere else in the world where human rights are trampled, is inhumane an unnatural. They instilled in us a deep sense of why the Cuban government, and others like it, is fundamentally defective and illegitimate, as it is sustained by violence against its people and operates without the consent of the governed.

Over the past 50 years, these lessons have given us moral clarity about the rights of man and reminded us of our responsibility to defend the persecuted among us.

Far from being forgotten, their example has inspired others to carry on their work. Their legacy lives on among those of us who have followed in their footsteps by making their cause of a free Cuba our cause.

Today, the torch they lit 50 years ago on a Cuban beach, is now carried not only by their children and grandchildren, but also by a new and growing generation of Cubans on the island. Every day, thousands of courageous patriots are demanding their freedoms and steadily chipping away at the farce of the Castro regime. Together, we are all united by the moral responsibility to highlight the Cuban regime's continued abuses, to apply change-inducing pressure, and to support the Cuban people's right to freely shape their destinies.