United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, FIRST SESSION

Vol. 159 WASHINGTON, WEDNESDAY, NOVEMBER 6, 2013 No. 157

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, November 12, 2013, at 2 p.m.

Senate

WEDNESDAY, NOVEMBER 6, 2013

The Senate met at 10:30 a.m., and was called to order by the President pro tempore (Mr. LEAHY).

PRAYER

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

Let us pray.

Eternal God, every good and perfect gift comes from You alone, for with You there is no variation or shadow of turning. May we place our hope in You and never forget how You have sustained us in the past. Lord, give our Senators the wisdom to trust You in the small things, realizing that faithfulness with the least prepares them for fidelity with the much. May they trust You to do what is best for America in good times and in bad. Inspire each of us to stand for right even though the heavens fall.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the motion to proceed to S. 815, the Employment Non-Discrimination Act, will be adopted and the Senate will begin consideration of the bill.

Senators will be notified when votes are scheduled.

OBAMACARE

Mr. REID. Mr. President, Kimberly Cates is no stranger to the struggles that come with living without health insurance in America. She works at a health clinic that treats uninsured Kentuckians. The clinic does not provide its employees with health insurance. Over the last few years she has racked up $15,000 in medical bills and recently filed for bankruptcy. Last week, after a month of considering her options, Mrs. Cates signed up for health insurance for the first time in many years. The plan will cost $17 a month—I repeat, $17 a month—and every hospital near her home will accept her new insurance. This is the difference ObamaCare is making, and Mrs. Cates is only one example of the success of Kentucky's new health insurance exchange created under the Affordable Care Act.

More than 1,000 Kentucky residents have signed up for affordable health insurance every single day since the exchange opened, according to the Huffington Post, which reported Mrs. Cates' story.

Across the country, in States such as Kentucky that have opened their own exchanges, Americans are signing up for quality, affordable, insurance plans, often for the first time in many years.

The national rollout of the ObamaCare Web site was rocky, to say the least. Problems with the site must and will be fixed. But we should not lose sight of important victories happening in living rooms and libraries and community centers across the country, victories like the one Mrs. Cates celebrated last week. ObamaCare is more than a Web site. For tens of millions of Americans who have been living without insurance, ObamaCare is a lifeline. But rather than work with Democrats to fix the problems in this landmark law, Republicans in Washington are busy complaining about it instead. Meanwhile, Republican Governors in States such as Nevada, Ohio, New Jersey, and Michigan are helping more residents of their States access health care by expanding Medicaid coverage.

One Nevada woman contacted my office saying that she is counting the days until January, 2014, when her new health insurance plan will take effect and she can finally go to the doctor.

In the past she has been denied health insurance because of a preexisting condition, but now she qualifies for a plan she can afford under Nevada's Medicaid expansion, led by Republican Governor Brian Sandoval. Thanks to ObamaCare, Americans like her can no longer be denied insurance because they are a cancer survivor, a woman, a diabetic, or had acne when they were younger. That is one of the many benefits of this new law.

Under ObamaCare, insurance companies will no longer be allowed to cancel your policy when you get sick or because you are a woman or set an arbitrary limit on the care you receive. In Nevada alone, tens of thousands of seniors have saved tens of millions on medicine because ObamaCare closed the gap in prescription drug coverage.

More than 3 million young people, including 33,000 young adults, stayed on their parents' health insurance plans because of ObamaCare, and hundreds of

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

thousands of businesses that already offer their employees health insurance are getting tax credits for doing the right thing because of ObamaCare.

A new study shows 17 million Americans have also qualified for tax credits to purchase coverage and many more are eligible for Medicaid because of ObamaCare.

Unfortunately, 5 million people living in States that did not expand Medicare eligibility are left out in the cold. It is shameful that Americans who simply want access to lifesaving medical care will be denied insurance for political reasons.

There is no better example of that than Texas. They have far more people who are eligible for Medicaid coverage who will not get it. That is unfortunate. We know that healthcare.gov is not perfect. I know that ObamaCare is not perfect. But ObamaCare is worth more than a Web site, and whenever Republicans are willing to stop complaining and are willing to start working to improve the law, Democrats are ready and willing to work with them.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Ms. HEITKAMP). The Republican leader is recognized.

OBAMACARE

Mr. MCCONNELL. Madam President, nearly every day we see evidence of more Americans losing their health coverage. Just take a look at this map right here to my right—105,000 losing their coverage in Idaho; 215,000 in Pennsylvania; 330,000 in Florida. Out in California it is getting close to 1 million. All of these people have lost their health coverage.

In my home State of Kentucky, which has been frequently referred to by some as a success story, let's get the facts straight: 280,000 people—probably on a per capita basis more than any other State in America—280,000 folks are losing their private insurance as a result of ObamaCare, despite the President's repeated promises that such a thing could not possibly happen. That compares, by the way, with only about 5,000 who have been able to sign up for new private care on the Kentucky exchange.

Let's go over that again. In my State, 280,000 people have lost their health care policies while 5,000 have signed up on the exchange. Most of the people in Kentucky who are signing up for something new are signing up for Medicaid, for free health care. I think we can stipulate that if you are giving out free health care, you are going to have more people sign up. But on the exchanges in Kentucky, 5,000 have signed up, and 280,000 have lost their policies. In other words, so far about 56 times as many Kentuckians have lost their private insurance plans as have gotten new ones on the State exchange. That is hardly what most people would define as a success.

But, if ObamaCare has gotten off to a troubled start in Kentucky, the same is also true in many other parts of the country. That is why one of the most senior Democrats just said that ObamaCare is facing ''a crisis of confidence.'' I certainly agree with her.

She cited the ''dysfunctional nature of the Web site'' as just one reason for the ebbing confidence. She also pointed to the ''cancellation of policies'' and ''sticker shock'' as two additional points of concern—cancellation of policies and sticker shock.

She is right. Americans are far less concerned about a Web site than they are about the availability and affordability of their health care. The White House has tried to dismiss stories about folks losing insurance by saying they had lousy plans to begin with and that those Americans should be happy—they should be happy that the government is now forcing them to get a different one. In other words, the government is smarter than they are. You had a lousy plan to begin with, so I am going to make you get a different one.

But what so many have discovered is that ObamaCare is actually worse. Take Matthew Fleischer. He is 34 and recently wrote to the Los Angeles Times to share his experience with ObamaCare. Matthew recently found out he would be one of those 1 million or so Californians losing their health insurance. He says he is being funneled into an exchange plan that would drive his premiums up by more than 40 percent. Here is some of what he wrote:

> My old plan was as barebones as they came, so I assumed that even though the new plan would cost more, my coverage would improve under ObamaCare, at least marginally. It did not.
>
> Under my old plan my maximum possible out-of-pocket expense was $4,900. Under the new plan, I'm on the hook for up to $6,350. Copays for my doctor visits will double. For urgent care visits they will quadruple. Although slightly cheaper plans exist if I tried to shop around on the exchange, I will lose my dental coverage [if I choose] to switch. Needless to say, I am not pleased.

He is one of numerous people who have been blind-sided since ObamaCare's debut last month. Look, our constituents are worried. They feel deceived. They are very upset, and they should be—not only with the law itself but with the way the administration has basically brushed their concerns aside, just brushed their concerns aside, concerns it does not seem all that interested in solving.

If the past 2 weeks are any indication, the administration seems far more concerned with shifting the blame. That is why the President's PR team has been scrambling to readjust his now-debunked promise, ''If you like your plan, you can keep it.'' How many times did we hear the President say that over the last 3 years? But every new variation basically amounts to this—this is what it really amounts to: If the President likes your plan, you can keep it. That is the truth. If the President likes your plan, you can keep it; not if you like your plan, you can keep it.

The truth is, all these rhetorical adjustments only prove the point. They are a tacit admission that the administration did in fact mislead the public about ObamaCare in order to pass it. Many of our friends on the Democratic side are starting to realize this too, and they are starting to panic. We have seen some of the most vulnerable Senators even putting forward proposals that might allow some folks to keep their plan.

From a policy perspective, we Republicans welcome that. We have long argued that Americans should be able to purchase the plans that suit their needs, not just the plans that meet with the President's approval. But the concern these Democrats are now showing seems hard to take seriously when you consider that they have continued to support ObamaCare for so long, even as Republicans, health officials, and policy experts across the country warned that exactly what is happening would happen. The fact is that back in 2010 the entire Democratic caucus voted against legislation that would have specifically allowed the Americans now losing their plans to keep them. I will say that again. Back in 2010 the entire Democratic caucus voted against legislation that would have specifically allowed the Americans now losing their plans to keep them.

This doesn't mean Republicans won't now consider good legislative proposals. Of course we will. But for Senators looking to absolve themselves of past ObamaCare mistakes, there is only one escape, and it begins with repealing ObamaCare, and it ends with working together on bipartisan reforms that can actually work.

The White House keeps promising Americans that once healthcare.gov is fixed, everybody's going to love ObamaCare, but it is hard to see how that could possibly happen. An IT guy is not going to give Americans their health care plans back. An IT guy is not going to make ObamaCare premiums any more affordable or its coverage any better. An IT guy is not going to allow Americans to keep seeing the same doctors they like or continue to go to hospitals that deliver the care they want. Let's not forget that there is no software fix for undoing the damage this law has already inflicted on the paychecks and lost hours of our constituents. There is no string of code for repairing ObamaCare's harm to jobs and to our country.

The President could not be more right when he says ObamaCare is about more than a Web site. It sure is. I could not agree more. It is about people. It is about the people we represent, folks such as Matthew Fleischer and Edie Sundby, whom I mentioned. Edie is

battling stage IV gallbladder cancer and says that because of ObamaCare she is about to lose access to the kind of affordable care she credits with keeping her alive for the past several years. It is about folks like a 40-year-old constituent of mine named Mark. Mark owns a small business and thought he would be able to keep his current insurance, but then he got a letter from his insurer terminating the plan anyway. After looking at his options on the Kentucky exchange, he discovered that his Kentucky premiums would rise by 300 percent. It is not right, and it is not fair.

Here is an important lesson: ObamaCare would not be law today if the President and his allies in Congress had told the truth about the consequences it would bring. People like Edie, Matthew, and Mark would not be in the troubling circumstances they are in now if the President had simply been honest about ObamaCare.

The President can keep talking about a Web site if he wants, but Republicans are going to keep fighting for the middle-class Americans who are suffering under this law because that is where the focus should be.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EMPLOYMENT NON-DISCRIMINATION ACT OF 2013

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S. 815 is agreed to, and the clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 815) to prohibit the employment discrimination on the basis of sexual orientation or gender identity.

The Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Employment Non-Discrimination Act of 2013''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to address the history and persistent, widespread pattern of discrimination, including unconstitutional discrimination, on the bases of sexual orientation and gender identity by private sector employers and local, State, and Federal Government employers;

(2) to provide an explicit, comprehensive Federal prohibition against employment discrimination on the bases of sexual orientation and gender identity, including meaningful and effective remedies for any such discrimination; and

(3) to invoke congressional powers, including the powers to enforce the 14th Amendment to the Constitution, and to regulate interstate commerce pursuant to section 8 of article I of the Constitution, in order to prohibit employment discrimination on the bases of sexual orientation and gender identity.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term ''covered entity'' means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DEMONSTRATES.—The term ''demonstrates'' means meets the burdens of production and persuasion.

(4) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee to which section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)) applies;

(iii) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 411(c) of title 3, United States Code; or

(iv) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EXCEPTION.—The provisions of this Act that apply to an employee or individual shall not apply to a volunteer who receives no compensation.

(5) EMPLOYER.—The term ''employer'' means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h)) who has 15 or more employees (as defined in subparagraphs (A)(i) and (B) of paragraph (4)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 or section 411(c) of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(6) EMPLOYMENT AGENCY.—The term ''employment agency'' has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(7) GENDER IDENTITY.—The term ''gender identity'' means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

(8) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(9) PERSON.—The term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(10) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, heterosexuality, or bisexuality.

(11) STATE.—The term ''State'' has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

(b) APPLICATION OF DEFINITIONS.—For purposes of this section, a reference in section 701 of the Civil Rights Act of 1964—

(1) to an employee or an employer shall be considered to refer to an employee (as defined in subsection (a)(4)) or an employer (as defined in subsection (a)(5)), respectively, except as provided in paragraph (2) of this subsection; and

(2) to an employer in subsection (f) of that section shall be considered to refer to an employer (as defined in subsection (a)(5)(A)).

SEC. 4. EMPLOYMENT DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's actual or perceived sexual orientation or gender identity; or

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee, because of such individual's actual or perceived sexual orientation or gender identity.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the actual or perceived sexual orientation or gender identity of the individual or to classify or refer for employment any individual on the basis of the actual or perceived sexual orientation or gender identity of the individual.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the actual or perceived sexual orientation or gender identity of the individual;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment, or would limit such employment or otherwise adversely affect the status of the individual as an employee or as an applicant for employment because of such individual's actual or perceived sexual orientation or gender identity; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the actual or perceived sexual orientation or gender identity of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) ASSOCIATION.—An unlawful employment practice described in any of subsections (a) through (d) shall be considered to include an action described in that subsection, taken against an individual based on the actual or perceived sexual orientation or gender identity of a person with whom the individual associates or has associated.

(f) NO PREFERENTIAL TREATMENT OR QUOTAS.—Nothing in this Act shall be construed or interpreted to require or permit—

(1) any covered entity to grant preferential treatment to any individual or to any group because of the actual or perceived sexual orientation or gender identity of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any actual or perceived sexual orientation or gender identity employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such actual or perceived sexual orientation or gender identity in any community, State, section, or other

area, or in the available work force in any community, State, section, or other area; or

(2) the adoption or implementation by a covered entity of a quota on the basis of actual or perceived sexual orientation or gender identity.

(g) NO DISPARATE IMPACT CLAIMS.—Only disparate treatment claims may be brought under this Act.

(h) STANDARDS OF PROOF.—Except as otherwise provided, an unlawful employment practice is established when the complaining party demonstrates that sexual orientation or gender identity was a motivating factor for any employment practice, even though other factors also motivated the practice.

SEC. 5. RETALIATION PROHIBITED.

It shall be an unlawful employment practice for a covered entity to discriminate against an individual because such individual—

(1) opposed any practice made an unlawful employment practice by this Act; or

(2) made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

SEC. 6. EXEMPTION FOR RELIGIOUS ORGANIZATIONS.

This Act shall not apply to a corporation, association, educational institution or institution of learning, or society that is exempt from the religious discrimination provisions of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) pursuant to section 702(a) or 703(e)(2) of such Act (42 U.S.C. 2000e–1(a), 2000e–2(e)(2)).

SEC. 7. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) EMPLOYMENT.—In this Act, the term ''employment'' does not apply to the relationship between the United States and members of the Armed Forces.

(2) ARMED FORCES.—In paragraph (1) the term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This title does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment for a veteran.

SEC. 8. CONSTRUCTION.

(a) DRESS OR GROOMING STANDARDS.—Nothing in this Act shall prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State, or local law, provided that the employer permits any employee who has undergone gender transition prior to the time of employment, and any employee who has notified the employer that the employee has undergone or is undergoing gender transition after the time of employment, to adhere to the same dress or grooming standards as apply for the gender to which the employee has transitioned or is transitioning.

(b) ADDITIONAL FACILITIES NOT REQUIRED.—Nothing in this Act shall be construed to require the construction of new or additional facilities.

SEC. 9. COLLECTION OF STATISTICS PROHIBITED.

The Commission and the Secretary of Labor shall neither compel the collection of nor require the production of statistics on actual or perceived sexual orientation or gender identity from covered entities pursuant to this Act.

SEC. 10. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act in the case of a claim alleged by an individual for a violation of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c),

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have the same powers as the President, the Commission, and the Board, respectively, have to administer and enforce chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title; and

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act (42 U.S.C. 2000e–16b(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title.

(b) PROCEDURES AND REMEDIES.—Except as provided in section 4(g), the procedures and remedies applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)) in the case of a claim alleged by such individual for a violation of such section;

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by such individual for a violation of such section; and

(4) the procedures and remedies applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this Act, title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleged by such a covered employee for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) NO DOUBLE RECOVERY.—An individual who files claims alleging that a practice is an unlawful employment practice under this Act and an unlawful employment practice because of sex under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall not be permitted to recover damages for such practice under both of—

(1) this Act; and

(2) section 1977A of the Revised Statutes (42 U.S.C. 1981a) and title VII of the Civil Rights Act of 1964.

(e) MOTIVATING FACTOR DECISIONS.—On a claim in which an individual proved a violation under section 4(h) and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

(1) may grant declaratory relief, injunctive relief (except as provided in paragraph (2)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 4(h); and

(2) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment.

SEC. 11. STATE AND FEDERAL IMMUNITY.

(a) ABROGATION OF STATE IMMUNITY.—A State shall not be immune under the 11th Amendment to the Constitution from a suit brought in a Federal court of competent jurisdiction for a violation of this Act.

(b) WAIVER OF STATE IMMUNITY.—

(1) IN GENERAL.—

(A) WAIVER.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th Amendment to the Constitution or otherwise, to a suit brought by an employee or applicant for employment of that program or activity under this Act for a remedy authorized under subsection (d).

(B) DEFINITION.—In this paragraph, the term ''program or activity'' has the meaning given the term in section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

(2) EFFECTIVE DATE.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(c) REMEDIES AGAINST STATE OFFICIALS.—An official of a State may be sued in the official capacity of the official by any employee or applicant for employment who has complied with the applicable procedures of section 10, for equitable relief that is authorized under this Act. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).

(d) REMEDIES AGAINST THE UNITED STATES AND THE STATES.—Notwithstanding any other provision of this Act, in an action or administrative proceeding against the United States or a State for a violation of this Act, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies are available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

SEC. 12. ATTORNEYS' FEES.

(a) DEFINITION.—For purposes of this section, the term ''decisionmaker'' means an entity described in section 10(a) (other than paragraph (4) of such section), acting in the discretion of the entity.

(b) AUTHORITY.—Notwithstanding any other provision of this Act, in an action or administrative proceeding for a violation of this Act, a decisionmaker may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs, to the same extent as is permitted under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c), the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.), or chapter 5 of title 3, United States Code, whichever applies to the prevailing party in that action or proceeding. The Commission and the United States shall be liable for the costs to the same extent as a private person.

SEC. 13. POSTING NOTICES.

A covered entity who is required to post a notice described in section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10) may be required to post an amended notice, including a description of the applicable provisions of this Act, in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964. Nothing in this Act shall be construed to require a separate notice to be posted.

SEC. 14. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Commission shall have authority to issue regulations to carry out this Act.

(b) LIBRARIAN OF CONGRESS.—The Librarian of Congress shall have authority to issue regulations to carry out this Act with respect to employees and applicants for employment of the Library of Congress.

(c) BOARD.—The Board referred to in section 10(a)(3) shall have authority to issue regulations to carry out this Act, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) PRESIDENT.—The President shall have authority to issue regulations to carry out this Act with respect to covered employees, as defined in section 411(c) of title 3, United States Code, and applicants for employment as such employees.

SEC. 15. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or regulation or any law or regulation of a State or political subdivision of a State.

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of the provision to any other person or circumstances shall not be affected by the invalidity.

SEC. 17. EFFECTIVE DATE.

This Act shall take effect on the date that is 6 months after the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 2012

Mr. REID. Madam President, I have an amendment to the committee-reported substitute at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. PORTMAN, for himself, Ms. AYOTTE, Mr. HELLER, Mr. HATCH, and Mr. MCCAIN, proposes an amendment numbered 2012.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. Madam President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2013 TO AMENDMENT NO. 2012

Mr. REID. Madam President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. TOOMEY, for himself and Mr. FLAKE, proposes an amendment numbered 2013 to amendment No. 2012.

The amendment is as follows:

(Purpose: To strike the appropriate balance between protecting workers and protecting religious freedom)

In section 6, insert before ''This Act'' the following: ''(a) IN GENERAL.—''.

In section 6, insert at the end the following:

(b) IN ADDITION.—In addition, an employer, regardless of whether the employer or an employee in the employment position at issue engages in secular activities as well as religious activities, shall not be subject to this Act if—

(1) the employer is in whole or in substantial part owned, controlled, or managed by a particular religion or by a particular religious corporation, association, or society;

(2) the employer is officially affiliated with a particular religion or with a particular religious corporation, association, or society; or

(3) the curriculum of such employer is directed toward the propagation of a particular religion.

AMENDMENT NO. 2014

Mr. REID. Madam President, I have an amendment to the underlying bill which is at the desk.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2014 to the language proposed to be stricken by the committee substitute.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 3 days after enactment.

Mr. REID. Madam President, I ask for the yeas and nays on the amendment that was just reported.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2015 TO AMENDMENT NO. 2014

Mr. REID. Madam President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2015 to amendment No. 2014.

The amendment is as follows:

In the amendment, strike ''3 days'' and insert ''4 days''.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2016

Mr. REID. Madam President, I have a motion to recommit S. 815, with instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill to the Committee on Health, Education, Labor and Pensions with instructions to report back forthwith with an amendment numbered 2016.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 5 days after the enactment.

Mr. REID. Madam President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2017

Mr. REID. Madam President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2017 to the instructions (amendment No. 2016) of the motion to recommit.

The amendment is as follows:

In the amendment, strike ''5 days'' and insert ''6 days.''

Mr. REID. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2018 TO AMENDMENT NO. 2017

Mr. REID. Madam President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2018 to amendment No. 2017.

The amendment is as follows:

In the amendment, strike ''6 days'' and insert ''7 days''.

DRUG QUALITY AND SECURITY ACT—MOTION TO PROCEED

Mr. REID. Madam President, I move to proceed to Calendar No. 236, H.R. 3204.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to the bill (H.R. 3204) to amend the Federal Food, Drug, and Cosmetic Act with respect to human drug compounding and drug supply chain security, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

REMEMBERING IKE SKELTON

Mr. BLUNT. Madam President, last week our Nation lost a true American hero. In the last 40 years no member of the Congress has been more dedicated to America's defense and those who defend it than my good friend and former colleague Ike Skelton.

Growing up in Lexington, MO, his dream of joining the military like his father was cut short when he was diagnosed with polio. A true sign of his determination occurred when he overcame this hardship and went on to serve his Nation in a way he could never have imagined as a young patient at Warm Springs, GA, at a center founded by President Franklin Roosevelt and focused on their common challenge of how to overcome polio.

Ike served in the Missouri State Senate for 4 years. He was encouraged by a family friend, another Missourian named Harry Truman, to represent Missouri at the national level. A few years after that encouragement he eventually followed President Truman's advice and was eventually elected to the House of Representatives, where he started to serve in 1977 and continued to fulfill his dream of protecting America.

As a member of the House Armed Services Committee, Ike Skelton successfully led an effort that transformed Whiteman Air Force Base to house one of the most iconic military aircraft in U.S. history, the B–2 Bomber. Fort Leonard Wood grew from a training base for the newly enlisted to a center for many of our military schools and the Army Corps of Engineers. By ensuring military bases remained in Missouri, Ike Skelton's legacy continues to protect our Nation's military and provide hundreds of jobs in our home State.

From the time he was a young boy, Congressman Skelton loved our country and its history, and now after years of service he has earned his own spot in our Nation's history. It was truly a great privilege to serve Missouri in the Congress with him and to benefit from his friendship and advice.

HEALTH CARE

Madam President, I would like to talk about another topic. I am sure it is no surprise to anybody that it has been more than a month now since the embarrassing Web site rollout of the President's health care plan and it still is not working. The Obama administration has been forced to take down the Web site on numerous occasions, and it often didn't work at a critical moment when they were trying to explain how it was finally beginning to work. While reports have surfaced showing that only six people managed to enroll on the first day, the administration still refuses to put out any real numbers about how many people have actually signed up for coverage.

I have sponsored a bill demanding that we have more transparency and more answers about how $400 million has been spent on an exchange that does not work. They had 3½ years to get ready, interjecting ourselves into 16 percent of the economy and everybody's health care coverage, and it is still not working. The administration acted surprised. President Obama claimed the system was temporarily overwhelmed by a large volume of interested shoppers. Another person in the administration estimated that there might have been hundreds of people online before the Web site crashed. In a time like this, the Web site crashing for any reason is really not a very good excuse.

Prior to the launch, HHS officials insisted that the exchanges were on track. They insisted they had been tested. They insisted it was working the way it was supposed to work, just as people are now insisting the President's health care plan is going to work the way it is supposed to work. At recent committee hearings in the House, Marilyn Tavenner, the Administrator for the Centers for Medicare and Medicaid Services, and Secretary Sebelius each testified they were confident that these glitches, as they called them, would be improved by the end of November. These were the same people who were saying it would work on the 1st of October.

It is long overdue for the President and the administration to level with the American people. It is also important to understand that the Web site is the easiest thing they are going to be asked to do.

The President recently said during his White House Rose Garden speech: ObamaCare is not just a Web site; it is much more. Well, I could not agree more. I will say again that the Web site is the easiest problem they will be asked to solve. It should not become a proxy for whether this plan should work, and I think most Americans are going to figure that out.

As Senator MCCONNELL said earlier about the Kentuckians he has heard from, I heard from all kinds of Missourians who have seen their work hours reduced and their health care premiums rise. We know this is not good for the workforce. We have seen too many people responding with part-time work and trying to keep numbers under 50 so they don't have to comply with a law they don't think they have to comply with.

In 2009 the President famously promised: If you like your health plan, you can keep it. If you like your doctor, you can keep your doctor. He was still saying that in 2012 when he said: If you already have health insurance, you can keep your health insurance.

Unfortunately, that is not the case for the 3.5 million people in the individual market who have already received letters saying they are not going to be able to keep their health insurance. The Washington Post's Fact Checker gave the President four Pinocchios for his repeated pledge that you can keep your policy if you like it, and maybe that is because five Pinocchios aren't possible and four is all they can give for a statement that turns out to not be correct. NBC News reported last week that 50 to 75 percent of at least 14 million consumers who buy their insurance individually can expect to receive a cancellation notice.

Now the administration comes up with a response such as, well, this only affects 5 percent of the people in the country. If it affects your family, it affects 100 percent of the people in your house. And if 5 percent of the people in the country is 14 million people and whoever is insured under their policy, we shouldn't act as though there is no consequence at all.

It is no surprise. They had plenty of time to prepare.

The Springfield News-Leader, my hometown newspaper, recently reported on Becky Supak, who is 63. She suffers from blood clots, and she had insurance through the Missouri high-risk pool. One of the things Republicans wanted to do, the conservatives wanted to do when this bill was passed was figure out a way to expand these high-risk pools. The idea that there were no other ideas out there is just wrong. The Missouri high-risk pool, as do all the others, will go out of existence as of December 31. Becky's insurance has been costing her premiums of around $650 a month. She has a preexisting condition. She hadn't had insurance before she got into the high-risk pool, but she was in that pool and it was serving her needs. Now she has been told her insurance will cost her $1,043 a month—a $400 increase on a working salary—and that would allow her, she hopes, to keep the same doctors she has now.

One of my constituents said his wife, who had a preexisting condition, will lose her policy the same way. Thanks to what is happening here, they don't know whether they can get more coverage. They are going to have to close the high-risk pool, look for coverage other places, and it is almost certain that coverage is going to be higher than they had and almost certain to have less coverage than they had.

Greg, a pastor from Poplar Bluff, MO, said he received a letter from his health care provider of over 10 years announcing it will no longer be his health care provider as of January 2014. He was happy with his old insurance. He is now forced to find another plan. He wants to know why they canceled, but the only explanation he can get is the machine that says that due to health care regulations, they are being forced to drop some of their older clients.

Sara of Hannibal, MO, comes from a family of quintessential small business owners. If their business had been affected, their choice would have been to close the business. Sara recently received a letter stating that after this year her current choice of policies won't be available.

So it turns out that it is actually only if the White House likes your

plan, you get to keep your plan. This idea that you should ''just shop around,'' the idea that it is going to be less expensive, doesn't work.

This morning the Wall Street Journal talked about States that are beginning to tell insurance companies: No, you really need to offer these policies for at least another 3 months. And in California, if their insurance commissioner is right, 3 months of additional offering of the 115,000 policies that have already been canceled would mean those policyholders could save as much as $28.6 million in 3 months. So whoever thinks these costs are going to go down, apparently the insurance commissioner in California says costs for these people are going to go up annually by over $100 million. Maybe that is why we are going to find out a lot more once the Web site starts working.

In Missouri and in all States, we are seeing more Americans receiving cancellation letters announcing their dropped coverage. Some people will also be forced to pay higher premiums. I think we are going to find that most people will be forced to pay higher premiums.

Now is the time to work together. Now would be the time to start over and come up with good plans to make the best health care system in the world work better. As my colleague from New Hampshire—a Senator and a mom—Senator AYOTTE has said as maybe only a mom can say it, it is time for a time-out for ObamaCare.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

ENDA

Mrs. MURRAY. Madam President, there is no shortage of reasons why I am proud to represent my home State of Washington. Our State is an economic leader. We are home to the American aerospace industry and a thriving agricultural sector. Dozens of companies create new products and new jobs with cutting-edge technology. We are a leader in protecting the environment and educating our children. Washington State is a place tens of thousands of servicemembers and veterans call home. I am here today because I wish to speak about another way Washington State has set an example for the entire country; that is, our State's proud history of protecting the rights of all of our citizens, including members of the LGBT community.

In 2006 Washington State passed one of our country's strongest antidiscrimination laws—one that serves as a model for the Federal legislation we are considering here today. In 2007 and 2008 we passed additional legislation to further protect the rights of same-sex couples, and 1 year ago today our State voted proudly to uphold landmark marriage-equality legislation. What we have to show for it is really two results. First, we have a thriving LGBT community made up of individuals and families who can feel safe and respected and valued as does anyone else. Second, we have a growing economy that is anchored by businesses that respect their employees and judge them by only that which matters: their hard work and ability.

I rise today to simply ask my colleagues who don't yet support this legislation to take a look at my home State of Washington because in places such as Seattle and Spokane, we are proving every day that protecting the rights of our LGBT friends and neighbors isn't just the right thing to do; it works and it makes our country stronger.

Some of my colleagues have said that extending employment protections for our LGBT friends and family members is too hard. Some of them said it will create problems for businesses and communities. Well, I invite them to come to Seattle and ask businesses there whether it has been problematic to respect their employees' rights. I would invite them to visit Amazon or Starbucks or Nordstrom or Microsoft—just a few of our State's successful businesses that have taken the lead in protecting the rights of their LGBT employees. We know in Washington State that it is wrong to discriminate against people. We know that a person's race or religion or gender has nothing to do with their ability in the workplace, and we know that sexual orientation and gender identity don't either.

Most all of our constituents—four out of five Americans—falsely believe LGBT Americans already have the protections included in this bill, and most people believe that because denying Americans their rights doesn't make sense. It doesn't make sense that some men and women can be fired from their jobs just because of who they are or whom they love. We know it is not fair in my home State of Washington, but people in every State—from Virginia and Mississippi to Arizona and Idaho—know the same.

Many of my colleagues have cited these statistics, but they are worth repeating. Two-thirds of all Americans, including a majority of Republicans, believe in protecting LGBT citizens from employment discrimination. Despite that, more than half our country lives in States in which their rights are not protected. I am proud my State does protect those rights, but we can't stop working until the same is true in all 50 States. So for any of my colleagues who still aren't convinced that LGBT Americans deserve the same rights as all of us, my invitation to visit Washington State stands because it is not enough that my constituents are free from discrimination, their constituents deserve the same.

Thank you, Madam President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BASIC FUNCTIONS OF GOVERNMENT

Mr. KING. Madam President, I rise this morning in high hopes but with deep concern. The high hopes are that a budget conference at long last is taking place, that representatives of the Senate and the House are meeting together—met last week and I know have been meeting informally this week—in order to try to achieve, finally, a budget for this fiscal year. My concern is that it has been so hard to get here, it has been so difficult, and that we are now in a process where we do not seem to be able to function.

I am worried about the country. I am worried about whether we are going to be able to address our problems. This is not a speech about subject matter. It is not about global climate change or employment or the minimum wage or health care, but it is about whether this institution can function in order to confront any of those problems.

When I was a young man, there was a famous book. It was kind of a cult favorite called ''Been Down So Long It Looks Like Up to Me.'' Sometimes I feel as though that is where we are here. This institution has been so compromised in its ability to function that it has become the norm and people have low expectations, even people who are here.

I remember being on the floor a few months ago when one of the Senators stood up and said: This amendment should be subject to the normal 60-vote requirement, and my head snapped back because there is no such thing as a normal 60-vote requirement. For 200 years, we did not function with a normal 60-vote requirement. That has become a rather new innovation. I am not going to talk about the filibuster or the 60-vote requirement, but the idea that this Senator asserted it was normal indicates a change in attitude about the way this place functions.

Another example is that, to my knowledge, the conference committees that are going on now on the budget and on the farm bill, I believe, are the first two conference committees convened in this entire year. I worked here as a staff member 40 years ago and remember going to conference committees rather frequently—walking through the Capitol with my boss and going to the meetings and seeing the Senators and the Congressmen sit down and argue and disagree and agree and compromise and reach settlements on legislation on a fairly regular basis.

It is cause for celebration. It took a government shutdown, in effect, to produce a simple conference committee. Statistically, I am told this is the least productive Congress in American history thus far—no budget in 4 years. A budget is the basic function of any government. I understand there has been 1 appropriations bill out of 48

in the last several years. The result has been a complete and total loss of confidence from the public.

That has significance. That is important because in our economy confidence is the mainspring. This is not an academic concern. I am not giving a lecture about civics. The lack of functionality of this institution is damaging the country. For example, we know from studies that just the shutdown cost our economy $24 billion, for no purpose that I could discern. But there is an untold broader cost.

The reality is that two-thirds of the American economy is driven by consumer spending. Consumer spending is driven by confidence, by the millions of individual decisions that people make in their daily lives, based on how they feel about their future, how they feel about their country, how they feel about their personal situation.

Part of that is whether they feel they have representatives in Washington who are representing their interests and, in fact, are capable of serving the needs of the country. Ironically, this lack of confidence that is generated by events such as the shutdown harms the economy and therefore makes the deficit worse. The very best way to solve the deficit problem is not necessarily taxes or cuts, it is growth in the economy. If the economy grows, the deficit shrinks. That was part of what happened in the late nineties, the last time we had a budget surplus, because the economy was roaring along.

It is also about national security. I was provoked to come to the floor by reading a speech made recently by Robert Gates, one of our most distinguished public servants, the former Secretary of Defense. He talked about the defense posture of the country and the national security situation. Here is what he said toward the end of his speech:

> Let me close with a word about what I now regard to be the biggest threat to national security—

The biggest threat to U.S. national security.

> the political dysfunction within the two square miles of Washington, D.C. encompassing the White House and Capitol Hill.

Those are strong words. He is not talking about Al Qaeda. He is not talking about a resurgent China. He is not talking about a world threat of terrorism. He is talking about us as the greatest threat to U.S. national security. He went on to say:

> American politics has always been shrill and ugly business going back to the Founding Fathers. But as a result of several polarizing trends we now have lost the ability to execute even the basic functions of government, much less solve the most difficult and divisive problems facing this country.

Basic functions of government: passing a budget, operating the government itself, paying our bills—the basic functions of government. Secretary Gates said:

> Looking ahead, it is unrealistic to expect partisanship to disappear or even dissipate. But when push comes to shove, when the future of our country is at stake, ideological zeal and short-term political calculation on the part of both Republicans and Democrats must yield to patriotism and the long-term national interest.

This lack of functionality, this chaos, if you will, also affects us internationally. Tom Friedman, this weekend, had a column. I thought the title was rather provocative. It was, ''Calling America: Hello? Hello? Hello?''

''Few Americans,'' Friedman says, ''are aware of how much America has lost in this recent episode of bringing the American economy to the edge of a cliff. . . . ''

People always looked up to America. He quotes a citizen of Singapore.

> People always looked up to America as the best-run country, the most reasonable, the most sensible. And now people are asking: ''Can America manage itself and what are the implications. . . . '' [for the rest of the world]?

Our Constitution has always been based upon two somewhat competing principles in tension with each other. One is the fundamental purpose of the Constitution, which is to create an effective government. The Constitution was not what ran this country immediately after the American Revolution. We experimented with something called the Articles of Confederation. It did not work. The chaos and the economic problems of that period is what led the Framers to draft the Constitution in that blessed summer of 1787.

But the one principle in the Constitution is right in the preamble: To form a more perfect Union, to establish justice, to provide for the common defense, to ensure domestic tranquility and promote the general welfare. That is government.

At the same time, the Framers were concerned about the ancient question of who will guard the guardians; how do we control the government we just created in order to protect ourselves from its own abuse?

They built this elaborate system of checks and balances. They had never heard of Rube Goldberg in 1787. But if they had, that is what they did. They created an elaborate, cumbersome, slow system. They wanted it to be that way in order to curb the excesses of the government they had created. They wanted it to be slow and cumbersome. They succeeded beyond their wildest imagination.

Those two principles, governing and checks and balances, as I say, are in tension in the Constitution. The problem is, we seem to have reached a moment in time where the governing part has been taken away and all we have left are checks and balances. We have a system that is ridiculously easy to monkey wrench if you do not have the basic commitment to governing. That is the problem we face today.

So what do we do? We have to do something. That brings me back to where I began at the budget conference. This budget conference is very important. This is not one of many conferences that are going on. This is a—I do not want to say a last chance, but it is one of our last chances to show the American people we can govern. It is almost less important what is in the deal than that there be a deal, that the parties show they can come together, that they can solve a problem.

Just the fact of the headline, ''Congress passes a budget which the President signs'' would electrify the country. It would be the most positive thing we could possibly do for the economy. By the same token, a headline that says, ''Congress once more fails to act'' will be one more weight on the future of the country, one more stone in the pile of evidence that we can no longer function; that this system which has served us so well for so long can no longer serve us as it must.

What do we do to get there? As I say, we do something. I hope and pray and urge and support the chair of the Budget Committee, the House chair of the Budget Committee, the members of that conference to try to find solutions that will not make everybody happy, by definition, but at least will show we are able to do the most basic function of government.

How do we get there? We listen. We have a company in Maine that has a sign on the wall that I think we ought to put in this room. It says: All of us are always smarter than any of us. The wisdom of the group—there is tremendous experience and wisdom in this institution if we can bring that to bear, but it does not work if people are not listening. If people say: I know the answer, I have all the results, I do not need to listen, I do not have anything to learn, we will never get there if that is the idea.

When people say to you: I am not going to compromise, what they are saying is: I have all the answers. I am entirely right.

I have never known anyone that was entirely right. So we need to listen. Yes, we need to compromise. We need to remind ourselves of the pretty simple oath we take. The oath that we take when we come into this place is to the Constitution of the United States. It is not to a political party. It is not to an ideology. It is not to a particular issue, no matter how precious to us or our constituents, it is an oath to the Constitution of the United States.

I hope and pray that if we can hold to that and remind ourselves why we are here and the heavy weight of responsibility that we bear, we can find solutions, we can solve problems, we can begin to rebuild the trust the American people want to have in their government, if we can only prove ourselves worthy of it. It is a heavy responsibility. It is one, I believe, we can meet and do so with honor and good faith to that oath we all took.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I see the Senator from the Commonwealth of Massachusetts is on the floor. I would inquire, through the Chair, how long she is seeking to speak. We were about to proceed to the consideration of the amendment that has been filed by Senator PORTMAN and cosponsored by Senator AYOTTE, Senator HELLER, and Senator MCCAIN.

This is a rather complicated parliamentary situation. Then there is going to be a debate. If the Senator from Massachusetts is going to speak very briefly, I would withhold. If she is going to speak at length, then since we have Members on their way, I would proceed.

Ms. WARREN. I would tell the senior Senator from Maine, my plan had been to speak for less than 10 minutes. But if that does not work, I certainly will yield to the Senator from Maine and do what she requests.

Ms. COLLINS. Madam President, I would ask unanimous consent that the Senator from Massachusetts be permitted to speak for no longer than 10 minutes. If she were a little shorter than that, it would make me very happy.

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

ENDA

Ms. WARREN. Madam President, I wish to thank the Senator from Maine. I will do my very best.

I rise to speak about the importance of passing the Employment Non-Discrimination Act, a bill I am proud to cosponsor and to support. It has taken us far too long to arrive at this day. For nearly 40 years, Members of Congress have worked to pass legislation that would protect LGBT Americans from discrimination in the workplace.

Much has changed since Bella Abzug introduced the Equality Act of 1974. Equal marriage is now the law in 14 States—21 States and the District of Columbia have enacted laws to protect against employment discrimination based on sexual orientation. Sixteen States and the District of Columbia also protect against gender identity discrimination.

The Supreme Court has rejected DOMA, a law that legalized discrimination against same-sex spouses by calling that law exactly what it was: unconstitutional. In the private sector, a majority of Fortune 500 companies have adopted policies to protect workers from discrimination based on sexual orientation and gender identity. Polling data shows that a majority of small businesses have similar policies in place.

By nearly every measure, we have made progress in a long march toward equality. Yet in the face of all of this progress, nearly one-half century since Congress first enacted title VII of the Civil Rights Act prohibiting employment discrimination based on race, color, religion, sex, and national origin, we still have not extended these basic Federal protections to LGBT Americans.

The failure to treat all our citizens with the same dignity is shameful. In America, equal means equal.

Many have tried hard to reach this day, and our legislators from Massachusetts have long been leaders in this fight. Senator Ted Kennedy and Congressman Barney Frank both spent decades working on this issue. Senator Paul Tsongas from Massachusetts introduced the first Senate bill to prohibit employment discrimination against LGBT Americans all the way back in 1979.

Progress has been slow. The last time the full Senate voted on ENDA was 1 year ago, when a version of the law championed by Senator Kennedy failed to pass by one single vote, 49–50, back in 1996. In 2007, the House passed a version of ENDA introduced by Congressman Frank, but the bill made no progress in the Senate. Today, there are 55 cosponsors of ENDA in the Senate, Democrats and Republicans, representing the broad majority of support for the bill and signaling the tremendous progress that has been made.

It is all the more shameful that it has taken us this long to arrive at this day because Americans believe in equality. According to one survey, some 80 percent of Americans believe it is already illegal to discriminate against workers based on their sexual orientation, gender, or identity. Unfortunately, however, this is one rare instance where the American people are giving Congress way too much credit, because the truth is we haven't acted yet. The consequences of congressional inaction remain all too real for millions of LGBT Americans.

Despite the successful efforts in many States to pass nondiscrimination measures, Americans living in over half the country can still be discriminated against in the workplace based on sexual orientation or gender identity. It happens. Between 15 and 43 percent of LGBT individuals have reported experiencing discrimination or harassment in the workplace. A quarter of transgender Americans have reported being fired from a job due to their gender identity, and a whopping 90 percent have reported experiencing harassment and mistreatment. There has been a lot of progress toward a more inclusive nation, but for LGBT workers a law to stop employment discrimination can't come fast enough.

The Employment Non-Discrimination Act pending in the Senate will protect LGBT individuals in the workplace, update the law to reflect what the vast majority of Americans already believe to be the law, and help fulfill our constitutional responsibility to protect equality in our Nation. ENDA doesn't provide any special rights to any particular group of Americans. It does not compel any religious organization to change its views. It just creates a level playing field for LGBT workers. It makes sure all workers are judged by the work they do, not by who they are or who they love.

America is ready for this day. An overwhelming majority of voters, both Democrats and Republicans, support the enactment of this law. They know it reflects the values of our Nation.

America's businesses are ready too. Recent polling shows that a large majority of small businesses support the Employment Non-Discrimination Act. As for big businesses, 88 percent of Fortune 500 companies have already implemented policies prohibiting discrimination against gays and lesbians in the workplace.

Raytheon, one of the Nation's top defense contractors and a proud Massachusetts-based company, bars LGBT discrimination. One executive at Raytheon is quoted as saying the organization's ''culture of inclusion absolutely gives us a recruiting edge'' when it comes to hiring the best and the brightest.

Shortly before his death in March 2009, Senator Kennedy joined with Senators MERKLEY, COLLINS, and Snowe in what would be his final attempt to push this bipartisan legislation over the finish line. At the time Senator Kennedy eloquently explained his continuing support for ENDA by noting that ''the promise of America will never be fulfilled as long as justice is denied to even one among us.''

Those words were true in 1974 when Bella Abzug introduced the Equality Act. Those words were true when the Senate came within one vote of passing ENDA in 1996, those words were true when Senator Kennedy offered them in 2009, and those words are true today. The promise of America will never be fulfilled so long as justice is denied to even one among us.

We deal with a lot of different kinds of legislation in the Senate. This week we have a chance to vote on a law that is a measure of who we are as a people and what kind of a world we want to build. I believe in a world where equal means equal, and that is why I will be voting to outlaw employment discrimination against my neighbors and my friends.

Senator Kennedy, Senator Tsongas, and Congresswoman Abzug are no longer with us, but, as so many others, they fought hard to get us here—to get us one step closer to equality for all of us. It has taken us far too long to arrive at this day, but we are here now, and we are not going back.

I thank the Senator from Maine for giving me this time.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. I ask unanimous consent that the order for the quorum call be rescinded.

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

EMPLOYMENT NON-DISCRIMINATION ACT OF 2013

Ms. COLLINS. Madam President, I ask unanimous consent that the Senate resume consideration of S. 815 and the pending Portman amendment; that the Toomey second-degree amendment be withdrawn; that the Senate proceed to a vote on the Portman amendment; that upon disposition of the Portman amendment, the previously withdrawn Toomey amendment be made pending as a first-degree amendment to the committee-reported substitute; that a Reid second-degree amendment to the Toomey amendment, which is at the desk, be made pending; that following the reporting of the Reid second-degree amendment, the Senate resume the motion to proceed to Calendar No. 236, H.R. 3204, with all of the above occurring with no intervening action or debate.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Under the previous order, S. 815 is pending, and amendment No. 2013 is withdrawn.

The question is on agreeing to the amendment.

The amendment (No. 2012) was agreed to.

AMENDMENT NO. 2013

The PRESIDING OFFICER. Under the previous order, the Toomey amendment is now pending.

AMENDMENT NO. 2020 TO AMENDMENT NO. 2013

Ms. COLLINS. Madam President, I call up Reid amendment No. 2020.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. REID, proposes an amendment numbered 2020 to amendment numbered 2013.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 1 day after enactment.

Ms. COLLINS. Madam President, I ask for the yeas and nays on the Reid amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

ANTIRETALIATION

Mr. LEAHY. Mr. President, I understand that an amendment was negotiated to clarify the exemption provided to religious organizations in this legislation. This is Senate amendment No. 2012.

I understand that the intent of the antiretaliation provision in the legislation is to strike a balance between providing important protections for religious organizations because of their exemption under section 6(a) of pending legislation and to ensure that this provision does not undermine in any way current or future Federal, State, or local civil rights protections, such as those protections afforded under the laws of my home State of Vermont.

The language of the antiretaliation provision states clearly that nothing in the provision can be construed ''to invalidate any other federal, state, or local law or regulation that otherwise applies to an employer'' that is found exempt under section 6(a) of ENDA. As I understand it, this means that an exemption for a religious organization under ENDA does not equate to exemption from compliance with any other Federal, State, or local civil rights requirements.

In addition, this provision bars retaliation against a religious organization on the sole basis that the organization is exempt under ENDA. Application of Federal, State, or local civil rights protections to a religious organization exempt under Section 6(a) of ENDA may only be considered retaliation under Section 6(b) if the religious organization demonstrates that the application—through monitoring, enforcement or other means—is solely due to the religious organization's exempt status under ENDA.

Based on this understanding, I would like to ask Chairman HARKIN if anything in that amendment would modify the important nondiscrimination provision in the Violence Against Women Reauthorization Act that this Congress passed with overwhelming bipartisan support earlier this year.

That provision was a critical component of the reauthorization, and I want to make sure that nothing here overrides what is currently the law of the land. I also want to make sure that States like Vermont can still enforce their own nondiscrimination laws for violations within their jurisdiction, regardless of whether an entity is exempt under the national ENDA legislation.

Mr. HARKIN. I thank the Senator for his question. He is correct, nothing in this amendment would modify the nondiscrimination provision that was included in the Violence Against Women Reauthorization Act. What this amendment does is say that you cannot retaliate against an organization for discrimination in its hiring, firing, compensation, or other terms or conditions of employment if you are an organization that qualifies for the exemption under section 702(a) of title VII of the Civil Rights Act. ENDA's religious exemption does not create new grounds for liability or penalty.

DRUG QUALITY AND SECURITY ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate resumes consideration of the motion to proceed to H.R. 3204.

The Senator from Maine.

Ms. COLLINS. That was an extremely complicated parliamentary request. Perhaps it would be helpful to my colleagues if I gave a little bit of explanation of what occurred.

The good news, in my judgment, is that the Senate has adopted by voice vote an amendment proposed by Senators PORTMAN, AYOTTE, HELLER, HATCH, and MCCAIN. I very much appreciate their willingness to work with the cosponsors and sponsors of this legislation.

Many of the sponsors of this amendment are tied up in hearings, but I expect them to be coming to the floor very shortly to debate this amendment after the fact.

I wish to explain about what the Portman, Ayotte, Heller, Hatch, and McCain amendment does. The underlying bill, ENDA, includes a pretty broad exemption for religious organizations based on current law in title VII. What the Portman, et al., amendment does is it ensures that Federal, State and local government agencies will not be able to discriminate against these exempt organizations. For example, the amendment would ensure that exempt religious organizations cannot be denied grants or contracts for which they would otherwise qualify from government agencies. It also protects them from discrimination by government agencies from participating in government-sponsored activities.

I believe this amendment improves the bill. It ensures these organizations—these religious-based organizations that are exempt under ENDA—cannot be suddenly penalized for having that exemption by being denied grants, contracts, other licenses, fees, or whatever, that they would otherwise be entitled to just solely based on the fact they are exempt under ENDA.

I want to commend Senator PORTMAN, Senator AYOTTE, Senator HELLER, Senator HATCH, and Senator MCCAIN for making sure these important protections are in place, and that if an organization has a legitimate exemption under this bill, the Federal Government or State government cannot discriminate against that organization that is legitimately claiming an exemption under ENDA.

I believe this amendment improves the bill and provides a significant protection for exempt religious organizations, and I am very pleased it was accepted by a voice vote.

I know Senator PORTMAN and Senator AYOTTE are on their way and want to speak on the amendment we just adopted.

Let me explain the second part of the very complicated parliamentary action we just took. At least I will attempt to.

What we have done is to preserve Senator TOOMEY's right to get a vote on his amendment. It is my understanding that vote will require 60 votes of the Senate in order to be approved, but it essentially guarantees he is next up. He is next in line for a vote. So his amendment will be the pending amendment.

Again, I know this was a complicated process, and I want to thank the Chair who was presiding over the Senate, as well as the floor staff on both sides of the aisle, Senator REID's staff and Senator MCCONNELL's staff, in making sure

we protected everybody's rights in this debate. I think that is very important when we are talking about a bill as significant as ENDA.

Madam President, as I said, I know some of the sponsors are on their way. But since they have yet to reach the floor, rather than filibuster the successful conclusion of the Portman amendment, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. BALDWIN). Without objection, it is so ordered.

Ms. AYOTTE. Madam President, first of all, I want to thank my colleagues, and I will start by thanking my colleague, the senior Senator from Maine, Senator SUSAN COLLINS, for the important work she has been doing on the Employment Non-Discrimination Act. I also want to thank my colleagues for supporting an amendment that was brought forward recently and passed by this body, the Portman-Ayotte-Heller-Hatch-McCain amendment, to strengthen the protections within the Employment Non-Discrimination Act for religious institutions.

I firmly believe people should be judged based upon the quality of their work. Discrimination has no place in the workplace. In my home State of New Hampshire, we have a long bipartisan tradition of working to advance commonsense policies, and New Hampshire already has in place a State law preventing discrimination based on sexual orientation. I appreciate that the Employment Non-Discrimination Act is legislation that is important in terms of who we are, our values, and making sure people are only judged based on the quality of their work in the workplace. I also appreciate the legislation on the floor right now includes important protections for religious institutions.

I have long been a strong supporter of the rights of conscience, of the rights under the First Amendment of the Constitution to religious freedom, and so these protections are very important within this bill. I was pleased to work with Members on both sides of the aisle to strengthen those protections by passing an amendment that will help ensure religious organizations cannot be retaliated against for exercising their religious freedoms.

Specifically, the Portman-Ayotte amendment affirms the critical importance of protecting religious freedom in the Employment Non-Discrimination Act. It ensures that government cannot penalize a religious employer because it qualifies as exempt from nondiscrimination requirements of the Employment Non-Discrimination Act. The amendment protects religious institutions from adverse actions by the government on the basis of adhering to their religious tenets.

In practical terms, the government may not use activities protected by the religious exemption as a basis to deny a religious employer a government grant or tax-exempt status or any other benefit that may be conferred by the government.

I want to thank my colleagues for passing this amendment which will strengthen the protections for religious institutions within the Employment Non-Discrimination Act, and I thank the Chair for the opportunity to speak today.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I again want to commend the Senator from New Hampshire, Senator AYOTTE, for her excellent work on this amendment. As I indicated earlier, I think the Portman-Ayotte amendment, which is cosponsored by several other colleagues as well, provides a very important protection against retaliation for those religious organizations that are legitimately exempted under ENDA.

I also salute them for broadening the purposes section of the bill to recognize not only the need to address a widespread pattern of discrimination on the basis of sexual orientation, but also they have added a new subsection to recognize that another purpose is to help strengthen civil society and preserve institutional pluralism by providing reasonable accommodations for religious freedom. I think both of those changes strengthen the bill, and I wish to commend the Senator for her leadership on this issue.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Madam President, I have come to the floor to give my views on the Employment Non-Discrimination Act—better known as ENDA—because this is essentially a bill with a long history. It means a great deal to me personally because of the work I did in the city and county of San Francisco a long time ago.

Actually, nearly 40 years ago, in 1978, I was in my third term as president of the board of supervisors when an ordinance to prohibit discrimination in both housing and employment on the basis of sexual orientation was actually passed by the board. I think it was a vote of 10 to 1. I introduced the legislation in my first few years as president of the board, and it was the first such legislation introduced in a major city anywhere in the United States. It was difficult to pass. There was a long debate. I look back on the press and it was a 2-hour debate, but it did pass back in 1978.

It is true that I at the time had some concerns. So I have watched the legislation implemented over the last four decades. It has protected people's jobs and livelihoods from unfair treatment. It has been good for people and for business. I had some concerns. Would there be a lot of objections?

Actually, in the time I was a supervisor and in the 9 years I was mayor, there were no objections. All of a sudden the city really came to see what equality meant. I knew then, and I know now, this legislation is the right thing to do, and it is not going to result in inappropriate behavior in the workplace or any of the other hobgoblins that the legislation's opponents raise.

In 1996, ENDA came to this floor. An up-or-down vote on this bill was negotiated the same day the Defense of Marriage Act—or what we call DOMA—would have such a vote. These votes happened on September 10, 1996. The defense of marriage bill passed. I was one of 14 Senators to oppose it, 85 of my colleagues supported it, and President Clinton signed it into law. As we all know now, what it essentially did was say that any gay couple that was legally married could not access more than 1,100 Federal rights that were accorded to married couples. Now some 14 States have legalized gay marriage, and just recently it looks like Illinois is on its way to doing the same.

ENDA failed by a single vote back then. That was a vote of 49 to 50. Today things are very different, but there is still a long way to go. In an historic decision in June, the Supreme Court struck down the core piece of the Defense of Marriage Act. But DOMA is not yet fully repealed, and repealing it remains necessary. So, in my view, the Defense of Marriage Act must and will be one day repealed once and for all. Although such legislation as ENDA has been adopted in numerous States, there is still no Federal end to discrimination. That means that most gay, lesbian, and transgender individuals are without critical protections against employment discrimination. In fact, most people, over 56 percent of the population, live in the 29 States that have not enacted employment protections for gays and lesbians. Over 66 percent of people live in the 34 States that have not enacted such protections for transgender individuals.

There is no question, discrimination in the workplace against these groups remains a big problem. Let me give just a few examples. There is the case of Mia Macy, a case in which the Justice Department found that Ms. Macy's transgender status played an impermissible role in the hiring process. She had, for 12 years, been a police detective in Phoenix, AZ. She was a veteran. She applied for an open position in an ATF ballistics lab to do ballistics imagery work that she was certified to do. She was told she could have the position, subject to a background check.

Then Macy revealed her transgender status to the government contractor staffing these positions. Her background check was ordered stopped by ATF soon thereafter. She received an email stating the position was no longer available because of funding cuts, even though there was no evidence that was the case.

It turns out that the number of positions available had hastily been cut from two to one, and the person hired for that one position lacked much of the experience Macy had.

Macy was, according to DOJ's decision, ''very likely better qualified'' than the individual actually hired for that position. So this is wrong. Ballistics matching can be the difference between a shooter in jail and a shooter, who might kill again, walking the streets of our neighborhoods. The person who was actually hired should be the person who can do the best job, period, regardless of whether the person is gay, straight, or transgender.

Another case involves a police officer from the city of St. Cloud, MN. According to a court opinion, the officer was an ''excellent'' officer. He was consistently awarded marks as ''excellent'' or ''competent'' on his performance reports. The officer got ''letters of recognition and commendation for his accomplishments, including his work on the Community Crime Impact Team, his work against drunk driving, his performance in apprehending a sexual assault suspect, and for his work in recovering a stolen vehicle.''

Then he came out as gay. After that, according to the officer, he almost immediately ''was subject to increased scrutiny, increased disciplinary measures, excessively thorough documentation and surreptitiously recorded interventions'' as well as ''multiple internal investigations'' and removal from assignments.

The Federal court found that ''the almost immediate shift'' in the treatment of this officer ''supports an inference of unlawful discrimination'' under the equal protection clause of the Constitution, which applies to State and local agencies. But if a private employer had discriminated like this, there likely would have been no Federal protection.

In a case out of Oregon, an individual who ran a production line for battery separators was subjected to harassment on the job. He was called ''Tinker-bell'' and ''a worthless queer.'' He was described using other phrases that I simply will not say on the Senate floor because they are graphic and beyond the pale. I think they would shock many of our colleagues on both sides of the aisle. This harassment occurred on a daily basis, sometimes in the presence of a supervisor. Then, 2 days after reporting the harassment to human resources, the individual was fired. In this case, the Federal court found the evidence credible enough to warrant a trial under Oregon law.

Sometimes discrimination is not as clear as it is in these cases. I am going to quote from a 93-year-old constituent of mine who called my office urging full support for this bill. This is what he said:

I don't usually take the time to call my Senator but this is important to me. I've lived in San Francisco almost my whole life, and at 93 years old I have seen a lot. Even in a liberal State like California, as a gay man I never felt equal to my colleagues.

This is a quote.

I used to work at a bank, and I kept working until I was 79, to earn my retirement. I was afraid to bring my husband to company parties, and I never wanted to seem too flamboyant to my supervisors. It seems so ridiculous when I think back on it, but people don't understand that this kind of discrimination is subtle.

It broke my heart when I watched the Senate fall one vote shy of passing ENDA back in the nineties. I hope the Senator remembers what it used to be like, and fights to pass ENDA today.

I do remember, and I do know that this bill will help stop discrimination in the workplace. The bill is simple. It says a person cannot be denied employment because of who that person is: Gay, straight or transgender. The bill provides no special privilege—no special privilege. It creates no quota. It creates no exemption from the codes of conduct or anything else. It does not allow inappropriate conduct in the workplace. In fact, the bill is narrower than title VII protections in certain respects. In my view, the bill does provide critical employment protections, and it is long past the time that it be signed into law.

Three years ago we recognized that a person's merit, not sexual orientation, is what matters for service in the military. The point is no different in this bill. If a person wants to be a ballistics expert, a police officer, a firefighter, a bank teller, a lawyer, a factory worker or anything else, the question should simply be, can the person do the job.

People have families, they have spouses, and they have children. They need to put food on the table. They have college expenses for their children, student loans to pay, and unforeseen medical expenses. They may have elderly parents that they care for and who need their assistance. All of this requires a job.

Should a person be denied that basic aspect of life, should a person's spouse or children or parents be hurt, simply because that person is gay or straight or transgender? For me the answer is simple; it is no.

That person should not engage in any conduct that would be unseemly for one of a heterosexual couple. The conduct rules are also important. If this legislation is enacted, which I hope very much will happen, that will be the law of the land, and it will be long overdue.

I wanted to come to the floor and indicate some of the past and go back to 35 years ago when the first employment bill that would prohibit discrimination of this type was enacted. I am very proud to have introduced it, and to have been a vote for it on the board of supervisors in San Francisco.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Madam President, I rise today to thank my colleagues for their support earlier today of an amendment that I offered strengthening the protections for religious liberty in the ENDA legislation, the Employment Non-Discrimination Act. This amendment was cosponsored by Senators AYOTTE, HELLER, HATCH, and MCCAIN. I thank Senator COLLINS for the key role she played in its passage.

I firmly believe that no one should be subject to unjust discrimination, so I support the basic premise of ENDA, which is that people should be judged by their experience, their qualifications, and their job performance, not by their sexual orientation. The bottom line is people should not be able to be fired just because they are gay.

I believe the legislation currently before this body will help create that level playing field and ensure employment opportunities for all. But it does not mean it is a perfect bill. It should be improved and my amendment seeks to ensure that this legislation, designed to promote tolerance of one kind, doesn't enshrine intolerance of another kind.

Religious liberty is an important part of the Employment Non-Discrimination Act already. The underlying bill includes a significant exemption for religious employers. But we have to be certain that in pursuit of enforcing nondiscrimination, those religious employers are not subject to a different kind of discrimination that would be government retaliation. My amendment seeks to ensure the government cannot penalize a religious employer because it qualifies as exempt from the nondiscrimination requirements of ENDA. It protects a church or religious charity or religious school from adverse action by the government on the basis of adhering to its religious tenets, in a manner that would otherwise be unlawful under ENDA. In practical terms, this means the government cannot use activities protected by ENDA's religious exemption as a basis to deny religious employers government grants, contracts, their tax-exempt status, or other benefit.

My amendment prohibits the government from punishing a religious institution for adhering to its deeply held beliefs and thereby seeks to keep the State from intervening in matters of faith.

It does something else important too. The underlying bill specifies certain broad purposes related to addressing employment discrimination. My amendment adds to this introductory section an explicit reference to the fundamental right of religious freedom. It establishes as a basic purpose of ENDA that workplace fairness must be balanced against and made consistent with religious liberty. I believe the

principles of religious liberty and nondiscrimination go hand-in-hand. When we think about nondiscrimination, many of us think about the great civil rights movements of the 20th century, but as we know the fight for tolerance goes back further than that, really to the very foundation of our Republic.

On my mom's side, some of my ancestors were Quakers. They came to this country as so many before them in search of religious freedom. At first that was something hard to find in this country. When they arrived, members of this new sect were often persecuted. Their views and practices were judged to be unorthodox, even strange. Sometimes they were imprisoned. Their books were burned. Some of the colonies did not want them inside their borders.

They knew a little bit about religious freedom, and they certainly knew something about discrimination. It was their experience and the experience of so many other groups of different faiths that made freedom of conscience a cornerstone of our founding documents. The First Amendment begins, ''Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.''

Religious freedom, therefore, is our first freedom and the amendment that protects it is really our first nondiscrimination law. Any law we pass which seeks to prevent discrimination will not succeed if it does not at the same time protect religious liberty.

The religious liberty protections in ENDA are not perfect. My amendment makes them better, and that is why I appreciate my colleagues giving this amendment the support it deserves.

I am looking forward to the passage of this legislation with this amendment and, again, I appreciate the work of the Senator from Maine and others.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I rise to commend the Senator from Ohio for bringing forth this very worthwhile initiative, which the Senate passed without dissent just about an hour or so ago. His amendment is a very important amendment. What it simply says is that if an organization is exempt from ENDA for religious reasons, then government cannot turn around and somehow retaliate against this employer based on his claiming or her claiming a legitimate religious exemption as provided by ENDA. That means that if the business or organization is entitled to compete for certain grants or contracts from the Federal, State or local government, that there cannot be this subtle discrimination against the employer for claiming the religious exemption, legitimately conferred, upon the business under ENDA.

I think that is really important. We do not want retaliation or discrimination or unfair treatment on either side. I commend Senator PORTMAN for coming forward with this amendment. I believe that it is consistent with the bill and that it strengthens the bill.

I congratulate him for his initiative. It has been a pleasure to work with him, Senator AYOTTE, and other Members of the Senate in support of this initiative.

OBAMACARE

Ms. AYOTTE. Madam President, I rise to talk about the impact ObamaCare is having on the people of my State, the State of New Hampshire. It has been over 1 month since the health care exchanges opened, and in that short time we have already seen so many problems with ObamaCare. Frankly, it is a mess.

The failure of healthcare.gov is a travesty that has revealed deeply troubling incompetence in terms of implementing a Web site that people can use and have access to and is secure and protects their private information. Frankly, we are in a position where the Web site is merely the canary in the coal mine. The flaws in this law are much deeper than the Web site.

Even former supporters of ObamaCare are telling me it is not working. I am hearing from my constituents about this, and frankly I feel very badly for them because so much of what is happening to them is as a result of how the law was drafted years ago.

For example, I heard from Maryanne in Lisbon, NH. She said:

We hope this would be a solution. But instead it will be more of a financial drain.

The American people are the ones who are paying the price right now. They are getting cancellation notices, seeing their premiums go up, and losing their doctors.

Workers are suffering. Many of them have seen their hours cut to 29 hours because of an arbitrary mandate defining full-time workers as those who work 30 hours a week. Others are fearful they will lose their employer-sponsored coverage altogether. Business owners remain reluctant to expand—worried they will trigger the looming penalties from ObamaCare.

Most tragically, we now know that the law was sold to the American people under false pretenses. The President said: ''If you like your insurance plan, you will keep it.''

In fact, yesterday we checked the Web site and that claim is still on there. I am hearing every day from New Hampshire residents who are telling me they are seeing their health insurance policies canceled. In fact, in the newspaper this morning there was a headline in New Hampshire that announced that about 22,000 individuals will see coverage canceled at the end of the year.

Granite Staters have been writing to me. I wish to share their concerns with the entire country because I know this is not just happening to people in New Hampshire, but these are the real people who are being affected by ObamaCare.

Lynn in Greenland wrote:

The President was wrong. I can't keep my coverage if I like it and I can't keep my preferred hospital and his plans are the ones that are subpar . . . it's bringing me to tears on a daily basis. Please help.

Edward in Marlow is self-employed. I feel so badly when I receive letters such as this. He has a rare disease and a high-deductible plan. He wrote:

I received a notice from Anthem last week that they will be canceling this policy. Is this what President Obama meant when he said no one who currently has their own policy and likes it will lose it. . . . I am devastated that I will now have to go out and secure another policy somewhere which could cost me significantly more.

Jennifer in Canaan wrote:

I received a letter from Anthem Blue Cross stating that my current health insurance plan was being discontinued because it did not conform to the law under the Affordable Care Act. In other words, the plan I was promised I could keep was made illegal by Washington politicians.

Michael in Atkinson said:

Kelly, we have been told this would expand options. The fact is we are now being told what we can and what we cannot do and where we can go. To say that I am upset would not begin to describe how I feel.

Richard in Alton Bay said:

I am a small business owner in New Hampshire and have been with my health insurance provider for over 10 years. I was recently informed that the policy I have had for all of these years (and I like quite a bit) will be canceled due to the provisions in Obamacare. When I contacted the company, they said they are planning to transition me into a plan that costs more and offers substantially less benefits and protection than my original plan. . . . I am outraged at this. . . .

Jamie in Littleton wrote:

Today we received a letter from Anthem Blue Cross stating my husband's individual health care plan, which he's had for 15 years, will be changing to conform to ACA laws and will no longer be in effect come September 1, 2014.

Louis in Sunapee wrote:

What just happened? I received a cancellation notice from my insurance company . . . and the coverage I am eligible for is MORE expensive? Help me!

President Obama has made the promise that ''if you like your doctor, you will be able to keep your doctor, period.''

For those who are seeing their plans canceled, we know that is simply not the case. There is another issue that New Hampshire is facing, and that is a matter of choice in keeping not only the doctor you want to keep but also going to the hospital you want to go to. In New Hampshire, there is only one insurer who is going to participate on the exchanges at this point, and to keep costs down, the insurer has decided to limit its network, so 10 of our 26 acute care hospitals are not part of the exchange and are excluded.

For example, the capital of New Hampshire is Concord. One of the hospitals that has been excluded is Concord Hospital. I worked in Concord for years. Concord Hospital is going to be excluded. All the people in that area

who rely on that hospital and had their children and treatments there will now be excluded if they are on the exchanges. This is a real impact on people's lives, and I feel very badly for my constituents.

A doctor in Peterborough said he was once a supporter of ObamaCare. He described the consequences simply. In a letter to me he said his patients have one of three terrible options now, and that is because the hospital in his area has been excluded from the exchange.

First, they can switch doctors and drive a considerable distance to a hospital that Anthem does include in the exchange; two, they can purchase insurance outside of the exchange at considerably higher rates than they could this year; or, three, they can stick with their current doctor, risk having no insurance and pay the government a penalty for being uninsured.

With the hospital he is associated with excluded from the exchange, he said, it is the ''Less Affordable Care Act'' for his patients. This doctor gave me a troubling practical effect of what his hospital being left out would mean for his patients.

He used this example:

Consider the pregnant woman who has delivered all of her current children at our hospital. She is now expecting in February. She must now either drive our twisty New England roads, in the dead of Winter, to a hospital 55 minutes from her home to deliver her baby, or pay considerably higher insurance premiums to stay where she is comfortable and safe.

He is one of numerous citizens across New Hampshire who has expressed similar concerns about local hospitals being excluded from the exchange. I wish to share some of the other concerns that have been written from my constituents.

Vicki in Seabrook wrote:

The list of doctors and medical facilities that will take my insurance is limited and my Massachusetts doctors are not on the list. . . . The one closest to me, Portsmouth Hospital, is not on the list.

Kathleen in New Castle wrote:

The exchange choice will not allow me to use my docs, including primary care who is affiliated with the Portsmouth Hospital. All oncology physicians are located in Boston, not covered.

Margaret in Strafford currently goes to Frisbie Memorial in Rochester, which is not part of the exchange.

She explained the impact in this way:

I would no longer be able to go to Frisbie Memorial Hospital, which is four miles away. I could no longer see the gynecologist whom I trust. I could no longer use the surgeon who saved my life when emergency surgery was required. I could no longer visit the same internist. If I were to develop heart problems, I could no longer go to Portsmouth Regional Hospital.

Gregory in Rochester said his primary care physician is at Frisbie. He said that means he will have to go to another hospital, he said, ''I do not know and does not know my health condition.''

Robert in Strafford said he has gone to Frisbie for 40 years. He wrote:

I've had multiple different insurance companies but have always been able to keep the same doctors. Now because of ObamaCare, Frisbie is out of the loop. This is totally unfair to all the people who live in the area. What gives?

Teresa in Peterborough said that none of her current physicians, including her primary care physician and her OB/GYN, are in the exchange. She wrote:

The nearest providers in this network are 45 minutes west, 60 minutes east or 90 minutes north. This will be very costly to me in terms of time taken off to attend appointments at these distant offices/hospitals. And since I am self-employed, a day off to go to the doctor is one day without income.

A single mother also from Peterborough wrote:

If my 17-year-old son does get sick this winter, I will be required to take a minimum of ½ day off to bring my son to Keene or Manchester to find a primary care physician who will accept the insurance through affordable care (not that I can even afford that route).

I am also hearing heart-wrenching stories from New Hampshire citizens about how their premiums are going up. As you know, when this law was being sold, it was sold as premiums going down, but that is not what I am hearing from my constituents.

Christopher in Rindge wrote:

My insurance is going to double on January 1, 2014. Even the options that conform to the health act are double the amount I am paying today. It doesn't make any sense that my insurance would go up by double when this is called ''affordable'' health care.

Rick in Pembroke wrote:

Last year, the sum total of my family's health care cost $2,300. . . . I have been looking at health insurance for my family. The lowest insurance will cost $566.40 per month. The family deductible will be $11,500. Even if I spend the same as last year on actual health care, I will have to pay an additional $6,800. This isn't fair and it isn't affordable. I don't know many people who can budget for an additional $6,800 a year.

Brendan in Sanbornton said:

I am self-employed and my wife and I pay for our health insurance through Anthem that provides coverage for us and our 15 month old daughter. Presently, we pay about $580 per month for a major deductible plan with a total family deductible of $7,500. A couple of weeks ago, we received a letter from Anthem informing us that our ''old'' policies don't meet the requirements of the new ACA and therefore, we were going to be canceled. When researching new options on Anthem's Web site, we found that our deductible was now going to be $12,000 per year at an increased cost of about $150 per month! We feel as though the country has been misled about being able to 'keep their current coverage.'

Holly in Charleston wrote me:

I buy an individual policy to cover myself, but my policy went up 25 percent on October 1st and one of the reasons stated in the letter I received from Blue Cross was to cover the implementation of ACA. As a result, I dropped down to a less expensive plan and guess what? I got a letter telling me I was okay until 2014 when that plan will no longer be available because it doesn't comply with the new rules and regs.

I heard from Patty in New Ipswich and she said that after her insurance company told her to find a plan, she signed up for the least expensive bronze plan available. She says:

Still not only will my premium be $75 a month higher for a total of just under $600 per month for me, but in addition to that, I have a $5,400 annual deductible. Also, the prescription plan that Mr. Obama and Mrs. Pelosi mandated also has a $5,400 deductible, so effectively that is not a prescription plan at all. In fact, this plan is basically a very expensive catastrophic plan and nothing more. It is not affordable and I am disgusted.

Barbara in Merrimack and her husband don't yet qualify for Medicare. Their existing plan is being phased out, so she checked the exchange. She wrote:

The product that was closest to what we currently have is Silver and is just too expensive. The cheapest coverage we could find is in the Bronze category and will cost $1,228.32 per month and will have a deductible of $5,950/individual and $11,900/family. That means that all basic services and medications will be out of pocket. Medications will be covered at 40 percent of the copay. $1,228.32 equals $14,739.84 per year and it is more than my mortgage!. . . . Unlike the government, I can't raise my debt ceiling.

Anita in Sutton wrote:

What was supposed to help people like my husband and I who are self-employed—and he has a chronic illness—only hurts us. Our premium went up $2,287.70 per month and this is now with a $4,000 single/$8,000 family deductible . . . nothing like a 30 percent increase for one year . . . Having to hoist yourself up each day and go to work and try to carry on is hard enough with this chronic illness, now we have to pick and choose what bills we can afford to pay . . .

Jane in Troy said she tried to enroll her son in the Federal program, and this is what she wrote to me:

The quote was $600 a month! Do you know of any 20 year old who can afford $600 a month?

Tim in Merrimack wrote me:

Contrary to the original intent of the Affordable Care Act, individuals who obtain insurance on their own are paying radically escalating costs based on individual coverage for a healthy, non-smoking 51-year old male available for January 1, 2014, on the healthcare exchange in NH, the results are as follows: Premium—25 percent increase from $4,200 to $5,300. Deductible—20 percent increase from $5,000 to $6,000. 82 percent increase in less than 2 years—$2,900 in June of 2012 to $5,300 in January 2014.

Then I heard from Erik in Hancock. He said he has seen a 46-percent premium hike. He wrote to me:

What has been done to our health care system? This is the Unaffordable Care Act.

In some cases, the cost of insurance is rising because plans must include coverage for services that consumers don't want based on their individual situation or don't need based on their individual situation. For example, Jeff in Hudson says that his premiums will go up nearly 40 percent because of ObamaCare. He said:

It seems that some of the cost drivers are for coverages which my wife and I do not need or want, but are required to have due to the law. For instance, we must have maternity coverage even though we do not plan

on having more children. (We are in our early 50s.) We must have pediatric dental insurance, even though we have no children under the age of 18.

Doug in Bedford wrote me:

The maternity issue is a trap for seniors.

Carol in Newport wrote:

Can anyone please explain to me why at 60 years of age I need an insurance plan that requires maternity provisions? Can anyone explain to me why I would be required to pay for pediatric standalone dental when I have no children? Since this is mandated by the government, why would I have to pay an insurer fee, exchange fee, and reinsurance fee?

She said the most affordable plan she has seen has been $504.15 a month—which she can't afford—and a $6,350 out-of-pocket deductible. Carol asks:

If I cannot afford the premium, how can I afford the deductible?

Others I have heard from are worried that their employers will drop their coverage, finding it cheaper to pay the fine than to provide coverage for their workers.

Benjamin in Greenville wrote:

My portion, currently about $5,000 a year will jump to $20,000+ per year to maintain my current coverage. I make ''too much'' money to be subsidized. Tell me senator, where do I find $15,000 a year, $1,250 a month, $288 a week in my already tight budget?

He wrote me:

No more vacations. No more dance lessons for my kids. No more family date night once a month. No more Christmas presents.

Another theme I have heard in the letters I have received from my constituents is a feeling that those in the middle are being squeezed the most.

Donna in Newport wrote:

My employer is now canceling the company sponsored health plan as of January 2014, which costs me $2,288 per year. In shopping for a new plan, I am seeing the possibility of a $22 subsidy to help me with a monthly cost of $400, an increase in my health care costs I cannot afford. I am the middle class, a tax paying and proud American that did not ask for this Act and now suffering because of it.

Cheryl in Acworth wrote:

Not only do I have to pay twice the premium, but it will be post-tax—a double hit. If I was poor, I would be okay or if I worked for a large employer I would be okay but for those of us trying to make a good living and be responsible productive citizens, we end up carrying this . . . This is not the American dream at all.

Joseph in Salem wrote to me:

On September 30th I received a letter from Anthem informing me that my new payment to keep my current plan which I have had for over 8 years will increase $212.47 on January 1st. That is a $2,548.80 increase for 2014. This is what ObamaCare is doing to the middle class.

Roberta in Nashua is like many of my constituents pleading for help. She wrote:

Please hear my plea and see what you can do to allow people like me and my husband to keep our care and not be forced into purchasing exchange insurance which is so costly and will be a financial hardship for us. IT IS NOT AFFORDABLE!

In addition to canceled policies, patients losing their doctors, and higher premiums, I have also heard about another aspect and consequence of ObamaCare from people who are working hard, trying to make ends meet, and those are workers who are seeing their hours cut. Under the law, employers must provide coverage for employees who work 30 hours or more per week. Many of these employers, not surprisingly, have decided to reduce hours rather than comply with this new mandate. So this is what my constituents are writing me about—these hard-working people trying to make a living.

I heard from an EMT from the Monadnock region who wrote to me and said:

My employer notified the 75 of us who work there that effective January 1st, our hours will be cut due to ObamaCare. So our incomes will drop and make it harder for us to buy our own insurance.

An educator from the Upper Valley wrote:

Our school district and surrounding ones are cutting back para-professional jobs to 29 hours. Many of these people were full time. Instead they hired several part-time people to cover the once full-time positions . . . Now they are no longer entitled to any benefits. Many of these individuals have worked 15 or more years with a school district as full-timers.

I have heard from business owners as well. They have told me that the looming mandates in the law are causing them to think about eliminating coverage for their employees even though they don't want to do it. They want to do what is right for their employees.

Steven in Nashua wrote me:

I am a small employer. I would be very tempted to dump my plan for my employees, give them a few extra dollars and just get out of the health care business.

I have also heard time and time again about how looming penalties under ObamaCare are causing businesses to think twice about growing and adding new workers.

I heard from Matt on the seacoast. He wrote to me and said:

On a business level, I don't know if I will expand because I would not be able to pay the penalties or the health insurance for my staff members.

These are just some of the stories I am receiving from New Hampshire about hardships ObamaCare is causing for people who are working hard, who want to make ends meet, who want to keep the health care plans they have now. I feel terribly bad for these people. It breaks my heart.

I have worked hard. I have sponsored many efforts and voted to repeal this law. I have called repeatedly over the last several days for a timeout from ObamaCare. We do need a timeout because of the concerns I just talked about in this Chamber that I am hearing from my constituents and that I know many Members in this Chamber are hearing. We need the President to call a timeout.

I came to the floor several times during the government shutdown and I said it was wrong to shut down the government to try to defund ObamaCare because of the harmful impact of a government shutdown. I even took the step of calling on Members of my own party: Please, do not go forward and shut the government down.

Now it is time for the President to see the impact of this law and understand from someone who in some instances has stood up to her own party on the government shutdown—I am asking the President of the United States to hear from the people of this country who are being impacted negatively by the health care law, and I say: Call a timeout, Mr. President. It is not working. They are having difficulties with the Web site. They are worried that their personal information will not be protected on the Web site.

But, as I talked about today, the problems are much deeper, with people receiving cancellation notices, with people receiving premium hikes they cannot afford, with hours being cut for workers who want to work and make a living in this great country.

I would ask the President to call a timeout, to bring people together. This law was passed out of this Chamber on party lines. I would argue the best way to address health care in this country and to address real concerns I know people had with the status quo as well is to bring a bipartisan group together because what we are seeing now is not working.

My constituents have also taken the time to point out to me—in addition to the major problems they see with ObamaCare, they have shared a few ideas with me as well about where they think we should go from here instead of ObamaCare. I want to share those ideas as well.

Many of them agree that competition in New Hampshire is effectively nonexistent. Let's face it. We have one insurer on the exchange. One suggestion I saw—and it is one I agree with—is to allow for the purchase of insurance across State lines. Why shouldn't insurance companies have to compete on a national basis?

I also agreed with a constituent who said we need to place our focus where it belongs: crafting legislation that reduces health care costs rather than trying to create an artificial health insurance marketplace.

Another constituent wisely pointed out that there should not be a cookie-cutter set of policies, such as the ones that result in seniors purchasing coverage that includes maternity care. Instead, people should be able to shop for coverage that suits their particular needs, and we should respect that different people have different needs in health care.

There are many other ideas that I know we could work on together. These are just some of the ones my constituents have written to me, and I know they have written me other great ideas as well.

Finally, an overarching theme I have heard is that Americans are tired of

being victims of partisan gamesmanship, and I agree with them. We have had too much partisan gamesmanship on so many issues in the Congress. They are tired of the politics. They want us to work together to solve tough problems, and I agree with them.

On behalf of the people of New Hampshire, I renew my call for a timeout on ObamaCare. Let's have both parties come to the table and find health care solutions that work for the American people.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SEQUESTRATION

Mr. KAINE. Madam President, I rise today to speak in the midst of our budget conference about a topic that has consumed a lot of time here in this Chamber in the last number of months; that is, the effect of sequestration on the national economy and in particular the effect that sequestration is having on defense.

This was the subject of my first speech, my maiden speech as a Senator on the 27th of February, talking about the particular effect of defense sequestration, cuts on Virginia and the Nation as a whole. I return to it today not just to be repetitive but because we now finally are at the table in a budget conference, and, as the Presiding Officer knows, I think this conference gives us an excellent opportunity to find a better path forward for the Nation.

Sequestration, which went into effect in early March, has caused major damage to our economy and the capacities of our Defense Department. Our Defense Department is the most capable fighting force the world has ever seen. It is vital to our security, and Virginians and citizens of Wisconsin and every other State understand that.

Sequester was designed to be so painful that it would force Democrats and Republicans to find an alternative. We know that did not happen, so the pain that was never intended to come into effect has been in effect. We have seen the impact it has had on our economy since early March.

Fortunately, while we did not compromise in order to avert sequester, there is still time to compromise. Now when we are doing the hard work of a budget conference for the first time in 5 years, when we are doing the hard work of a budget conference in a divided Congress for the first time since 1986, it is now time to address these damaging cuts.

Let me talk for a second about the effect these cuts have first on Virginia but then on our national defense and preparedness. Our Nation's Defense Department has been strung along prior to sequestration for a number of years, 3 years, with continuing resolutions. That is jargon that we understand here. For regular folks, it is as if you are into the next year in your household and you are told: We cannot make a decision so we will spend this year exactly what we spent last year.

Well, wait a minute. We had a child in college last year who is not in college. Well, still you have got to put money into tuition.

Well, what about a new need we have this year that we did not have last year? Well, you cannot do it. You are limited to only what you did last year.

That is what continuing resolutions for 3 years in a row have done to Defense, with the exception of some anomalies that are passed. It is required for Defense to spend on the same line items and not, for example, invest more in important priorities. The one I always think of is cyber security. If you do continuing resolutions and you just spend what you spent a few years ago, we know we have a bigger need for cyber security than we had a few years ago. There are attacks every day. No one thinks the need to be diligent about cyber security is constant. No, we ought to be spending more. Instead, the continuing resolution requires our Defense and other departments to spend at yesterday's line items—or 3-year-ago line items. That does not make much sense.

In hearing after hearing in our Budget Committee, in the Armed Services Committee and others, our Nation's uniformed and civilian military leaders have emphasized the damage sequestration is having on our military. In every meeting with generals, admirals, Pentagon officials, I am struck by their calls to us as Democrats and Republicans, as Senate and House Members, to end this foolish policy. The next hearing we will have tomorrow is in the Armed Services Committee, when we will be hearing again about the effect sequestration is having on military readiness.

In Virginia, to pick one State, my home State has been hit very hard, in fact harder than any other State due to the large Federal workforce and many military bases. When you add to the sequestration and CR the effect of the shutdown we saw in September and October—the first 2 weeks of October—Virginians really feel it.

Today, a total of 177,982 Virginians are employed because of Federal funding either directly with DOD or one of the service branches or through military contracts. For example, the talented men and women at the Newport News shipyard are private contractors, but they manufacture the largest items that are manufactured on planet Earth, nuclear aircraft carriers. They do it to keep American men and women safe. This summer over 70,000 DOD civilians in Virginia were furloughed. Construction training and maintenance on military bases was delayed, which affected private contractors. If sequester continues, as some are saying—some are fatalistic about it: Well, we cannot do anything about it—if sequester continues into 2014, 34 planned ship maintenance availabilities will be canceled in the new year. Each of these maintenance projects is massive and employs so many people. As many as 19 of these are on the east coast—34 is the national figure, 19 of these are on the east coast, including Virginia. This will hurt the ship repair industry in Hampton Roads, and could lead to a loss of about 8,000 jobs nationally in the ship repair industry.

Not only have these cuts flowing from sequestration affected my State's economy, but probably more to the point for all of us in this body, we ought to be concerned because they are affecting our national security and they are degrading the capability of our military to deal with challenges.

I wish I could say that since I was sworn in as a Senator with the Presiding Officer on January 3 the world has become a lot safer and more peaceful and less complicated. But to the contrary. In the 10 months we have been here, sadly, we have seen more instances of danger, more things to be concerned about, more problems we have to deal with. We are not in a static situation. We are shrinking our budget at the same time as the degree of challenges we have around the world is growing more dangerous.

Just this year, the sequestration cuts that went into effect in March have grounded one-third of our U.S. combat aircraft. Think about our Air Force and how important it is in today's defense and planning for warfare. One-third of our combat aircraft are grounded because of sequestration, hampering our ability to respond to global crises and maintain strategic advantages. If sequester goes forward, that one-third will grow. The Air Force will be forced to cut additionally, by as much as 15 percent. That would suggest that nearly 50 percent of America's combat aircraft will be grounded in 2014 due to the sequester. We have to ask ourselves: How can we not have an Air Force ready to respond to crises at a moment's notice?

Moving to the Navy. Our naval capabilities have also been significantly curtailed, reducing our normal levels of three carrier groups and three amphibious groups ready to respond to crisis within 1 week to only one of each. So, again, a two-thirds reduction in the availability of carrier forces or amphibious vehicle forces that can meet that 1-week response time in the event of an emergency.

Again, we have got to have a Navy that is ready to respond when there are crises.

Then moving to the Army. This year, because of the first year of the sequester—and it gets worse—the Army cancelled all—all—combat training center rotations for any nondeploying unit. So if a unit is being deployed, they are

being trained, but then other units that do not have a regular assigned deployment stay trained as well to meet an emergency need. If we know we are going to be deploying a unit to Afghanistan to replace another unit that is coming back, then we will train that unit. But you do some training for the units you are not planning to deploy, just so they are ready if the need exists. But we have cancelled all of the training for nondeploying units. General Odierno has said that 85 percent of America's brigade combat teams cannot meet the current training requirements that are set in our defense strategy.

We have asked what that means. When folks come before us, we ask what does it mean, you are not getting the training? Does it mean you will not go if there is a compelling security need or national emergency?

They say: No, of course we will go. If the Commander in Chief or Congress were to say we have to go, we will go. But what training means is we will go, but we will suffer more casualties. What training does is give us the edge to succeed. The absence of training means—it is almost immoral to think about it—that we have a training standard, but if you put people in harm's way who have not been able to meet that training standard, you almost guarantee that the casualties will be more significant. That is not something any of us can comfortably look in the mirror and tolerate.

So it is not hard to see that what was promised about sequester is, in fact, true. Sequestration is not strategic. It was never designed to be strategic. It was not designed to be the careful cutting of costs that you might do, that you should do, that every organization should do. It is not only not strategic, it is not sustainable in the outyears.

The House Armed Services Committee—Republican House, Republican majority—many Republicans have admitted ''that sequestration of discretionary accounts was never intended to be policy.'' Our colleagues in the House, in a bipartisan way, have called for a lifting of sequestration, in terms of its effects on defense.

Our Armed Services Committee in the Senate, the SASC, also in the NDAA that we are about to debate on the Senate floor, reached the same conclusion. We were sitting in a markup of the NDAA bill. I noticed at the time as a SASC member there was nothing in the bill about sequestration. All of our hearings, virtually, had touched on sequestration. So I put an amendment on the table, kind of on the fly: Let's just say sequestration is bad and we should get rid of it. We debated it right there as we were marking up the bill. I recall that the vote on the amendment was 23 to 3.

Overwhelmingly in a voice vote, the Armed Services Committee, Democrats and Republicans, were willing to embrace the proposition that sequestration was bad. Actually the language was, not only is it bad for the DOD accounts, it is also bad for the other accounts as well.

That is why I am calling, in connection with our meeting as budget conferees, for a sensible bipartisan approach to limit the negative impacts of sequestration.

General Dempsey was talking to a group of Senators yesterday on the readiness subcommittee. He said: What we need to deal with in sequestration is money, time, and flexibility. The cuts are too steep; they are too frontloaded in terms of the timing; and there is too little flexibility for our military command to be able to use the dollars to do the right thing to keep us safe.

We have to find a way to get out of the sequestration dead end and restore some of the cuts and provide both the timing and flexibility to make the management of them easier. If we reverse sequestration in this budget conference, that will create, by economists' estimates, 900,000 jobs at a time when our economy needs to get stronger and our unemployment rates to be dropped. It will add a whole percentage point to our gross domestic product, according to the Congressional Budget Office.

So now as the budget conference committee is meeting—our next meeting is next week—I felt our opening meeting was a positive one. It was mostly positive because as we went around the table, House Members and Senate, Democrats and Republicans, there was an absence of what I would call the ''nonnegotiable'' language. I listened carefully. Being new, I do not necessarily know all of the details. But I know when I hear lines in the sand being drawn: We will not do this; we will not do that. When you hear that, you know the negotiations are going to be very difficult.

I applaud the 29 conferees for having that opening meeting and not putting a lot of ''not negotiable'' language out on the table. When we meet next week, I hope that attitude continues because we need colleagues from both sides of the aisle, in both the House and Senate, to work toward a positive solution in this conference that will do a number of things: Help us grow the economy; help us deal with the debt in a responsible way, not an irresponsible way, but lift the effects of sequestration so that we can be confident we will be safe as a nation.

I pointed out during the budget conference that while the House budget under the leadership of Chairman RYAN and the Senate budget under the leadership of Chairwoman MURRAY are different in a lot of ways, in other ways you can step back from them and say: The differences are not so mammoth that they cannot be resolved. They are the kinds of differences that legislative bodies around the country, State legislators often resolve. The top line difference between the House and Senate budgets for the 2014 year is about 2.5 percent of the Federal budget. You could argue that both of the top line numbers had a little bit of wiggle room in them in negotiation. So the actual difference, I would argue, between the two budgets, top line for 2014, is probably about 1.5 percent.

Given the challenges in the world, given the challenges in our economy, given the American public's desire to see us work together to find a compromise, and the upside we can achieve, if we do, I cannot believe that 1.5-percent difference in the top line is an insuperable obstacle for us. We have hard decisions to make. We need to make them with the interests of our own constituents but the entire country in mind, in particular, in this world where every day we hear of a new potential challenge that can threaten our security if we do not deal with it in a smart way.

We need to get past the continuing resolutions and the gimmickry and the shutdowns and sequestration, return to orderly budgeting, and do the hard work of finding compromise.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE BUDGET

Mr. LEAHY. Mr. President, the budget conferees are working to reach agreement on the fiscal 2014 budget, and I compliment Senator MURRAY for the great work she has done. I want to join those who have expressed strong support for their efforts.

We all know what the consequences will be if they do not reach agreement on a budget. We will have draconian cuts to defense acquisitions and readiness, to social safety net programs, to infrastructure, to public schools, and to police. Every Federal program is going to suffer, and every American in my State and in the other 49 States, will feel the impact.

Having been in the Senate a long time, I know that anything that gets done around here happens as a result of compromise. Nobody gets everything he or she wants. When it comes to a budget agreement, it means you have to have additional savings, but you also need increased revenues. There is no other way. You have to do both.

I think back to the time when we not only had balanced budgets, but we also had a surplus; in the last Democratic administration, for example. We did not have these kinds of specialized tax cuts to those in the highest bracket. Ironically, those in the highest bracket made more money during that time because the whole economy was better.

Those who think it can be done by only cutting spending, or by only closing corporate tax loopholes, but not by

doing both together, are legislators in name only. That is simply a recipe for continued gridlock and another year of sequestration, which would be a disaster.

It would allow everybody to go off and give rhetoric but not face reality. They could talk about what they want, but never have to vote on anything. The fact is that if you want to do this, you have to cast some tough votes.

The outcome of this budget conference will determine the extent to which the Congress will play a meaningful role in Federal spending for the rest of this administration, and possibly well beyond.

I would advise my colleagues on both sides of the aisle—I have been here with both Republican and Democratic administrations. If the Congress is going to actually have a voice as an independent third branch of government in how the government is run and what we do, then we have to start facing up and doing real budgets and real appropriations bills; otherwise, just assume there is a top dollar level in there and the administration will do whatever it wants to do, Democratic or Republican. That is not what I believe I was elected to do. As one of 100 Senators, I should have a voice in what comes out of it.

As I said, the outcome of this budget conference will determine the extent to which the Congress can play a meaningful role in Federal spending not only for the rest of this administration but possibly well beyond, but there is no better way to illustrate what is at stake than to use concrete examples. I want to do that by comparing the impact of the fiscal year 2014 House and Senate versions of the bill that funds the Department of State and foreign operations. The choices are stark, and it puts things in perspective.

The House bill provides $40 billion to fund the Department of State, the U.S. Agency for International Development, and our contributions to the World Bank, U.N. peacekeeping, and countless other organizations and programs that contribute to global security.

In contrast, the Senate bill would provide $50 billion, 25 percent more than the House bill, for these same agencies and programs. But, lest anyone falsely accuse think the Senate of being big spenders, actually the Senate bill responds to the current budget climate—it is $500 million below the fiscal year 2013 continuing resolution after sequestration and across-the-board reductions, and includes many budget reductions and savings.

Unlike the House bill, however, we are selective in how we do it. The Senate bill does not make draconian and reckless cuts that would weaken U.S. influence and cede U.S. leadership to our competitors.

Given the situations in Syria, North Africa, and other areas of conflict—areas of conflict that could evolve and engulf the United States at a moment's notice—as well as the unpredictability of natural disasters, funding for international crisis response and humanitarian relief is a matter of life and death for millions of the world's most vulnerable people who look to the wealthiest, most powerful nation on Earth.

The current demand for these programs—and certainly my mail shows they are strongly supported by the American people—is unprecedented and growing. Yet the House bill cuts these programs $1.6 billion below the Senate bill, and far below the fiscal year 2013 level.

One of the most troubling cuts in the House bill is for international organizations in which the United States plays a major role in addressing global threats to us and our allies—such as transnational crime, disease epidemics, and climate change—that no country can solve alone. Some of the most feared and most deadly diseases in the world today are not on our shores, but can be on our shores from other parts of the world in a matter of hours.

Aside from a total humanitarian reason, we have a good reason to do something to help combat those diseases. The House would end our support entirely for many of these organizations, create large arrears of money we are obligated by treaty to pay, and erode our influence with other major contributors and shareholders like the Europeans, China, India, and Brazil.

They are saying: OK, we agreed to pay this, but, sorry, we are the United States and we don't have to keep our word. I don't think most Americans want to hear that. Ask any of our international corporations, ask any of our organizations in this country—medical facilities or anything else that has to work around the world—if they really want the United States to give up its influence.

The House bill provides no funding—not one single dollar—for U.S. voluntary contributions to the United Nations Children's Fund, the United Nations Development Program, the United Nations High Commissioner for Human Rights, or the Montreal Protocol, which protects the ozone layer. The Senate bill includes $355 million for this account, which is about the same level as five years ago. I would like more, but I don't want to go to the House level, which is nothing.

So while the House would end our participation in UNICEF and many other U.N. agencies, the Senate bill freezes spending for these organizations at the 2009 level.

The House bill provides $746 million, which is nearly 50 percent less than the Senate bill, for assessed contributions—these are contributions we are required to pay—to international organizations such as NATO, the International Atomic Energy Agency, the World Health Organization, Food and Agriculture Organization, Asia-Pacific Economic Cooperation, and many others.

What we are saying is that if some disease breaks out in the world and comes across our borders, well, gosh, that would be terrible, but we can't give any money to the World Health Organization to try to stop it. What if there is a question of nuclear proliferation? Sorry, we can't give the money we are required to give to the International Atomic Energy Agency. The Senate bill is $72 million below the fiscal year 2009 level, and the House bill is $783 million below the fiscal year 2009 level.

Does anybody actually believe that the needs of NATO or the International Atomic Energy Agency or the World Health Organization are less today than they were five years ago? All you have to do is watch the news. All you have to do is read some of the reports, some of the intelligence briefs every Senator can read, and you are not going to say: Well, the threat is less today than it was five years ago. You are going to say, as I do, as I read these reports: The threat is a great deal worse than it was five years ago. It defies logic, and it is dangerous. It is dangerous not to be involved in these organizations.

In fact, the House bill provides no funding not one dollar—for most of the international financial institutions, such as the Asian Development Bank, the African Development Bank, the Inter-American Development Bank, or the International Fund for Agricultural Development. This would put us hundreds of millions of dollars in arrears, forfeiting our leadership in those institutions.

So they can say to us: OK, debtor nation—OK, United States—you agreed to these, but you are not paying your bill. We can't trust the United States, so we are not going to let you have any say in this. We are not going to let you have the leadership you have had in these institutions.

In fact, the House bill provides not even one dollar for the key multilateral environmental funds that support clean energy technology and protect forests and water resources, including the Global Environment Facility, the Clean Technology Fund, and the Strategic Climate Fund. It is bad enough that here in the Senate we have frozen these agencies at last year's level, but at least we have some money for them. The House has nothing. They do not provide a single dollar for the Global Agriculture and Food Security Program. The Senate bill provides $135 million for this program—the same level as last year's continuing resolution—to help the poorest countries prevent chronic malnutrition and famine.

Mr. President, we all ask: Why can't we have countries developed so that they are not open to some of these terrorist organizations or fundamentalist organizations that step in? Well, we have a stake in helping them. It doesn't require much money; a tiny fraction—1 percent of our budget. To just walk away from them makes no sense from our strategic interest, but more than that, what does it say about

our moral interest as the wealthiest, most powerful Nation on Earth? We have to speak to what is the moral value of the United States.

Frankly, what they have done in the other body does not speak well to our moral core—not the moral core of the America I know in my State from both Republicans and Democrats alike. We all understand the need for Federal departments and agencies to reduce costs and eliminate waste and find efficiencies. We do this. The Senate bill is $500 million below the fiscal 2013 continuing resolution. But what we try to do is to say that at least the United States has to keep its word. At least the United States ought to show involvement in parts of the world where it counts.

Unfortunately, the House bill may make great sound bites, nice bumper-sticker politics, but it endangers the United States, endangers our security, and it gives the image that the United States is a country that cannot keep its word. We can't do that. It will end up costing taxpayers more in the long run and cause lasting damage to the country.

Let's move forward, get our budget resolution, and pass our appropriations bills, because right now everybody gets to vote maybe. Nobody has to vote yes or no. I have been here long enough to know that the people of my State expect me to vote yes or no, not maybe.

Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering a motion to proceed to H.R. 3204.

Has the time been divided in any fashion?

The PRESIDING OFFICER. It has not.

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

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

MANUFACTURING JOBS

Mr. COONS. Mr. President, I come to the floor to talk about jobs—about manufacturing jobs. As we all know, manufacturing jobs are high-quality jobs. Manufacturing jobs come with higher pay and higher benefits. Manufacturing jobs help create other local service sector jobs, and manufacturing jobs contribute more to the local economy than jobs in any other sector. Beyond that, manufacturers invest the most of any industry sector in research and development, which is critical to America's continued growth and our security as a leading innovation economy.

Last week 21 Senate colleagues and I joined in a new initiative called the Manufacturing Jobs for America to help create good manufacturing jobs here at home today and tomorrow. It has grown out of 25 Senators who have all contributed different policy ideas. This is not one big megabill with dozens of sponsors, but just one bill. Instead, it is a constellation of 40 different proposals. Some of them have already been introduced as bills, and half of those that have been introduced are bipartisan. These bills illustrate some of our best ideas about how we can work together across the aisle to provide badly needed support for our growing manufacturing sector here in the United States.

There are 4 different areas these 40 different proposals fall into, and I wanted to talk about 1 of them today. Three of them are: How do we open markets abroad? How do we strengthen America's 21st century manufacturing workforce? How do we create a long-term environment for growth through a manufacturing strategy? The fourth is: How do we ensure access to capital?

Of the four I just mentioned, I want to speak about access to capital. As any business owner knows, you cannot ensure the long-term growth and vitality of your business unless you have capital to invest—whether in research and development, new workers, new products, or new equipment to expand into new markets. Access to capital is absolutely essential to manufacturing jobs for America.

The three bills I am going to talk about today, which are part of this constellation of 40 different proposals, would each expand access to capital for manufacturers in different ways.

Let me start with the Startup Innovation Credit Act. This is an existing bipartisan bill I have introduced, along with Senators ENZI, RUBIO, BLUNT, and MORAN, who are all Republicans, and Senators SCHUMER, STABENOW, and KAINE, all, like me, Democrats. Although we represent different parties, come from different parts of the country, and have different backgrounds, we have all come together to strengthen our economy and in particular to support innovation and entrepreneurship.

One way we do that now is to support private sector innovation and manufacturing through the research and development tax credit. The R&D tax credit generates new products and industries, benefiting other sectors. But there is a critical gap in the existing and long-standing R&D tax credit. It is not available to startups because they are not yet profitable. This is a tax credit you can only take if you have a tax liability and are profitable.

We worked together—Senator ENZI and I, and the other cosponsors—to fix this hole with a relatively simple tweak, and that is what the Startup Innovation Credit Act does. It allows companies to claim the R&D tax credit against their employment tax liability rather than in income tax liability—a corporate income tax liability. Supporting small innovative companies in their critical early stages of research and development could unleash further innovations and unleash greater growth that would spur good job creation for Americans in the long run.

Between 1980 and 2005, all net new jobs created in the United States were created by firms 5 years old or less. In total, that was about 40 million jobs over those 25 years. This credit is specifically designed with those new young firms in mind—those early-stage firms that are the font of the greatest source of creativity and jobs. It is limited to those companies that are 5 years old or less, and it is limited to being an offset against their W–2 liability so we can provide some access for early-stage startups to this R&D credit that encourages them to hire more folks and grow more quickly—just a part of Manufacturing Jobs for America.

The second bill I would like to talk about today is the Master Limited Partnership Parity Act. It levels the playing field as far as getting access credit. Instead of giving smaller, early-stage startup companies the same access to capital that larger, more mature firms have, this bill levels the playing field in the energy sector. It levels the playing field, in particular, for clean energy firms.

This is bipartisan as well. I introduced it with Democratic Senator DEBBIE STABENOW as my lead cosponsor and Republican Senators JIM MORAN and LISA MURKOWSKI. I am grateful for their persistent and engaged leadership on this bill. I am thrilled that in the last couple of days Democratic Senator MARY LANDRIEU and Republican Senator SUSAN COLLINS signed on as cosponsors as well.

The MLP Parity Act allows us to have an ''all of the above'' energy strategy. As I presided in my first 2 years—as I served on the Energy Committee—there are many Senators, Republican and Democrat, who think we should not pick winners and losers in technology and we should be promoting an ''all of the above'' energy strategy. This bill makes that possible in clean energy financing and in preserving a widely used tool for existing traditional energy financing. Oil and gas will play a significant role in our Nation's energy picture for the foreseeable future, but right now we don't have a level playing field between renewables and between oil and gas and pipelines.

For nearly 30 years, traditional nonrenewable sources of energy have had access to master limited partnerships. MLPs give natural gas, oil, and coal companies access to private capital at a lower cost. That is something that capital-intensive projects, such as pipelines, badly need. I would argue that alternative energy products need that as well; in fact, in some ways more than ever.

Last night I spoke to a group of board members at the National Academies of Science, and what we spoke about was how much technology has

developed and sped up in the clean energy space, but how financial innovation has not kept pace. This has held back renewable energy and investments in energy efficiency even as technology has made energy production and distribution and energy efficiency cheaper to achieve.

Expanding access through this broad bipartisan bill to low-cost, long-term capital would be an important step to letting new energy sources take off and letting them compete on a level playing field with all sources of energy. That is exactly what the MLP Parity Act intends to do.

Last but not least, I was proud to be able to join a number of other Senators in cosponsoring the Small Brew Act. Senators CARDIN and BEGICH, Senators COLLINS and MURKOWSKI, Democrats and Republicans, have worked together to give small brewers a leg up by lowering the excise tax they face on the beer they produce.

Small Brewers, such as Dogfish Head in my home State of Delaware, are big job creators in communities across the country. As Senator CARDIN said on the floor earlier this year, ''While some people may think this is a bill about beer, it is really about jobs.'' And I would say jobs in manufacturing.

Small and independent brewers today employ more than 100,000 Americans and pay more than $3 billion in wages and benefits. Sam Calagione, the owner of Dogfish Head Brewery in my home State of Delaware, now employs 180 workers at their facility in Milton. Of course, what they are manufacturing is not a new or innovative or recently invented product. People have been brewing beer for thousands of years. Sam has done a remarkable job of coming up with a very broad range of different brews, and, in fact, of bringing back brews that are centuries or millennia old by recovering recipes for fantastic and tasty beers.

What I am focusing on today is about the expanse. This particular company has invested $50 million in a state-of-the-art manufacturing facility. When I recently visited, I was struck at how different it is from the beer bottling plant of the past, from what some may have seen on ''Laverne and Shirley'' or what they would imagine a traditional manufacturing plant to look like.

Those folks who work on the manufacturing line at this particular facility have to be able to use programmable logic controls. They have to be able to do quality control and math, and to communicate as a team. They have to communicate in a way that puts them at the cutting edge of advanced manufacturing. This highlights some of the biggest challenges in manufacturing. It takes a lot of money to invest in a plant and machinery in order to make them capable of competing as a modern-day plant. It takes access to capital.

We also need to change the public's perception of what manufacturing is. It is a very different place to work—a manufacturing line—than it was 20 or 50 years ago. They are safe, clean, and well lit. These are decent, high-paying jobs. If we are going to win in the global competition for manufacturing, we need to strengthen the skills and the perceptions of manufacturing across our country.

Each of the three bills I have spoken about today will help create good manufacturing jobs here in America, and I believe are ready for consideration on a bipartisan basis by this Chamber. We need to take action together on a bipartisan basis to get our economy going again.

I will remind everyone: Manufacturing jobs are not just decent jobs, not just good jobs, they are great jobs. They are the jobs of today and tomorrow. They are the jobs that sustain and build the backbone of the American middle class.

We already have all the tools in this country to ensure its growth, but if we work together and put in place stronger and better Federal policies in partnership with the private sector, we can put jets on our manufacturing sector, and it can take off and grow again.

With that, I yield the floor.

Mr. President, every so often in between the crises and rancor and partisan fighting, we have an opportunity to make real progress in the Senate. This week we are considering the Employment Non-Discrimination Act. It is a bill that will put in place basic workplace protections for lesbian, gay, bisexual, and transgender Americans.

It has been a big year for equality nationally and in my home State of Delaware. The Delaware General Assembly legalized same-sex marriage in May, giving every Delawarean access to the full rights and responsibilities of marriage, no matter the orientation.

A month later, Delaware's General Assembly built on its 3-year-old law by protecting LGBT people from workplace discrimination, adding protections for transgender Delawareans as well. These two laws are about dignity, respect, and basic fairness for our neighbors.

Of course, a month later, the U.S. Supreme Court struck down the Defense of Marriage Act, giving all married couples across our country access to the Federal benefits they are due. This has truly been a historic year for civil rights and for our country.

For all of our progress, much remains to be done. In 29 States it is still legal to fire someone just because they are gay, just because they are lesbian, or just because they are bisexual. That means that more than 4 million Americans across those States go to work day in and day out with no protection against being fired summarily because of who they love. In 33 States, which include 5 million people, it is legal to fire someone because of their gender identity.

I thank my colleague, the Senator from Oregon, for his hard work and leading this fight here on the floor, and the Senator from Iowa for his long advocacy for this bill that should have passed years and years ago.

More than 40 percent of lesbian, gay, and bisexual Americans, and almost 80 percent of transgender Americans, say they have been mistreated in the workplace because of who they are or because of who they love. Clearly there is still work for us to do.

The Employment Non-Discrimination Act would provide basic protections against workplace discrimination based on sexual orientation or gender identity. It is a bill that is built on our Nation's historic civil rights laws, including the Civil Rights Act and the Americans With Disabilities Act. This is about basic fairness.

The overwhelming majority of Americans—in fact, more than 80 percent—think it is already against the law to fire someone just because they are gay. Most Fortune 500 companies already have policies preventing discrimination based on sexual orientation and gender identity in place.

Some of Delaware's biggest employers and companies, including DuPont, Dow, Bank of America, TD Bank, Christiana Care, and the University of Delaware have led the way with their own policies to protect the rights of LGBT Delawareans and their employees.

There is real momentum behind these protections, and it is time for Congress to pass this law. Protecting Americans from discrimination is part of America's shared values, and it needs to be part of our laws as well.

No one here thinks it is OK to fire someone simply because they are African American or because they are a woman or because they are an older American. It is not OK to fire someone because they are gay or transgender either. Equality is a fundamental part of our shared American values: Do unto others; treat people with the respect and dignity with which you want them to treat you. Majorities in every State support putting these protections in place. Majorities of Democrats and of Republicans and of Independents support putting these protections in place. Majorities in every Christian denomination support putting these protections in place. The majority of small business owners surveyed support putting these protections in place.

Freedom from discrimination is a fundamental American value that we don't just share, we cherish. Why not put these protections in place now, today, to ensure that gay, lesbian, bisexual, and transgender Americans will be able to go to work, to earn a living, to provide for themselves and their families, without the fear of being fired just because of who they are.

The opportunity in front of every one of us is an important one. Leadership on civil rights in this Chamber has traditionally been bipartisan, and this period of partisanship on civil rights is only fairly recent and need not be permanent. In fact, this bill is cosponsored

by two of our Republican colleagues, Senator COLLINS of Maine and Senator KIRK of Illinois. When he came to the floor to speak on ENDA earlier this week, Senator KIRK noted the importance of a Senator from his home State of Illinois being in a position of leadership on this civil rights issue. This really is a historic opportunity.

When the Senate votes on final passage on the Employment Non-Discrimination Act tomorrow, I hope we all will take advantage of this historic opportunity.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I so much appreciate the comments of my colleague from Delaware, first speaking to the importance of rebuilding our manufacturing sector, of creating living-wage jobs and how important that is to building the middle class and providing the foundation for families to thrive, and then speaking to the core issue we are debating today, that of ending significant discrimination against millions of American citizens. His words were well spoken, I say to the Senator from Delaware, and I thank him for his advocacy that will make this Nation work better for so many of our fellow citizens.

This issue of freedom from discrimination is a core issue of freedom. It is a core issue of liberty. It goes right to the heart of the founding of this country. Our Founders were often chafing under the heavy hand from the land they came from across the ocean, and they wanted to be able to forge their own world where they would be able to participate fully in society. So liberty and freedom became right at the heart of our founding documents.

Our Declaration of Independence says in its second paragraph:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights; that among these are Life, Liberty, and the pursuit of Happiness.

That concept of liberty was echoed when we went to our U.S. Constitution. It started out saying, as Americans are well aware:

> We, the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

We, the people, sought in that year to establish a more perfect union, and we continue in our pursuit of a more perfect union—one with more complete blessings of liberty.

What, indeed, is liberty? That opportunity to participate fully in our society. This was well captured by President Lyndon Baines Johnson. He was speaking in 1965 to Howard University students at their commencement, and President Johnson said:

> Freedom is the right to share fully and equally in American society; to vote, to hold a job, to enter a public place, to go to school.

President Johnson continued:

> It is the right to be treated in every part of our national life as a person equal in dignity and promise to all others.

I think President Johnson captured well what freedom and liberty are all about, as have many of our major public citizens over time as they sought to examine this core premise of liberty and freedom and what it meant in this Nation, what it meant to create a more perfect union in this regard.

Eleanor Roosevelt spent a lot of time talking about human rights. She said:

> Where, after all, do universal human rights begin? In small places, close to home, so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person, the neighborhood he lives in, the school or college he attends, the factory, farm or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere.

Indeed, today we are very much talking about the factory, farm, and office Eleanor Roosevelt spoke about, where, if rights do not have meaning there, they have little meaning anywhere.

It has been long recognized that the opportunity to thrive for the individual is so fundamental to this notion of liberty and freedom, and it is also a powerful force for the good of our Nation as a whole. This is well captured by Theodore Roosevelt. He said:

> Practical equality of opportunity for all citizens, when we achieve it, has two great results. First, every man will have a fair chance to make of himself all that in him lies, to reach the highest point to which his capacities, unassisted by special privilege of his own, unhampered by the special privilege of others, can carry him; to get for himself and his family substantially what he has earned.

Theodore Roosevelt continued:

> Second, equality of opportunity means that the commonwealth will get from every citizen the highest service of which he is capable. No man who carries the burden of the special privileges of another can give to the commonwealth that service to which it is fairly entitled.

Theodore Roosevelt was speaking in the masculine, but he was talking about all citizens—men and women—equality of opportunity for the individual and for the benefit of society.

Senator Ted Kennedy summarized this concept much more succinctly. He did so on August 5, 2009, when the bill that is before this body was introduced in that year, the 2009 version. He said:

> The promise of America will never be fulfilled as long as justice is denied to even one among us.

So, again, the success of the individual in gaining full access to liberty and freedom, full opportunity to participate in society, builds a stronger community, a stronger State, and a stronger Nation.

The bill we have before us today is a simple concept: That an individual can pursue that place on the farm or in the factory or in the office without discrimination; that the LGBT citizen has full opportunity to fulfill their potential in the workplace.

Religious groups from across America have weighed in to say how important and valuable that is. Here is a sign-on letter—a letter that is signed by approximately 60 religious groups across America. It is addressed to each of us in this Chamber.

> Dear Senator: On behalf of our organizations, representing a diverse group of faith traditions and religious beliefs, we urge you to support the Employment Non-Discrimination Act. As a nation, we cannot tolerate arbitrary discrimination against millions of Americans just because of who they are. Lesbian, gay, bisexual, and transgender people should be able to earn a living, provide for their families, and contribute to our society without fear that who they are or who they love could cost them a job. ENDA is a measured, commonsense solution that will ensure workers are judged on their merits, not on their personal characteristics like sexual orientation or gender identity. We call on you to pass this important legislation without delay.

This letter from these roughly 60 religious organizations continues:

> Many of our religious texts speak to the important and sacred nature of work . . . and demand in the strongest possible terms the protection of all workers as a matter of justice. Our faith leaders and congregations grapple with the difficulties of lost jobs every day, particularly in these difficult economic times. It is indefensible that, while sharing every American's concerns about the health of our economy, LGBT workers must also fear for their job security for reasons completely unrelated to their job performance.
>
> Our faith traditions, the letter continues, hold different and sometimes evolving beliefs about the nature of human sexuality and marriage as well as gender identity and gender expression, but we can all agree on the fundamental premise that every human being is entitled to be treated with dignity and respect in the workplace. In addition, any claims that ENDA harms religious liberty are misplaced. ENDA broadly exempts from its scope houses of worship as well as religiously affiliated organizations. This exemption—which covers the same religious organizations already exempted from the religious discrimination provisions of Title VII of the Civil Rights Act of 1964—should ensure that religious freedom concerns don't hinder the passage of this critical legislation.

Then this letter concludes:

> We urge Congress to swiftly pass the Employment Non-Discrimination Act so that lesbian, gay, bisexual, and transgender Americans have an equal opportunity to earn a living and provide for themselves and their families.

I ask unanimous consent to have printed in the RECORD the sign-on list associated with this letter.

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

> Sincerely,
>
> Affirmation—Gay and Lesbian Mormons, African American Ministers in Action, American Conference of Cantors, American Jewish Committee, Anti-Defamation League, The Association of Welcoming & Affirming Baptists, Bend the Arc Jewish Action B'nai B'rith International, Brethren Mennonite Council for Lesbian, Gay, Bisexual and Transgender Interests Call To Action, Central Conference of American Rabbis,

DignityUSA, Disciples Home Missions, The Episcopal Church, Equally Blessed, Evangelical Lutheran Church in America, The Evangelical Network, The Fellowship of Affirming Ministries, Friends Committee on National Legislation, Global Faith & Justice Project, Horizons Foundation.

The Global Justice Institute, Hadassah, The Women's Zionist Organization of America, Inc., Hindu American Foundation, The Interfaith Alliance, Integrity USA, Islamic Society of North America, Jewish Council for Public Affairs, Jewish Labor Committee, Jewish Women International, Keshet, Methodist Federation for Social Action, Metropolitan Community Churches, More Light Presbyterians, Mormons for Equality Mormons Building Bridges, Muslims for Progressive Values, Nehirim, New Ways Ministry, Presbyterian Church (U.S.A.), Progressive National Baptist Convention.

The Rabbinical Assembly, Reconcilng Works, Lutherans for Full Participation, The Reconstructionist Rabbinical Association, Reconstructionist Rabbinical College, Religious Coalition for Reproductive Choice, Religious Institute, Sikh American Legal Defense and Education Fund (SALDEF), Sojourners, Soulforce, Tru'ah Union for Reform Judaism, United Church of Christ, Justice and Witness Ministries, United Church of Christ, Office for Lesbian, Gay, Bisexual and Transgender Ministries United Church of Christ, Wider Church Ministries, United Methodist, General Board of Church and Society, United Synagogue of Conservative Judaism, Women's Alliance for Theology, Ethics and Ritual (WATER), Women of Reform Judaism.

Mr. MERKLEY. Thank you, Mr. President. This is a list that Americans will well be familiar with, including Methodist groups, Lutheran groups, Jewish groups, and so on and so forth, from the spectrum of Protestant religions, Christian religions, and other religions. It is powerful and helpful that they have written to share their perspectives, and I thank them for doing so.

Business coalitions have also weighed in. I have here a letter from the Business Coalition for Workplace Fairness. Their letter is much shorter. It is signed by approximately 120 companies. I will read it for my colleagues now. It says:

The majority of United States businesses have already started addressing workplace fairness for lesbian, gay, bisexual, and transgender employees. But we need a federal standard that treats all employees the same way.

The Business Coalition for Workplace Fairness is a group of leading U.S. employers that support the Employment Non-Discrimination Act, a federal bill that would provide the same basic protections that are already afforded to workers across the country.

Lesbian, gay, bisexual, and transgender employees are not protected under federal law from being fired, refused work or otherwise discriminated against. ENDA would do just that.

These are companies that include American Eagle Outfitters to Morgan Stanley, Charles Schwab to Nike, General Mills to Xerox, and Hilton Worldwide to Apple, and so on and so forth.

Speaking of Apple, it might be interesting to hear the perspectives of the CEO of Apple, Tim Cook. He wrote an op-ed in the Wall Street Journal, and here is what he had to say. This was published, by the way, on November 3, just a few days ago. He said:

Long before I started work as the CEO of Apple, I became aware of a fundamental truth: People are much more willing to give of themselves when they feel that their selves are being fully recognized and embraced.

At Apple, we try to make sure people understand that they don't have to check their identity at the door. We're committed to creating a safe and welcoming workplace for all employees, regardless of their race, gender, nationality or sexual orientation.

As we see it, embracing people's individuality is a matter of basic human dignity and civil rights.

Tim Cook continues:

It also turns out to be great for the creativity that drives our business. We've found that when people feel valued for who they are, they have the comfort and confidence to do the best work of their lives.

Apple's antidiscrimination policy goes beyond the legal protections U.S. workers currently enjoy under federal law, most notably because we prohibit discrimination against Apple's gay, lesbian, bisexual and transgender employees.

A bill now before the U.S. Senate—

Of course, this bill we are currently debating—

would update those employment laws, at long last, to protect workers against discrimination based on sexual orientation and gender identity.

We urge Senators to support the Employment Nondiscrimination Act, and we challenge the House of Representatives to bring it to the floor for a vote.

Protections that promote equality and diversity should not be conditional on someone's sexual orientation. For too long, too many people have had to hide that part of their identity in the workplace.

Those who have suffered discrimination have paid the greatest price for this lack of legal protection. But ultimately we all pay a price.

If our coworkers cannot be themselves in the workplace, they certainly cannot be their best selves. When that happens, we undermine people's potential and deny ourselves and our society the full benefits of those individuals' talents.

So long as the law remains silent on the workplace rights of gay and lesbian Americans, we as a nation are effectively consenting to discrimination against them.

Congress should seize the opportunity to strike a blow against such intolerance by approving the Employment Nondiscrimination Act.

Again, that is a letter from Tim Cook, the CEO of Apple, published in the Wall Street Journal.

So we see this long arch in pursuit of a vision of liberty and freedom, from our early settlers of North America, to the Declaration of Independence, to the opening words of our U.S. Constitution, to our leaders through a scope of time who recognized the power of liberty in fulfilling the potential of the individual and the potential of the Nation, to our current religious leaders and our current business leaders. It is time we take another bold stride in this long journey toward freedom and liberty for all Americans. In that regard, I urge all of my colleagues to support this legislation before us. It will make a difference in millions of lives, and it will make a difference in the strength and character of our Nation.

Thank you.

The PRESIDING OFFICER (Mr. COONS). The Senator from Iowa.

Mr. HARKIN. Mr. President, I spoke at some length on this bill, the Employment Non-Discrimination Act, the other day, but as we move to end debate on the bill itself, I want to once again express the critical nature of the bill for ensuring equality in the workplace for all Americans.

I was just on the floor listening to Senator MERKLEY's very poignant remarks, and I want everyone to know that we would not be here at this point in time with this bill before us ready for passage tomorrow were it not for the leadership and the persistence of Senator MERKLEY from Oregon. He has been a champion of this issue since he served in the Oregon Legislature, and when he first came here he became a champion of this bill. He truly picked up the mantle of Senator Ted Kennedy in picking this bill out from sort of the ashes of 1996, the last time—the only time—we ever had a vote.

I say through the Chair to my friend from Oregon, we thank you for your doggedness on this issue and for working across the aisle, on both sides of the aisle, to bring it first to our committee and then getting it through the committee and now on the floor.

Again, I want the record to show that it was Senator MERKLEY who really spearheaded this effort, along with Senator MARK KIRK on the Republican side. The two of them fought very hard to get us to this point and to make sure we were actually debating it. So we are greatly indebted to the distinguished Senator from Oregon for his leadership on this issue.

We had an incredible vote the other night that demonstrated more clearly than anything I can say that the Members of this body believe in the message of equality and fairness that is embodied in this bill. The commitment and good faith with which Members have negotiated and offered amendments has been a tribute to the Senate. What we are seeing here is how the Senate ought to work. This is sort of the Senate at its best. We can do business here and get important work done when we share a commitment to fairness and when we act in a spirit of compromise and good will.

I listened to the Senator from Oregon, who so eloquently pointed out that too many of our citizens are being judged not by what they can contribute to a business or an organization but by who they are or whom they choose to love. Well, the Senate is poised to take an important step toward changing that.

Quite frankly, I say with all candor, I think the American people have gotten way ahead of us on this one. The American people—a great majority—believe in the right of an individual to earn a living free from discrimination and to be judged in the workplace

based on their integrity, their ability, and their qualifications. This bill ensures that the same basic employment protections against discrimination that already protect American workers on the basis of race, religion, ethnicity, gender, and disability also apply to lesbian, gay, bisexual, and transgender Americans.

It is rare to have before us a bill with such broad and deep support. ENDA is supported by some 60 faith-based organizations, including congregations and organizations varying from the Presbyterian Church and the Episcopal Church to the Progressive National Baptist Convention, the Union of Reform Judaism, the Union Synagogue of Conservative Judaism, and the Islamic Society of North America.

A poll showed that 76 percent of American Catholics support basic workplace protections for gay and transgender workers, and in the same poll almost 70 percent of evangelical Christians support employment protections for LGBT persons.

Over 100 businesses support the bill, everything from Pfizer, Levi Strauss, to Hershey, Capital One, Alcoa, Marriott Hotels, InterContinental Hotels, Texas Instruments, and on and on.

Seventy-four percent of Fortune 100 companies and nearly 60 percent of Fortune 500 companies already have sexual orientation and gender identity nondiscrimination policies in place.

In the course of our committee hearings on this bill, we heard from executives of Nike and General Mills, who both testified that ''ENDA is good for business.'' A Nike representative told the committee:

> Teams thrive in an open and welcoming work environment, where individuals are bringing their full selves to work.

Since the Senate last considered a version of this bill in 1996, 17 States—and I am proud to say, including my State of Iowa—have put legislation in place that includes these basic employment protections for LGBT citizens. Those laws have been implemented seamlessly and have not led to any significant increase in litigation. But certainly that is not to say what we are doing here is not necessary. The majority of Americans—56.6 percent—still live in States where it is perfectly legal to fire someone or refuse to hire them because of who they are—a lesbian, gay, bisexual or transgender American.

Discrimination in the workplace is real. Forty-two percent of LGBT workers report having experienced some form of discrimination at work. Seven percent reported having lost a job as a result of their sexual orientation. Far too many hard-working Americans continue to be judged not by their ability and their qualifications but by their sexual orientation or gender identity.

I talked the other day about Sam Hall, a West Virginia miner who faced destruction of his property and verbal harassment from his workers because of his identity as a gay person. Sam is one of those millions of Americans who have no legal recourse without the law. I also talked about Kylar Broadus, who faced intense harassment at work as he transitioned from female to male and who has never recovered financially. I talked about Allyson Robinson, who was forced to live in a different State, apart from her family, because she could not find a job as an openly transgender female. This law will make a real difference for these Americans and for millions more like them.

I remember 23 years ago I stood at this podium, at this desk, as the sponsor of the Americans with Disabilities Act, as the chair then of the Subcommittee on Disability Policy. Senator Kennedy was the chair at that time. I talked about the necessity for the Americans with Disabilities Act in terms of a courthouse door.

I pointed out that as of that time, if you were an African American or a woman or let's say you were Jewish and you went down to get a job for which you were fully qualified and the employer said: I'm not hiring Black people; I don't hire Black people; I don't like you; get out of here; I don't hire Jews; get out of here, you could leave there and go right down the street to the courthouse, and the courthouse door was open to you because in 1964 we passed the Civil Rights Act that covered people that way. We said: You have recourse under law for violations of your inherent civil rights based on sex, national origin, religion, race.

But, as of 1990, if you were a person with a disability and you went down to the prospective employer to get a job for which you were fully qualified and the prospective employer said: Get out of here; I don't hire cripples; get out of here, and you wheeled your wheelchair down the street to the courthouse, the doors were locked. You had no recourse under law for that violation of your civil rights because it was not a civil right. So in 1990 we passed the Americans with Disabilities Act, and now the courthouse door is open. If you are discriminated against because of your disability, you can go down to the courthouse. You have the law on your side.

I stand here today, 23 years later, saying that we have covered civil rights laws in this country for almost everyone—except for those for whom gender identity or sexual orientation is part of who they are. That is true.

As I pointed out, we have reams of records here: people fired because they were gay or lesbian—not because they could not do the job, not because they were not doing their job, they were fired just because of who they were. Guess what. That gay person walked down to that courthouse door. It was locked. It was locked, just as it was for people with disabilities before 1990, just as it was for African Americans before 1964, and for women.

I mean these young people working here, these young women, they do not realize in the lifetime of their parents, at least their grandparents anyway, you could fire someone because she was a woman or not hire someone because she was a woman. Guess what. The courthouse door was locked. You had no recourse.

Some States passed civil rights laws. So we had some States pass civil rights laws. As I said, we have 17 States in America that do have laws on the books that ban discrimination on the basis of sexual orientation or gender identity. But how about the rest of the States? As I said, over 56 percent of American workers live in States in which there is no protection.

So in the long march of the American experiment, from the time of our founding and the Bill of Rights, from our Declaration of Independence which said ''all people are created equal,'' step-by-step, step-by-step, sometimes long, painfully—sometimes too long and too painfully—we have expanded this covenant to bring more people into the American family to recognize that people should not be judged on the basis of some externalities such as the color of their skin or their sex or their religion or national origin or disability or whether they are lesbian, gay, bisexual or transgender.

Everyone should have these civil rights, to be covered by civil rights so they will be judged on their contribution to society, by what they do, not by who they are. That is why this vote is so important. That is why this is a historic step again for the Senate.

You could look back and, yes, there were people who opposed the civil rights bill in 1964. We had people here that opposed the Americans with Disabilities Act. But look back and see what they did for America. We are a stronger and a better country because of those laws that were passed, much better for everyone—for everyone, for our families, for the elderly, for everyone.

I hope that those who may be thinking: Gee, I do not want to support this; I am not a big fan of gay people or I may have some religious problems on that, we have religious exceptions in here. That is not the issue. The issue is whether that should be an allowable reason to be discriminated against in employment. As I said, we have said before that is not a legitimate reason for race, sex, national origin or disability; why should it be a reason based upon your sexual orientation or gender identity? I hope my fellow Senators will think about what they would have done had they been here to vote on the Civil Rights Act of 1964. What if they had been here just 23 years ago to vote on the Americans with Disabilities Act?

This Employment Non-Discrimination Act takes its place alongside all of those. That is why it is such a historically important vote. The bill's sponsors, Senator JEFF MERKLEY, Senator MARK KIRK, Senator TAMMY BALDWIN, Senator SUSAN COLLINS, have worked

long and hard. They have worked closely with us in the committee over the last few days to continue to build support for this bill, to work through proposals to change and improve the bill.

We are finishing the debate tomorrow. We will have the final vote on this bill. Passing it with a resounding majority will send a clear message to the American people and to the House of Representatives that we have waited long enough. Think about this. This bill failed by only one vote in 1996—one vote. So here we are 27 years later. It is time to pass this. It is time now to end workplace discrimination against any member of our American family based on sexual orientation or gender identity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

HEALTH CARE REFORM

Mr. CORNYN. Mr. President, I mentioned yesterday in my remarks on the floor that the Obama administration has had 3½ years to prepare for the rollout of the President's signature health care law. It has had 3½ years to get the Web site right and ready for its big debut. It has had 3½ years to take all of the necessary safeguards to protect privacy and the integrity of the Internet, particularly the Web site, and make sure it is not ripe for identity theft and other cyber attacks.

It has had 3½ years to get together a proper vetting system for the so-called navigators. But despite all of that, despite all of that time, it is quite apparent that ObamaCare is not yet ready for prime time yet. In fact, it has been a slow-moving train wreck. The President is in Dallas today meeting with a number of the so-called navigators to thank them for their work.

I was able to ask Kathleen Sebelius, Secretary of Health and Human Services, about the navigators this morning. She admitted there is no background check done on the navigators, even though they will collect some of the most sensitive personal information one can have, including things such as your Social Security number, that can be then used to hack into your accounts; your health information, whether it is mental or physical, which is among the most sensitive personal information each of us has.

She admitted that since they do not do any background check, she could not guarantee that a convicted felon could not be a navigator. She said that was possible. I think that is something that grabbed a lot of people's attention because they just naturally assumed that sort of thing has been taken care of in the 3½ years leading up to the rollout of ObamaCare.

We know the more people find out about this law—I liken it to an onion. With each layer of the onion you peel back, it just keeps getting worse and worse and worse. The law is proving to be even more unworkable and even more disruptive than its biggest critics could have even imagined.

But I wanted to focus my remaining moments on the floor on two issues: privacy and security. The ObamaCare Web site went live on October 1. But according to CBS News, a deadline for final security plans was delayed three times this summer. A final top-to-bottom security check was never finished before the launch. That is pretty astonishing, something as big, as widely anticipated, and as long planned for as the rollout of ObamaCare and its Web site, a security check was not even completed before it was rolled out on October 1.

Just think what it means. It means the administration was encouraging Americans to enter sensitive personal information onto the ObamaCare Web site, even though it knew the Web site was not secure. Of course, we know the Web site is not functioning properly now. White House officials continue to refuse to even give Congress the number of people who successfully navigated the ObamaCare Web site and signed up under the exchanges.

You know what that must mean. That must mean the number is embarrassingly small. But they are also scrambling to do damage control. The President is urging people to contact their local ObamaCare navigators to sign up for health insurance and suggesting: Maybe you ought to do it by paper or by telephone.

We found out that the same queue or foulup that makes it impossible to sign up over the Internet is present with paper applications or telephone applications as well. As I said, the President met with some of the ObamaCare navigators in Dallas, TX, today. I trust that the overwhelming number of these navigators are people who can be trusted with some of the most sensitive personal information we Americans have.

But the problem is, we do not know for sure because they have not been vetted. There is not even a criminal background check required. Remember, the navigators are going to be collecting some of the most sensitive personal information you have, including your Social Security number, your protected health information such as your past, present or future physical or mental health.

We passed a law, the Health Insurance Portability and Accountability Act, known as HIPAA, to protect this information because we recognized how sensitive it can be. Of course, the navigators are also collecting information about your physical or e-mail address, tax information, because, of course, the Internal Revenue Service is going to be instrumental in the implementation of ObamaCare.

There is no Federal requirement for background checks for individuals serving as navigators. This has to be a glaring oversight, something I would hope even the most ardent advocates for ObamaCare would acknowledge is a big mistake and needs to be fixed. But in the absence of thorough background checks and reliable oversight mechanisms, the navigator program could easily become a magnet for fraud and abuse.

We know what a big problem identity theft is already and how much havoc it can present for people's personal financial affairs and information. We also know how vulnerable things such as Web sites can be to cyber attacks, where people can collect information unbeknownst to the consumer. We have already heard some anecdotal reports about ObamaCare navigators, including a woman who had an outstanding arrest warrant at the time she was hired, along with former members of an organization known as ACORN that has had its own share of problems with corruption and lawbreaking.

As I said a moment ago, those people will be allowed to collect some of the most sensitive personal information that we have as Americans. Thinking of sensitive information, the most important provisions of ObamaCare, including the individual mandates, the employer mandates and the premium subsidies, will be administered by, you guessed it, the Internal Revenue Service, words that strike fear and trepidation in the hearts of many Americans, especially given the scandals the Internal Revenue Service has been embroiled in and the bipartisan investigations that are ongoing into the cause and solution to these scandals.

I know I speak for many of my constituents back home in Texas and perhaps many other Americans when I say that the last thing we ought to be doing is giving the IRS additional responsibilities until we have gotten to the bottom of the current scandals we are investigating on a bipartisan basis. We do not need to be giving them vast new powers to intrude into the lives of families and small businesses. As a matter of fact, I have introduced legislation that would prevent the IRS from performing this act. The last thing we want to do when they are having problems, when they are already having problems doing what they should be doing, is to give them more to do without solving the underlying problem.

Unfortunately, our friends across the aisle have blocked that legislation that would ban the IRS from its current role in administering ObamaCare. I would like to remind them that even if we ignore the agency's harassment of conservative organizations and ordinary American citizens engaging in their constitutional right to participate in the political process, we know the IRS has already shown contempt for the law by announcing it will issue ObamaCare's premium subsidies through the Federal exchanges, even though the law makes clear that premium subsidies are not available in the Federal exchange but only through the State exchange.

That is only a minor technical detail to the IRS. They are going to paper that over even though Congress provided to the contrary.

At some point the President needs to concede that the costs of ObamaCare

far outweigh its benefits. We can do better. The choice is not between ObamaCare and nothing; the choice is between ObamaCare and consumer-oriented alternatives that will increase competition, lower health care costs, and enable more people to be covered, together with reforms to Medicaid and perhaps even Medicare to make sure people have true access to health care coverage and not only a hollow promise.

At some point even the most ardent advocates for ObamaCare have to concede that it is broken beyond repair. I have to say that time is not on ObamaCare's side because each day brings a new revelation of more and more problems. Even some of our colleagues who voted in a party-line vote for ObamaCare and who voted in a party-line vote against any opportunity to reform ObamaCare are now saying—such as Senator MAX BAUCUS, one of the chief architects—hey, maybe we need to delay the penalties. Senator MARY LANDRIEU has or will introduce a bill saying we ought to enforce in law the President's promise that if you like what you have, you can keep it, which we now know is not true. Indeed, HHS and the administration knew in 2010 that tens of millions of Americans who liked what they had would not be able to keep their health care plan because of restrictive grandfathering provisions.

When the moment comes that Democrats and Republicans have come together to try to solve this problem—not by shoring up this fatally flawed structure known as ObamaCare which will never work—when they are ready to work with us across the aisle to enact alternative health care reform that reduces costs, expands coverage, and improves equal access to care—I look forward to that debate and that opportunity. I only hope that day arrives sooner rather than later, before ObamaCare wreaks more havoc and causes more uncertainty and hardship on the American consumer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. KLOBUCHAR. Mr. President, I come to the floor today in support of the Employment Non-Discrimination Act, also known as ENDA.

For my State it has been quite a year for equality. Last November we were the first State in the country to defeat a constitutional amendment banning marriage equality. Up to that point those amendments had passed. Then, just a few months later, earlier this year, Minnesota became the 12th State to allow full marriage equality—the 12th State in the country.

I am proud to represent our State. It has been a true civil rights pioneer. We can go back to the days of Hubert Humphrey, who once stood on this floor, and to his speech to the 1948 Democratic convention where he talked about standing for the people of this country, standing for people with disabilities, standing for the most vulnerable. That is the history of our State.

Before striking down the amendment banning marriage equality, Minnesota was one of the very first States to ban discrimination based on both sexual orientation and gender identity. That happened back in 1993. I would say that 20 years later it is time for the rest of the country to catch up.

That is not to say the country hasn't made great strides towards fairness and equality. I am proud of our progress. Through the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act we have made it a Federal crime to assault someone because of their sexual orientation or gender identity. It wasn't that long ago we were debating the Matthew Shepard bill on this floor. The Presiding Officer had not yet arrived here in the Senate, but I remember we had that debate several times through many years. We came close so many times and finally were able to pass it. That bill was about hate crimes and assault. The fact that we have now reached this level where we are talking about the Employment Non-Discrimination Act is truly a tribute to change in this country—the people of this country pushing for change.

Since the repeal of don't ask, don't tell, our gay and lesbian servicemembers who serve this Nation with honor and distinction can serve openly. That is something else that happened in this Chamber, something else someone predicted would never happen. Just this year, the Supreme Court took a major step towards marriage equality by striking down key parts of the Defense of Marriage Act.

But there is more to be done in our Nation's pursuit of equality. The rest of DOMA needs to be eliminated, and that is why I am a cosponsor of S. 1236, the Respect for Marriage Act. Federal benefits need to be guaranteed for domestic partners of Federal employees in States that haven't yet adopted marriage equality, as my State of Minnesota has, and that is why I am a cosponsor of S. 1529, the Domestic Partnership Benefits and Obligations Act of 2013.

As we discuss policies affecting LGBT Americans, we also need better data. We need to better understand the disparities people experience because of their sexual orientation and gender identity. That is why I am working to strengthen our data collection in these areas. And, of course, we need to pass ENDA—the topic before us today.

The bill before the Senate would be a major step forward for equality. I urge my colleagues to support the Employment Non-Discrimination Act because protections against discrimination in the workplace need to be extended to all Americans, no matter their gender identity or sexual orientation.

Americans have many different views on sexual orientation and gender identity, but I think we can all agree every person deserves to be treated with dignity in the workplace. In 29 States across the country it is still legal to fire someone based on their sexual orientation. In 29 States it is still legal to fire someone because they are gay, and currently there is no Federal law prohibiting this from happening. That is why we need ENDA and why I am a proud cosponsor of this bill.

The Employment Non-Discrimination Act will provide basic and necessary protections against workplace discrimination—protections just like the ones we have had in place in Minnesota since 1993. ENDA will allow all Americans to earn a living without fear that who they are or whom they love will cost them their job.

The law is not intended to give anyone any special treatment. It simply extends Federal employment discrimination protections such as the ones currently provided based on race or religion, and applies those now to sexual orientation and gender identity.

The American people are coming together behind this measure. More than two-thirds of people in this country, Democrats and Republicans alike, support a Federal law protecting LGBT individuals from discrimination in the workplace. The bill has the support of over 200 civil rights, religious, labor, and women's organizations. It upholds and protects religious liberty by exempting houses of worship and religiously affiliated organizations.

Companies and businesses big and small know that discrimination in the workplace hurts their bottom line. That is why, as the Senate chair of the Joint Economic Committee, I released a fact sheet on the economic consequences of workplace discrimination. It is easy to see why businesses are on the side of equality. A majority of the top 50 Fortune 500 companies say prodiversity policies increase profitability.

We have certainly seen that in Minnesota, where General Mills, a major company, came out this last year as a company—and their CEO—against the constitutional amendment that would have banned marriage equality. The CEO of St. Jude's—St. Jude, the company—did the same. The Carlson company—Radisson Hotels—did the same. You could go through a list of a number of large businesses in our States that say no to discrimination and yes to equality.

Why did they do that? I think many of them felt it was the morally right thing to do. But the other reason they did it is because it was good for business. One poll found that 63 percent of small businesses support greater legal

protections for LGBT workers. Workplace discrimination, as we know, diminishes workforce morale, lowers productivity, and increases costs due to employee turnover.

In our State we want to attract the best workers. If you cut off a whole bunch of workers and tell them this isn't really a good place to be because we won't let you get married or we are going to discriminate against you, it ends up hurting that State.

The same is true as we look at the global economy. It is true of the world. We want to be a country that welcomes people of all races to our country. We want to be a country that welcomes people of all religions. We want to be a country that welcomes people of different sexual orientations. That cannot be a barrier to entry in our country.

That is another reason, as we look at why this bill is so important—why it is important to business, why it is important to our economy—that we need to get this bill passed. When you treat people fairly and you focus on keeping and getting the best people, it is good for the bottom line.

The diverse coalition coming together in support of this bill reminds me of the people who came together in our State to defeat that divisive marriage amendment and to enact marriage equality. By bringing together civil rights organizations, religious groups, businesses, and Americans from across the Nation—Republicans, Democrats, and Independents—we sent a clear message: Support fairness, support equality.

I hope my Senate colleagues will join me in supporting this important legislation, just as 61 of us did on the vote on Monday evening.

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

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

The bill clerk proceeded to call the roll.

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

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

Ms. MURKOWSKI. Mr. President, I want to follow my friend and colleague from Minnesota in explaining why I too support the Employment Non-Discrimination Act, known as ENDA.

As she has very well articulated, the notion that somehow or other discrimination of any kind against anybody should be allowed in our workplaces is something I hope we would be able to, on a bipartisan basis, come together on from all corners of the country and recognize this is not an acceptable direction, this is not a place or a process we should endorse.

As we all know, current law protects against discrimination in the workplace for many classes of individuals. Many of us have been involved in working to refine these laws that protect against discrimination—discrimination that affects employment practice not on the basis of the merit of one's work or qualifications, but solely on the basis of factors unrelated to an individual's work experience, such as race, ethnicity, national origin, religion, age, disability, and sex or gender. We have made sure to put in place these protections against discrimination in the workplace for these classes, these categories of individuals. But we now need to do the same for those in the LGBT community, for whom discrimination on the basis of sex does not apply. ENDA bridges that gap, and it is time that gap was closed. In fact, that separation that has been in place is eliminated here.

Discrimination should never be tolerated in any workplace. It just should not be tolerated in any workplace or, really, anywhere for that matter. It is just pretty simple—no discrimination. I am a strong believer that individuals should be judged on the merit of their work and not how they look or how they are perceived to be.

Folks sometimes look at Alaska through a different lens. They think you are out of sight, out of mind up north. We have a small population with just a little over 700,000 people, but our communities across the State host a very significant LGBT community. In the three largest cities—Anchorage, Fairbanks, and Juneau—by some estimates we are told we rank in the top half of cities around the country with 50 or more same-sex couples. So in the population centers in Alaska, we have what I would describe for a State with a small population a very significant and important part of our community, because the contributions that come to our community because of those within the LGBT community make us, quite honestly, a better place—a better place to live and work and raise a family. And I believe that strongly.

We have a diverse population. A lot of people don't recognize or think about our ethnic diversity up north. We actually have the most ethnically diverse neighborhood in the United States of America in my hometown of Anchorage, in the neighborhood of Mountain View. In the elementary school where my kids spent their early years, there were over 50 home languages of the students in that neighborhood school. It is a pretty diverse community. It is a very rich community because of our diversity. Part of that diversity comes to us through the LGBT community. And they are white, black, Hispanic, Native, urban, and rural; they are the active military and our veterans' population; they are young and they are old. They are very involved and very engaged in our workforce.

Several weeks ago, the National LGBT Chamber of Commerce hosted their president in Anchorage for their weekly chamber presentation. For our community's chamber, it was an interesting enough speaker that the local newspaper actually did an advanced story about it. There were some who were a little anxious and concerned that perhaps this would bring out some aspects of the community who would say: We don't want to see discrimination end in our workplace; we don't want to be welcoming of our LGBT community. As it turned out, it was exactly the opposite. The reception at the chamber meeting was one of inclusion and one of a desire to truly embrace the economic opportunities that come with a community which embraces all people, all genders, and truly all Americans.

When we were approaching the markup of ENDA in the Health, Education, Labor, and Pensions Committee, there was considerable outflow of support and communications from constituents all over the State. They shared their stories of employment discrimination for a host of different reasons. They told that they were discriminated against because they were too gay, they were discriminated against because they were too feminine or too masculine for their place of employment, and in terms of the outcry from constituents in saying: Please finally address this, please ensure that in our workplaces there is no discrimination; there is not only a friendly workplace, but a workplace where we are free from any form of retaliation.

Like any proposed legislation that affects employers and employees alike, I believe we have to find appropriate balance. We have to strike that between protecting employees against discrimination in the workplace and making sure that employers are not unduly burdened with compliance costs. I think we recognize that. We have to find this appropriate balance among legal remedies and redress.

I am pleased the Senate has adopted Senator PORTMAN's amendment today, which I have supported, which protects religious employers from retaliation by the government when they adhere to their religious convictions and then also clarifies the importance of protecting religious freedom as part of ENDA. I think that is an improvement to the bill, and I am pleased we have been able to advance that.

I wish to recognize Senator MERKLEY for his leadership on this issue—I think from the very time he came here to the Senate, he has approached me in discussion about advancing the ENDA legislation, ensuring that from the perspective of our workplaces there is full equality, there is no discrimination within the workplace—and Senator KIRK, for his leadership in this initiative as well.

I am also pleased we are going to have an opportunity tomorrow to hopefully advance this bill fully and finally through the floor of the Senate. It is well past time that we, as elected representatives, ensure that our laws protect against discrimination in the workplace for all individuals, and we ensure those same protections for those within the LGBT community. I look forward to the vote tomorrow, and

hope there is strong support for ensuring a level of fairness throughout our workplaces in this Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise to thank the Senator from Alaska for her powerful endorsement of this bill. She is a member of the HELP Committee. Along with Senators MARK KIRK and ORRIN HATCH, she led the Republican support for this bill when it was being considered by the HELP Committee.

I believe the Senator from Alaska did an extraordinary job of outlining why this bill should pass and why it must pass. It is a matter of fairness, and it is a matter of demonstrating that there is simply no place in the workplace for discrimination.

It is significant that most of our large businesses and many of our smaller ones have voluntarily adopted antidiscrimination policies. They have done so because they want to attract and retain the best and brightest employees they can find. They know that sexual orientation and gender identity are irrelevant to an individual's ability to do a good job. What counts are qualifications, skills, hard work, and job performance. The legislation—which I am very hopeful we will pass tomorrow—will help ensure that is the focus in workplaces throughout America.

As the Senator from Alaska has pointed out, however, we were also very careful to respect religious freedom and liberty in this bill. I agree with her assessment that the amendment offered by Senator PORTMAN and his colleagues helps strengthen that part of the bill by prohibiting any retaliation against religious organizations or employers who legitimately qualify for an exemption under ENDA. We want to make sure those employers receive and are able to compete for Federal grants and contracts just as those employers and businesses which are not exempt under this bill can compete for Federal contracts and grants. So I believe the Portman language does strengthen the bill.

I hope we are on the verge of making history tomorrow by passing this bill with a strong vote. I then hope our colleagues on the House side will follow suit, and that we can see this bill signed into law.

But my purpose in rising once again today is to thank the Senator from Alaska for her strong support, and for making a very powerful argument and for sharing the experiences in her State. I am sure her words help reinforce the support for this highly significant legislation.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I also thank the Senators who are gathered here today for their stalwart support. Senator MERKLEY, whom Senator MURKOWSKI mentioned, from the day he got to the Senate and actually before when he was in Oregon, has been working on this issue; and also Senator COLLINS for working with Senator KIRK and the leadership and the courage she has shown on nearly every issue that has come before this Chamber; and then Senator MURKOWSKI. I love that she can talk about Alaska's sense of independence and their belief that you treat people well and you don't discriminate against them, and the picture of her in her neighborhood with all the diversity. I think a lot of people in other States don't expect that of Alaska but anyone who has visited there sees it firsthand.

Senator PORTMAN's amendment is a good amendment. The Presiding Officer is the other senator from Ohio. I was going through my Twitter feed while watching the election coverage last night and came across a tweet from Senator PORTMAN's son Will, who is in college. The tweet talked about his dad's vote on ENDA, and it said: Way to go, Dad. So I urge my colleagues or anyone who wants to get a tweet from their own kids or nieces, nephews, or grandkids—who seem to understand a little more quickly than some of our Members here how important it is to treat people fairly—that they too, if they vote with us, can get a tweet from some young person which says: Way to go, Senator.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Maine.

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

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

Mr. MERKLEY. I want to take the opportunity to say a word or two while our colleagues from Alaska and Maine are here. These two colleagues, representing the far northwest and far northeast of the United States, have brought so much wisdom and so much determination to this topic of treating all citizens with respect, providing all citizens with a full measure of liberty to be deeply engaged in every aspect of American life. That certainly includes the workplace, and that topic, discrimination in the workplace, is before us today.

Senator COLLINS was the chief Republican sponsor for the first 2 years I was in the Senate. She passed on the baton to Senator KIRK but did not stop championing this bill, and late last night was working and has been holding meetings for the many days and weeks that have led up to this moment—and over the years that have led us to this moment. I say thank you very much to the senior Senator from Maine for her engagement and advocacy of fairness for all Americans.

My colleague from Alaska, it was a pleasure to exchange voice mails as we prepared for the Monday night, knowing that she would not be able to be here for that vote but was sending good wishes. We were uncertain whether we would have 60 votes that night or whether we would have the floor open until midnight or whether we would be voting the next day in order to have her support be the support that put us over the top. But long before that vote occurred she too was talking to her colleagues, noting that freedom for American citizens means freedom to pursue your mission in life, your meaning in life through your work. Discrimination in the workplace diminishes the individual and diminishes the full potential of our Nation as well.

We are now all hoping that we will be able to have final votes on amendments and votes to close debate and to have a final vote sometime tomorrow. That work is not yet done. The path before us may still have unexpected challenges to be overcome. But as we overcome them and approach that final vote, it will be in large measure because of the terrific work of these two colleagues.

I yield.

The PRESIDING OFFICER. The senior Senator from Delaware is recognized.

TRIBUTE TO CHARLES A. ''CHAZZ'' SALKIN

Mr. CARPER. Mr. President, my wife ran into one of our old colleagues the other day, a guy named Ted Kaufman. He was the interim Senator who succeeded JOE BIDEN and held down that slot for 2 years until Senator CHRIS COONS was elected on his own, not that long ago. One of the things I loved about Ted was, every month he would come to the floor and he would talk about a different Federal employee. Sometimes I heard our colleagues or would hear other people talk about Federal employees or State or local employees as nameless, faceless bureaucrats in a derisive way, uncomplimentary and, I expect, dispiriting.

The folks who serve in the Federal Government or State and local government do so usually not because it pays a lot of money or because they get huge bouquets and a lot of credit but because they want to do something constructive with their lives.

Ted used to do that every month when he would come to the floor. This is like a shout-out to him because I heard about a fellow in Delaware who decided to step down after a great career of public service and I want to take a few minutes, if I could, to talk about him. The person I have in mind today is the fellow who is stepping down as the director of our Delaware Division of Parks and Recreation. His name is Charles A. Salkin. We call him Chazz. He was appointed the director of the division a couple of months before I became Governor. He was appointed on June 1, 1992. He continued to serve

with distinction in that capacity, leading the Division of Parks and Recreation for the 8 years I served as Governor, and then he went on to serve for two more Governors after me. He served Republican Governor Mike Castle before me, and a Democratic administration, for a total of four Governors.

That doesn't happen everyday in every State. When you get those kinds of opportunities it must mean you are pretty good. In his case he was very good.

He is now retiring from the post after more than 35 years of service to the people of our State. For over three decades he has been a tremendous leader and real advocate for the educational, for the mental, for the physical benefits of State parks.

He is also a devoted husband to his wife of 40 years, a woman named Sue, who is very accomplished in her own right. She recently retired as deputy director of the Delaware Division of the Arts. They have a daughter Emily, who I believe is now grown.

It is kind of interesting to see where they pull up their anchors and sail off into the sunrise. But, Chazz and Sue, we thank them for the great service to the people of our State and wish them and Emily well. Their hard work and creativity and dedication will be missed a whole lot. We will remember for many years the tremendous contributions they have made.

Since 1978, Chazz has played an active role in the expansion of Delaware's open space areas and in the development of programs that introduce Delawareans and visitors of all ages to the historical and recreational benefits of our State parks. As he steps down from the position as director of the Delaware Division of Parks and Recreation, we give him our sincere thanks and thank his staff too for their diligent and longstanding efforts to maintain Delaware's reputation as having one of the most dynamic and innovative park systems in the Nation.

Throughout his career, Chazz has been a visionary whose creativity and forward thinking has changed the very nature our State park system. From the institution of zip lines to kayak rentals, Chazz has done a tremendous job of inspiring the love of nature in just about all Delawareans. He has played an important role in securing Delaware's footprint in the national park system with the recent naming of the First State national monument.

Delaware was the first State to ratify the Constitution. William Penn came to America through Delaware. One of the oldest houses in all of North America is in Lewes, DE, apparently a Dutch settlement some 275 years ago. We were the first State to ratify the Constitution. We have done a lot of ''firsts'' for a little State.

We do not have a national park. We have been working on it for a number of years with Chazz, and now CHRIS COONS and JOHN CARNEY have taken up the mantle.

We have a First State national monument. We are thankful for that. Thank you, Vice President BIDEN.

We have been knocking on the door for a national park. Chazz and his people have been great laborers with us in that effort.

Chazz's research, his professional leadership, and personal membership in all kinds of organizations such as the National Association of State Park Directors and the National Association of State Outdoor Recreation Liaison Officers, have also supported Delaware's natural resources and emphasized our State parks' value to Delaware's financial success.

In places such as Oregon, Senator MERKLEY, the Presiding Officer from Ohio, Senator COLLINS, who is still on the floor—their States have wonderful national parks. As it turns out, the top destination, tourist destination for people who come to the United States from other countries is our national parks. We don't have one in Delaware. We want one. In the meantime our State parks have sort of filled the gap. We have some State parks of which we are real proud. One of the guys who worked very hard to make them something we can be proud of is Chazz Salkin.

He has undoubtedly left a legacy of achievement, persistence, and passion with the members of the Parks and Recreation team that included hundreds of people over the past 35 years. We in the State of Delaware are truly grateful for everything Chazz has done to protect our State's beauty and history.

On behalf of Senator CHRIS COONS, our colleague here in the Senate, on behalf of JOHN CARNEY, our lone Congressman over in the House, we wholeheartedly thank Chazz for 35 years of service to the State of Delaware. His model leadership and dedication have improved the quality of life for visitors and residents who come to our State from all over the world. We offer our sincere congratulations on a job well done and wish him and Sue and their family many happy and successful years to come.

We struggle at the Federal Government to pay for things. We struggle at the State level to have the revenues to pay for the kinds of services our citizens want. One of the things I especially admired in the work done by Chazz Salkin is a growing reliance, over time, on inviting people—could be young people, could be older people, could be retired, maybe not, could be students, could be senior citizens, but people who would like to volunteer some of their time to help in our national parks. It will be interesting to be able to look at the number of volunteer hours that have been amassed over the years in service to our national parks and compare that on a per-capita-basis to the rest of the country. I think we stack up pretty well.

One of the things we have done in our State, in no small part because of Chazz's leadership, is to invite volunteers to come in to help out, to make our parks better than they ever were before and to benefit from that by feeling they helped us to accomplish something really good for now and for a long time in the future.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. CARPER. I will be happy to yield.

The PRESIDING OFFICER. The leader is recognized.

Mr. REID. Mr. President, I appreciate the courtesy of my friend from Delaware. He and I have been together for 31 years and I appreciate him. I wanted to make sure Senator COLLINS was on the floor.

Mr. President, I withdraw my motion to proceed to Calendar No. 236, H.R. 3204.

The PRESIDING OFFICER. The motion is withdrawn.

EMPLOYMENT NON-DISCRIMINATION ACT OF 2013—Continued

Mr. REID. I ask the Chair what the pending business is now before the body.

The PRESIDING OFFICER. S. 815 is now the pending question.

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 815, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

Harry Reid, Tom Harkin, Jeff Merkley, Patrick J. Leahy, Tom Udall (NM), Mark Begich, Brian Schatz, Al Franken, Barbara Boxer, Richard J. Durbin, Christopher A. Coons, Tammy Baldwin, Debbie Stabenow, Benjamin L. Cardin, Sheldon Whitehouse, Patty Murray, Barbara Mikulski, Kirsten E. Gillibrand.

Mr. REID. Mr. President, I want the record to reflect also that Senator JEFF MERKLEY is on the floor, who has been instrumental in allowing us to get to the point we are on the bill.

I ask unanimous consent the mandatory quorum under rule XXII be waived.

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

UNANIMOUS CONSENT AGREEMENT—S. 815

Mr. REID. Mr. President, I ask unanimous consent that at 11:45 a.m. on Thursday, November 7, the motion to recommit and the pending amendments to the underlying bill be withdrawn; that the Reid of Nevada amendment No. 2020 be withdrawn; that no further motions to recommit or points of order be in order and the Senate proceed to vote in relation to the pending Toomey

amendment; that the Toomey amendment be subject to a 60-affirmative-vote threshold; and upon disposition of the Toomey amendment, the substitute amendment, as amended, be agreed to; and the Senate proceed to vote on the motion to invoke cloture on S. 815, as amended; that if cloture is invoked, the time until 1:45 p.m. be equally divided between the two leaders or their designees; that at 1:45 p.m., all postcloture time be yielded back, the bill be read a third time and the Senate proceed to vote on passage of the bill, as amended; finally, if cloture is not invoked, I be recognized.

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

Mr. REID. Mr. President, I appreciate everyone's cooperation. This is how we should do legislation, work together. This is something we have done together and I appreciate everyone's work. It has not been easy for everyone. Not everybody is satisfied, but a lot of people are satisfied.

MORNING BUSINESS

Mr. REID. I now ask unanimous consent we proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, until 7 p.m.

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

Mr. REID. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THANKING SENATOR MERKLEY

Ms. COLLINS. Mr. President, before the Senator from Oregon leaves the floor, I wish to thank him for his leadership on this bill. He picked up the mantle from our dear late colleague Senator Ted Kennedy. Senator MERKLEY had worked on this issue in his home State before coming to the Senate, and we have worked very closely together as this bill has been on the floor. He has been very fair and open-minded. Although we were not able to work out agreements on everything, as I would have hoped, I do believe there was a good-faith effort which was evident in the passage of Senator PORTMAN's amendment.

I am very excited that tomorrow we will be reaching final passage, and Senator MERKLEY deserves an enormous amount of credit for his leadership. I wanted to thank him while he was still present on the floor and also tell him how much I appreciated his kind words earlier today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THANKING STAFF

Ms. COLLINS. Mr. President, tomorrow we will take a vote on Senator TOOMEY's amendment and on cloture and final passage. There may not be time, as we are wrapping up the work on this bill, for me to pay tribute to some very valuable individuals who worked very hard on this bill; that is, the members of the staff on both sides.

I wish to particularly commend three members of my staff—John Kane, Katie Brown, and Betsy McDonnell—who have literally worked night and day to try work out amendments and procedure with a wide variety of staff on both sides of the aisle.

Our staffs are often the unsung heroes of this institution, and in this case I was receiving emails from my staff—for instance last night at 1:46 a.m.—giving me the latest updates. I just wish to publicly thank them, the floor staff on both sides, the HELP Committee staff, and everyone who was involved but particularly the three members of my staff, John, Katie, and Betsy, who have literally devoted countless hours to this bill. I know they will be very happy when we reach final passage tomorrow.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

STRENGTHENING SOCIAL SECURITY ACT OF 2013

Mr. BROWN. Mr. President, this past Monday I visited a senior center in Youngstown, OH, and met with seniors and others, talking about what they hear as threats to Social Security. They hear some of the wise people in this town, if you will—some of the people on television and the political pundits and the economists and the newspaper editorial boards—saying that we need to restructure entitlements or reform entitlements, and that scares them because they don't get very specific. They often, in those statements about reforming entitlements, don't—the people saying it and the reporters asking the questions don't really scratch underneath the surface and say: What does that really mean? It usually means cutting Social Security benefits, but more on that in a second.

I spoke with a woman named Gloria, a 70-year-old widow, currently living in subsidized housing. She has lived on Social Security since her husband's death. Her benefits barely cover the costs of housing and groceries, not to mention health care. She told me that without Social Security, she would not know what to do to be able to get along in her life.

We owe it to our children and our grandchildren to deal with this Nation's deficit. That means everything from eliminating farm subsidies—the directed payments we are doing in the farm bill, and Senator THUNE and I wrote the language to do that. It means closing the carried interest loophole for Wall Street hedge fund managers. It means eliminating tax breaks for oil companies and stopping the idiotic—for want of a better term—practice of encouraging and enticing, through the Tax Code, companies to actually invest overseas, so that if you shut down a plant in Steubenville or Toledo and move it to Wuhan or Xi'an, China, you actually can get tax breaks to do that.

I am a grandfather a couple of times and about to be a third time. I guess as we get older, we look at the world, not surprisingly, from a different perspective. I see, because of Social Security and Medicare, that hundreds of thousands, millions of Americans get to spend more time with their children and grandchildren. That is because of Social Security and Medicare. Forty-five years ago, before Medicare, 48 years ago, half of America's seniors did not have health insurance. Today, 99 percent have it. We know that means people live longer, healthier lives. It means not just that they get to see their grandchildren, which is the pleasure and the delight of almost all grandparents, it also means they get to impart their wisdom and knowledge and values to their grandchildren.

Margaret Mead once said wisdom and knowledge are passed from grandparent to grandchild, because there is this sort of natural tension—or there might be—between children and parents, but between grandchildren and grandparents it makes for a richer society. Because of these two Social Security programs, Medicare and Social Security, we are a richer, better country.

Today, 63 million Americans receive Social Security benefits. In my State it is 2 million. Let me give a couple of statistics, because this is really a moral question of what we do with our retirement system. For two-thirds of seniors, Social Security is more than half of their income in my State and in the State of the Senator from New Hampshire, who is sitting here. In the State of the Senator from Connecticut it is not much different. No State is much different from this. Social Security provides more than half of the income for about two-thirds of seniors. For more than one-third of seniors, Social Security provides essentially 90 percent, or all, of their income. For one-third of seniors, without Social Security, they would have zero or close to zero income.

It lifts 15 million Americans out of poverty. In my home State of Ohio, if Social Security did not exist, almost half of seniors would live in poverty.

Looking forward, improving Social Security's adequacy is the best way to address the retirement crisis. That is why I am working with Senator HARKIN and Senator BEGICH and Senator HIRONO and Senator SCHATZ on the Strengthening Social Security Act.

My colleagues will talk about strengthening Social Security, but what do they mean by that? They usually mean that strengthening Social Security means we make cuts in benefits. Those cuts in benefits can be raising the retirement age, it can be something called the chained CPI, which is cutting the Social Security cost-of-living adjustment. It can mean some kinds of means testing, so people get less, if they are a little wealthier. It can mean a whole host of things, but each of them is a cut to Social Security.

So the debate here seems to be not: How do we make seniors' lives better—when a third of seniors on Social Security get almost all their income from Social Security. And they are not doing that great with Medicare either. With some of the copays and the deductibles and all that, some get some help that way. But the debate should not be all about cutting Social Security—which it really is, this whole strengthening. We have to strengthen Social Security, is the way they talk about it. We have to reform entitlements. We have to worry about the sustainability of Social Security and Medicare, and I do worry about them. But the fix is not to debate cutting these programs and giving these seniors less.

As the Presiding Officer knows, defined pension benefits are less than they used to be. Fewer and fewer people retiring now have defined pension benefits. Unless they have a government job or a good union job, fewer and fewer and fewer have retirement benefits. Fewer people are able to save money because we know in the last decade savings rates have gone down because incomes—while the wealthy have done better and better and better, profits have gone up and up and up, productivity in the workforce has gone up and up and up—wages have decoupled with that. They have not kept up. That means people are saving less.

So originally as to Social Security, you would have Social Security, you would have a pension, and the third of the three-legged stool is you had savings. Well, now the savings and the pension—whether it is a 401(k) or a defined pension—are less than they used to be. So Social Security is more important.

So why are we even discussing the whole idea of cutting Social Security? That is why we need a fairer COLA to start with. The Harkin bill would formalize a Consumer Price Index for the Elderly that calculates the Consumer Price Index, the cost-of-living adjustment, not the way it does now—a 40-year-old in the workplace—it calculates it based on a 70-year-old who is retired. A 40-year-old in the workplace has a very different set of expenses for their standard of living than does a 70-year-old. Obviously, the 40-year-old spends less on health care, on the average, than the 70-year-old, on the average, spends on health care. So we should calculate the cost-of-living adjustment that way.

That is not what so many people in this body want to do. There is just something about a bunch of Members of Congress, who have good salaries, who have good taxpayer-financed health care, making decisions to cut Social Security and cut Medicare.

I will close with this because I know Senator SHAHEEN is scheduled to speak and I will not take much longer.

But I hear these self-appointed budget hawks, most of whom will not be relying—almost none of whom, colleagues here, will be relying—on Social Security to make ends meet in their retirement. I take a back seat to nobody in what we do about budget cuts because I have been involved with a lot of colleagues on both sides of the aisle on how we deal with budget deficits. But when you hear these self-appointed fiscal hawks, these so-called wise men—and they are mostly men—talking about how we need to reform entitlements, scratch a little deeper. Ask them what they mean by that. They will probably say: Well, we can't sustain this. Ask them: Well, what do you mean by that? Then they will probably say: Well, we need structural reform. Ask them: Well, what do you mean by that? Ask them the question—what do they really mean? What is their idea? Their idea, almost always, is either raise the retirement age or cut benefits in some ways, cut the cost-of-living adjustment, something like that.

I will close with this. As to that townhall I was attending in Youngstown, I was there 3 years ago at a townhall, and a woman stood up and said: I have two jobs, both $9 or $10 an hour jobs. I have worked all my life this hard. She said: Do you know what. I am 63 years old. I just have to find a way to stay alive until I am 65—just for another year and a half—so I can have health insurance.

Imagine. This is a woman living right on the edge. She will not have much from Social Security. She has no savings. She just wanted to stay alive until she got health insurance.

That is why it matters so much what we do on social insurance, why it matters that we protect Medicare—really protect Medicare, not protect it by privatizing it. And it really matters why we protect Social Security and not ''strengthen'' the program by cutting the benefits. That is why our work matters. That is why it is so important we pass the Harkin-Begich-Hirono-Schatz-Brown bill.

Mr. President, I yield the floor to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

ORDER OF PROCEDURE

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the period for morning business be until 7 p.m. for debate only.

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

ENDA

Mrs. SHAHEEN. Mr. President, almost 50 years ago Congress passed the Civil Rights Act. This landmark legislation prohibited discrimination on the basis of race, ethnicity, religion, and gender in employment, housing, and public accommodations. Many of us in the Senate remember the passage of that legislation. And many of us, unfortunately, saw firsthand the painful examples of legally sanctioned discrimination that existed before the Civil Rights Act.

I grew up in a State where I went to segregated schools. I can remember the separate drinking fountains and going to the movie theater where if you were an African American you had to sit in the balcony. These practices were wrong, and they ended because of the Civil Rights Act.

Well, this week the Senate has the opportunity to extend our national quest for equal opportunity for all by passing the Employment Non-Discrimination Act. This legislation simply prohibits employment discrimination on the basis of sexual orientation and gender identity.

I am proud to be a cosponsor of the Employment Non-Discrimination Act, and I give great credit to JEFF MERKLEY for sponsoring this legislation and for pushing for it.

I was proud as Governor of New Hampshire 16 years ago to sign legislation making New Hampshire only the 10th State in the country to include sexual orientation in its antidiscrimination laws. That State legislation went further than the bill before the Senate this week. It not only covered employment, but it covered housing and public accommodations as well. At the time, both the New Hampshire Senate and House were controlled by Republicans. Yet the bill passed both bodies with large bipartisan majorities because it was not seen then as a partisan issue.

Including sexual orientation in New Hampshire's antidiscrimination laws was just one more step forward in New Hampshire's long history of promoting civil rights. No one in America should be hired or fired because of their sexual orientation or gender identity.

I realize, as we all do, that no law can erase prejudice. Prejudice will continue to exist after the Employment Non-Discrimination Act becomes law. But that is not the issue. The issue is whether it is acceptable as a matter of law in the United States to hire or fire

someone because of sexual orientation or gender identity.

When we declared our independence from Great Britain back in 1776, our Founders stated:

We hold these truths to be self-evident, that all men are created equal. . . .

Of course, I would add women to that. But equality under the law is part of our national creed. We have an opportunity this week to take another step forward in advancing equal opportunity for all. Let's pass the Employment Non-Discrimination Act with a very strong bipartisan majority. I hope we will do that. I hope we will do it this week.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO MAYOR EVA GALAMBOS

Mr. ISAKSON. Mr. President, I rise for a moment, the day after elections all over the country, to pay tribute to a great Georgian.

Yesterday, November 5, 2013, the city of Sandy Springs elected a new mayor by the name of Rusty Paul. But Rusty was elected to succeed Eva Galambos, the first and only mayor of Sandy Springs, GA—an outstanding citizen of our State and a real representative of what it is about to be a good citizen of Georgia.

For 30 years she chaired a committee called the Committee for Sandy Springs, from 1975 until 2005. That committee was a committee of community members in an unincorporated area who wanted to have their own city, their own government, and they wanted to privatize government.

They tried for 30 years to get the State legislature—for 20 of those years I was a part of that legislature—to approve a municipal charter for Sandy Springs. Finally, in 2004, the legislature did. In 2005, it was ratified by the voters of Sandy Springs and the voters of the city of Atlanta, and Sandy Springs became a city.

Because Eva had chaired the committee to make it a city for 30 years, she was selected as its first mayor and served in that capacity for 8 outstanding years. A city that was a typical urban sprawl, suburban sprawl city, she turned into one of the prettiest places in Georgia. She beautified the streets, put in streetscapes, easements for beautification.

Today, we have a beautiful linear park on the most major road that goes through Sandy Springs, on Johnson Ferry Road and Abernathy—a linear park where people are able to enjoy a park and have a buffer from a highway, yet improved traffic flowing through that community.

That was just one of many things she did in innovative ways to make it a better community.

Eva is a great citizen. She has a wonderful husband, three great children, six great grandchildren, but her seventh grandchild is the city of Sandy Springs. She birthed it. She led it. She grew it. At the end of this year she will leave it as its mayor, but she will always be there as its leading citizen.

So I rise today on the floor of the Senate to pay tribute to Eva Galambos for doing the American dream—having a dream, 30 years working to achieve it, and at the end of those 30 years then leading it to become what she always hoped it could be: a great city, the city of Sandy Springs, GA.

I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask unanimous consent that I be recognized for up to 8 minutes, followed by Senator BALDWIN.

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

EMPLOYMENT NON-DISCRIMINATION ACT

Mrs. BOXER. Mr. President, I rise today to urge my colleagues to vote for ENDA, the Employment Non-Discrimination Act. This bill is about basic fairness, and it is really about the Golden Rule—treating others as you would like to be treated. Every single American should have the right to earn a living and provide for his or her family without fearing discrimination in the workplace because of who they are and whom they love. Americans like Marty Edwards, an assistant vice president of First National Bank of Granbury, Texas, whose story was recently featured in The Advocate. Marty was passed over for promotions at work despite a very strong 11-year history at the bank. When he asked for an explanation from his vice president and human resources department, he was told that the workers who had received the promotion were ''a better fit for the image we are looking for.'' Marty Edwards was hired by the bank right out of college. He formed his professional identity there. He was moving up the ladder until he came out as a gay man. When Edwards asked whether his sexual orientation was the main reason he had been denied promotion, the bank's executive vice president demanded his resignation. Edwards refused, and then he was fired.

Sadly, Marty Edwards' story is not unique. Between 15 and 43 percent of LGBT people have experienced discrimination in the workplace or harassment in the workplace as a result of their sexual orientation. Twenty-six percent of transgender people report having been fired from their jobs because of their gender identity, and 90 percent reported experiencing harassment, mistreatment, or discrimination.

Our fellow citizens need ENDA. I was here when ENDA was voted on so many years ago when it was a Ted Kennedy bill. We did not make it then, but I think we are going to make it now because Americans know that ENDA is the right thing to do. As a matter of fact, 80 percent of Americans assume there already is a law prohibiting discrimination against this community. But more than half of Americans still live in States where it is perfectly legal to fire a lesbian, gay, bisexual, or transgender American just because of their sexual orientation or gender identity. So that is why we need this bill. There are many States where there is no protection. This bill would make sure the protections are nationwide.

Seventy percent of the American public supports ENDA. According to the Washington Post, public support ranges from a high of 81 percent in Massachusetts to a low of 63 percent in Mississippi. So it is clear that the support cuts across party affiliation and generational gaps. Whether they are a Democrat, a Republican, an Independent, whether they are a libertarian, whether they are young or old, Americans overwhelming support this bill. The American people are basically giving us a message: This is a no-brainer. We should not have to fight about it. We should just vote for it.

That is why I was so dismayed to read that House Speaker BOEHNER said he would not support ENDA. His reason was that it will increase litigation. Does the Speaker really think that LGBT Americans, who have families to support and bills to pay, would rather pursue frivolous lawsuits than earn their pay in a workplace free of harassment and discrimination?

Here is what I think is really disingenuous about that. Republicans do not suggest that all the other groups covered by the Civil Rights Act are filing frivolous lawsuits. In other words, all the rest of Americans who are protected because of their religion, because of their color, because of their creed, Speaker BOEHNER says they are not filing frivolous lawsuits and he does not want to repeal the civil rights of those people. Good. Why does he think that the LGBT community is going to file frivolous lawsuits?

I have to say that evidence shows what he is saying is false. The Speaker ignores the fact that the Government Accountability Office issued a recent report showing that in the 22 States that banned sexual orientation discrimination in the workplace, ''there were relatively few employment discrimination complaints based on sexual orientation and gender identity

filed.'' In other words, there is not a problem with frivolous lawsuits being filed by the LGBT community in the States that have protective laws. That is because LGBT Americans are woven into the fabric of our workplaces, our communities, and every other facet of our American life. This bill is about granting them the just and fair protections they deserve so that they can live their lives and contribute to our economy without fear of losing their jobs because of who they are or whom they love. It is the moral thing to do. It makes good business sense. A majority of Fortune 500 companies have sexual orientation and gender identity nondiscrimination policies in place. Recent polling shows that a majority of small businesses do too.

I have to say that in the States where we have these laws, people are happy with it. People are so happy with it that they think the whole country has already passed a law. So how could the Speaker get up and announce that he is opposed to it because there will be the filing of frivolous lawsuits? It is a made-up straw man, if I might say.

The State of California and many of our cities enforce these policies as well. The economy benefits.

Apple CEO Tim Cook wrote in the Wall Street Journal:

> Those who have suffered discrimination have paid the greatest price for this lack of legal protection. But ultimately we all pay a price. If our coworkers cannot be themselves in the workplace, they certainly cannot be their best selves. When that happens, we undermine people's potential and deny ourselves and our society the full benefits of those individuals' talents.

I thank Tim Cook, the CEO of Apple, for those progressive thoughts.

Employers know they will be the most competitive when they hire and retain the best people, and folks will apply for and strive to keep their jobs if they know a company only considers their qualifications for the job and the result of their hard work—nothing more, nothing less.

I believe my colleagues will do the right thing and pass this bill. I want to say to my colleague JEFF MERKLEY, who is not on the floor right now—he has really pushed hard for this vote. I thank Senator HARRY REID, our leader. There are many other bills that compete for attention. I think it was very important because what could be more important than protecting our people, protecting our sons and daughters, protecting all God's children? That is what ENDA does. So I think we are going to see a very good vote on this bill tomorrow. Really, it ought to pass by 80, 90, 100 votes because it is a very simple idea: Everyone should be treated fairly. Everyone should be treated equally. This Nation is at its best when we do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, I ask unanimous consent that following my remarks, the Senator from Rhode Island Mr. WHITEHOUSE be recognized.

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

Ms. BALDWIN. Mr. President, I have come to the floor again to talk about the Employment Non-Discrimination Act, known as ENDA. This is a bipartisan effort to advance uniquely American values: freedom, fairness, and opportunity. It is about freedom—the freedom to realize our founding beliefs that all Americans are created equal under the law. It is about fairness, about whether lesbian, gay, bisexual, and transgender Americans deserve to be treated just like their families, their friends, their neighbors, and their fellow workers. It is about opportunity, about whether every American gets to dream the same dreams and chase the same ambitions and have the same shot at success.

On Monday this week 61 Senators, including 7 Republicans, voted to support opportunity and fairness. Today we agreed to a Republican amendment that would strengthen the bill. Bipartisan support for the Employment Non-Discrimination Act is growing as we head toward a vote on passage tomorrow. I would urge all of my colleagues to join us and vote for this important legislation.

I have seen firsthand the progress we have made in recognizing that fairness and opportunity are not partisan issues; they are core American values. When I served in the House of Representatives, I worked with Congressman Barney Frank on the Employment Non-Discrimination Act. We had many conversations with Members with varying political, personal, and religious beliefs. At times it was a difficult debate. There were many disagreements. However, the tone of the debate here on the Senate floor has been remarkably dignified and cordial. This has been true throughout the Senate debate. In fact, I was pleasantly surprised as a member of the HELP Committee that the committee markup of this bill took only a little over 5 minutes. I had been prepared to be in our markup for hours. This dignified tone of today's debate in committee and here on the floor reflects the progress our Nation has made in recognition of fairness and equality.

My home State of Wisconsin was the first State in the Nation to add sexual orientation to its antidiscrimination statute. At the time, back in 1982, only 41 municipalities and 8 counties in the entire United States offered limited protections against discrimination based on sexual orientation. Wisconsin's efforts pass the Nation's first sexual orientation antidiscrimination law was supported by a broad spectrum of supporters and advocates. It was a bipartisan coalition including members of the clergy, various religious denominations, medical groups, professional groups. The measure was signed into law in Wisconsin by a Republican Governor, Lee Sherman Dreyfus, who based his decision to support the measure on the success of municipal ordinances providing similar protections against discrimination.

Since Wisconsin passed its statute back in 1982, 20 States and the District of Columbia, representing nearly 45 percent of the population of the United States of America, have passed similar antidiscrimination measures. Sixteen States and the District of Columbia also protect their citizens on the basis of gender identity.

However, 76 million American workers have to contend with a very ugly reality. It is the reality that in more than two dozen States it is legal to discriminate against LGBT employees. That is simply wrong. This legislation seeks to right that wrong. We do not just want to live in a country where our rights are respected under the law; we want to live in a country where we are respected for who we are, where we enjoy freedom and opportunity because that is who we are as Americans.

The change in law that we work for this week and today can add up to incredible progress in our lifetime. This generation can be the one in which we fulfill the promise of freedom and equality for all, in which America finally becomes a place where everyone's rights are respected at work and every family's love and commitment can be recognized and respected and rewarded under the law.

Finally, I would like to recognize my Senate colleagues, the ones with whom I have worked to advance this bill, the Employment Non-Discrimination Act.

Senator MERKLEY, Senator KIRK, Chairman HARKIN, and Senator COLLINS' tireless efforts have led us this close to the finish line with regard to this bill.

Without naming all of them, I also would like to thank my colleagues who have taken the time to join in our effort to bring cloture and bring this debate before the body, the ones who have taken the time to sit down with me and my colleagues and talk through this issue so that we might answer their questions and move it ahead. It means a great deal. This is an important place we have reached.

As we prepare for the final vote tomorrow, I wish every Senator would stand with us and vote for fairness and opportunity. While we might not meet that high mark, I do hope it is a very strong vote. Passing this bill with a strong majority will show America that the Senate believes in a future that is more equal, not less, for all Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. While I was awaiting my turn to speak on the floor, I had the opportunity to hear both Senator BOXER and Senator BALDWIN. I commend both of them for very excellent and eloquent remarks and thank Senator BALDWIN for her courage and conviction.

I also know that my dear colleague in the House, Representative DAVID CICILLINE, is watching this vote very carefully. We hope we will make him, Senator BALDWIN, and so many people around this country proud when we take up this vote tomorrow.

CLIMATE CHANGE

Mr. WHITEHOUSE. I am here today for what is now the 49th straight week in which the Senate has been in session to urge that we wake up to the effects of carbon pollution on the Earth's oceans and climate, that we sweep away the manufactured doubt that so often surrounds this issue and get serious about the threat we face from climate change.

When I come to the floor, I often have a specialized subject. I talk about the oceans and how they are affected by carbon pollution. I talk about the economics around carbon pollution. I talk about the faith community's interest in carbon pollution. Today I want to talk about the role of the media in all of this.

In America, we count on the press to report faithfully and accurately our changing world and to awaken the public to apparent mounting threats. Our Constitution gives the press special vital rights so that they can perform this special vital role. But what happens when the press fails in this role? What happens when the press stops being independent, when it becomes the bedfellow of special interests? The Latin phrase ''Quis custodiet ipsos custodes''—who will watch the watchmen themselves—then becomes the question. The press is supposed to scrutinize all of us. Who watches them when they fail at their independent role?

I wish to speak about a very specific example—the editorial page of one of our Nation's leading publications, the Wall Street Journal. The Wall Street Journal is one of America's great newspapers, and there is probably none better when it comes to news coverage and reporting. It is a paragon in journalism until one turns to the editorial page and then steps into a chasm of polluter sludge when the issue is harmful industrial pollutants. When that is the issue, harmful industrial pollutants, this editorial page will mislead its readers, will deny the scientific consensus, and it will ignore its excellent news pages' actual reporting, all to help the industry, all to help the campaign to manufacture doubt and delay action.

As I said before, there is a denier's playbook around these issues. We have seen the pattern repeat itself in the pages of the Wall Street Journal on acid rain, on the ozone layer, and now, most pronouncedly, on climate change. The pattern is a simple one: No. 1, deny the science; No. 2, question the motives; and No. 3, exaggerate the costs. Call it the polluting industry 1–2-3.

Let's start in the 1970s when scientists first warned that chlorofluorocarbons, or CFCs, which were commonly used as refrigerants and aerosol propellants, could break down the Earth's stratospheric ozone layer, which would increase human exposure to ultraviolet rays and cause cancer. As outlined in a report by Media Matters, this is when the Wall Street Journal's editorial page embarked upon what would become a persistent and familiar pattern.

For more than 25 years, the Wall Street Journal's editorial page doggedly printed editorials devaluing science and attacking any regulation of CFCs.

In January of 1976, an editorial proclaimed the connection between CFCs and ozone depletion ''is only a theory and will remain only that until further efforts are made to test its validity in the atmosphere itself.''

In May of 1979, an editorial said that scientists ''still don't know to what extent, if any, mankind's activities have altered the ozone barrier or whether the possibly harmful effects of these activities aren't offset by natural processes. . . . Thus, it now appears, all the excitement over the threat to the ozone layer was founded on scanty scientific evidence.''

In March 1984, we read on the editorial page that concerns about ozone depletion were based on ''premature scientific evidence.'' Rather, it was written, ''new evidence shows that the ozone layer isn't vanishing after all; it may even be increasing.''

In March 1989, an editorial called for more research on the ''questionable theory that CFCs cause depletion of the ozone layer'' and implored scientists to ''continue to study the sky until we know enough to make a sound decision regarding the phasing out of our best refrigerants.''

Again, deny the science.

Predictably, they also attacked the motives of reformers. A February 1992 editorial stated that ''it is simply not clear to us that real science drives policy in this area.''

Finally, playbook 3, they have warned that action to slow ozone depletion would be costly.

A March 1984 editorial claimed that banning CFCs would ''cost the economy some $1.52 billion in forgone profits and product-change expenses'' as well as 8,700 jobs.

An August 1990 editorial warned that banning CFCs would lead to a ''dramatic increase in air-conditioning and refrigeration costs.'' It added that ''the likely substitute for the most popular banned refrigerant costs 30 times as much and will itself be banned by the year 2015. The economy will have to shoulder at least $10 to $15 billion a year in added refrigeration costs by the year 2000.''

A February 1992 editorial warned that accelerating the phase-out of CFCs ''almost surely will translate into big price increases on many consumer products.''

Despite the protests of the Wall Street Journal's editorial page, we actually listened in America to the science, and we took action. We protected the ozone layer, we protected the public health, and the economy prospered.

What about all those costs that they claimed? Looking back, we can see that action to slow ozone depletion in fact saved money. According to the EPA's 1999 progress report on the Clean Air Act, ''every dollar invested in ozone protection provides $20 of societal health benefits in the United States''—$1 spent, $20 saved. The Journal's response? Silence. They just stopped talking about it.

Next we will go to acid rain. In the late 1970s scientists began reporting that acid rain was falling on most of our Northeastern United States. Guess what. Again, at the Wall Street Journal editorial page, out came the playbook.

First, they questioned the science behind the problem. A May 1980 editorial questioned the link between increased burning of coal and acid rain, concluding that existing ''data are not conclusive and more studies are needed.''

In September 1982 the editors told us that ''scientific study, as opposed to political rhetoric, points more and more toward the theory that nature, not industry, is the primary source of acid rain.'' Nature is the primary source of acid rain.

A September 1985 Journal editorial claimed that ''the scientific case for acid rain is dying.''

In June 1989 the editorial page argued that we needed to wait—it is always needing to wait—for science to understand, for example, to what extent acid rain is manmade before enacting regulations. During that same period the Wall Street Journal's editorial page also smeared the motive, declaring that the effort to address acid rain was driven by politics, not science.

Consistent with No. 2 in the playbook, in July 1987 the editorial page wrote: ''As the acid-rain story continues to develop, it's becoming increasingly apparent that politics, not nature, is the primary force driving the theory's biggest boosters.''

Wall Street Journal editors also consistently opposed plans to address acid rain because of cost concerns—No. 3 in the playbook.

A June 1982 editorial warned of the ''immense cost of controlling sulfur emissions.''

A January 1984 editorial claimed a regulatory program for acid rain would cost ''upwards of $100 billion.''

These claims were made even as the evidence mounted against their position, even as President Reagan's own scientific panel said that inaction would risk ''irreversible damage.'' Of course, the cost equation of the Wall Street Journal editorial page was always totally one-sided—always the cost to clean up the pollution; never the cost of the harm the pollution caused.

That is the industry playbook, faithfully spouted through the editorial page of the Wall Street Journal—No. 1, deny the science; No. 2, question the motives; and No. 3, exaggerate the costs.

But we made undeniable progress against acid rain despite the efforts of the editorial page. Guess what. The Journal's editorial page suddenly reversed its tune. A July 2001 editorial called the cap-and-trade program for sulfur dioxide ''fabulously successful,'' noting that the program ''saves about $700 million annually compared with the cost of traditional regulation and has been reducing emissions by four million tons annually.'' On this occasion, when its effort had failed, the Journal changed its tune, but until then it was still the industry playbook—No. 1, deny the science; No. 2, question the motives; and No. 3, exaggerate the costs.

With carbon pollution running up to 400 parts per million for the first time in human history, the Journal is using the same old polluter playbook against climate change. The Journal has persistently published editorials against taking action to prevent manmade climate change. As usual, they question the science.

In June 1993 the editors wrote that there is ''growing evidence that global warming just isn't happening.''

In September 1999 the page reported that ''serious scientists'' call global warming ''one of the greatest hoaxes of all time.''

In June 2005 the page asserted that the link between fossil fuels and global warming had ''become even more doubtful.'' This is June 2005, and the Wall Street Journal editorial page is questioning whether there is a link between fossil fuels and global warming.

A December 2011 editorial declared that the global warming debate requires ''more definitive evidence.''

As usual—back to the industry playbook—the motives of the scientists were smeared.

A December 2009 editorial claimed that leading climate scientists were suspect because they ''have been on the receiving end of climate change-related funding, so all of them must believe in the reality (and catastrophic imminence) of global warming just as a priest must believe in the existence of God.''

As usual, we heard that tackling climate change, tackling carbon pollution, would cost us a lot of money. In August 2009, the editorial page warned ''that a high CO_2 tax would reduce world GDP a staggering 12.9 percent in 2100—the equivalent of $40 trillion a year.''

Just last month, October 2013, the editorial board of the Wall Street Journal warned that in the face of climate change, ''interventions make the world poorer than it would otherwise be.''

That same October 2013 editorial actually completed the full polluter playbook trifecta by also decrying the ''political actors'' seeking to gain economic control and by questioning the science, saying ''global surface temperatures have remained essentially flat.''

They covered them all in just the one editorial. If only the editorial page writers at the Wall Street Journal would turn the page to the actual news their own paper reports on climate change.

A March 2013 article reported:

> New research suggests average global temperatures were higher in the past decade than over most of the previous 11,300 years, a finding that offers a long-term context for assessing modern-day climate change.

A piece from the Wall Street Journal news in August 2013 revealed:

> Average global temperatures in 2012 were roughly in line with those of the past decade or so, but the year still ranked among the 10 warmest on record as melting Arctic ice and warming oceans continued to boost sea levels.

That takes me to a particular fact about what carbon pollution is doing, and that is our oceans are taking the brunt of the harm from carbon pollution, and it is time to stop looking the other way. But the Wall Street Journal editorial page doesn't often address the effects of carbon pollution on oceans, perhaps because the changes taking place in our oceans are not a matter where the complexity of computer modeling leaves room for phony doubt to be insinuated.

The oceans' recent changes from our carbon pollution aren't projections and they aren't models, they are measurements—simple, unyielding measurements. We measure sea level rise with a ruler. It is not complicated. We measure ocean temperature with a thermometer. We measure ocean acidification on the pH scale. They do not talk about that much in the Wall Street Journal editorial pages. There is no room for phony doubt. So they look elsewhere.

We have the right to expect independent and honest media to teach the American public about the threats facing our oceans and our environment. What a difference good reporting can make. Exemplary and compelling storytelling can and does influence our national conversation and inspire change. Reporters fail when they give false equivalency to arguments on each side of the political spectrum, even though they are not really equivalent. Editors fail when they look at the science, look at the measurements, look at the real threats posed to our world and then fail to tell us the unvarnished truth.

The story of climate change needs to be told. Our oceans need a voice. It seems the big polluters already have one.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

SEQUESTRATION IMPACT

Ms. HIRONO. Mr. President, I rise today to discuss the impact of sequestration on our national security and the economy.

As a Nation, our military strength is directly supported by our economic strength, and sequestration has done substantial harm to both. This senseless policy has put our military in a very bad position and undermines or national security strategies.

In fiscal year 2013, the Defense Department's budget was reduced by approximately $43 billion due to sequestration, or a roughly 8 percent cut to each defense account. These cuts have undermined our military's readiness and reduced necessary maintenance. They have also undermined long-term investments in modernizing our force.

Our military leadership has been clear about the impact of sequestration at numerous hearings before Congress. All of the services have raised concerns about the Budget Control Act's sequestration and the post-sequester budget caps. In particular, we have heard how these cuts undermine their ability to carry out the 2012 Defense Strategic Guidance or DSG.

The DSG outlines the strategic priorities of the Department of Defense. The DSG reflects the input of a wide range of military stakeholders. The DSG describes the security challenges we are likely to face as well as the resources needed to meet key mission requirements.

The 2012 DSG sets as a central goal the transition of a U.S. defense enterprise from an emphasis on today's wars to preparing for future challenges. The cuts due to the Budget Control Act undermine that goal. As a result, the services will have to reduce personnel levels, delay or scrap necessary equipment modernization and acquisition, and reduce training and readiness activities.

In recent testimony before the House of Representatives, Army GEN Ray Odierno noted the Army's personnel will shrink by 18 percent in the next 7 years. This includes a 26 percent reduction in Active Army personnel, 12 percent reduction in Army National Guard, and a 9 percent reduction in the Army Reserve.

In discussing these reductions, General Odierno said:

> In my view, these reductions will put at substantial risk our ability to conduct even one sustained major combat operation.

While I hope we will not have to engage in such an operation in the near future, this reduction in our capacity to do so is very troubling.

In addition, Navy ADM Jonathan Greenert expressed serious concern about cuts to operations and maintenance and investment accounts. These cuts threaten the Navy's readiness. He explained that the Navy would likely have to cancel necessary maintenance, which reduces the useful life of ships and aircraft. In addition, the Navy's shipbuilding program could be seriously affected. This means a submarine, a littoral combat ship, and an

afloat forward-staging base could be on the chopping block.

Hawaii is home to the Pacific Command. Its responsibility encompasses half the globe. This enormous area of responsibility is home to some of the most dynamic and fastest growing economies in the world. The Asia-Pacific nations are huge markets with growing middle classes of consumers for American goods and services. However, it is also home to some of the most serious security threats we face. It is an area where U.S. economic, strategic, and security interests face many challenges, but also many opportunities.

As part of our Nation's recognition that we need to engage more in this region, President Obama has committed to a rebalance of our strategic focus to the Asia-Pacific. The chairman of the Joint Chiefs, General Dempsey, described the Asia-Pacific rebalance by saying:

> It's about ''Three Mores''—more interest, more engagement, and from the military perspective more quality assets and quality interaction.

For the Asia-Pacific rebalance to provide the long-term benefits to our Nation, we need to be fully committed. This requires the transition, training, and support of U.S. military personnel and assets to the region. However, this important initiative is undermined by the budget cuts our military is facing. We cannot support regional peace and stability with insufficient resources and personnel. Yet this is the reality if we fail to address planned budget cuts.

These are just some examples of how our ability to effectively protect U.S. interests and security are being impacted by the Budget Control Act. We also know that reductions in defense spending impact the Nation's economy. For example, Department of Defense employees across the country, including thousands in Hawaii, have faced furloughs this year. This is a pay cut for many families at a time when they can least afford them.

Some will argue that all we need to do is to give the Department of Defense the authority to transfer funds between accounts. I strongly disagree. Congress can address these cuts to national security while also strengthening our overall economy. How can we do this? By simply eliminating sequester and funding the whole government at the level assumed by the Senate's budget resolution.

Sequestration, like the recent government shutdown, results in self-inflicted wounds to our economy. The shutdown was like a sudden economic heart attack. But sequestration is like death by a thousand cuts to our national defense, our science and research enterprise, and programs which our communities rely upon.

I have spoken a great deal about the impact of sequestration on our military. However, the substantial cuts sustained by our education, research and development, and infrastructure are equally as damaging. These are programs that support an educated and productive workforce, improve the flow of commerce and support those in our communities in the greatest need. Just as a hollowed-out force will struggle to meet mission requirements, a hollowed-out workforce will struggle to compete in the global economy. These two are tightly linked. That is why I urge my colleagues to support eliminating sequestration for both military and nondefense programs.

The Financial Times recently reported that U.S. public investment has dropped to 3.6 percent of GDP. This is well below the 5 percent we have averaged since World War II. These cuts not only undermine our long-term national security strategy but also our long-term competitiveness and economic growth. Without a strong economy, we cannot sustain the investments we need and a strong national defense.

According to Macroeconomic Advisers, spending cuts enacted since 2010 have reduced GDP by 0.7 percentage points. This reduction in our economy has raised unemployment by 0.8 percent, or 1.2 million jobs. The Congressional Budget Office—CBO—recently reported we could give our economy a significant boost by eliminating sequestration. In fact, CBO found that if Congress had enacted legislation last summer to cancel the 2013 and 2014 sequester, the economy would have nearly 1 million more jobs by next year. Our economy would also grow nearly a full percentage point faster.

To put this in perspective, without sequestration, our economy would be nearly back on track to where it was before the great recession.

We all recognize a strong economy is the backbone of our strength as a Nation. In order to get back to full strength, we need to get more people back to work. The more people who are working, the more productive our economy is. This is not rocket science. The more productive our economy, the more opportunity there is for people to achieve the American Dream.

Getting people back to work also means less people have to rely on safety net programs and more tax revenues coming in without raising any tax rates. By reducing spending and increasing revenue this way, we are helping to stabilize our fiscal situation.

A robust economy ensures that our Nation has the capacity to meet our commitments and support our vital priorities. This means we don't have to choose between a strong national defense and investment in education, infrastructure, and innovation. We can, and must, do both.

The place to start is with ending sequestration and revising the Budget Control Act caps. This modest policy change will pay dividends for our economy and, in turn, will strengthen our national security.

I yield the floor.

NSA OVERSIGHT AND ACCOUNTABILITY

Mr. LEAHY. Mr. President, we are at a watershed moment in the history of intelligence oversight, like nothing I have seen since the Church Committee. Some of the recent revelations have led to important national conversations about the scope of our Nation's intelligence gathering powers here at home, and to renewed legislative efforts to recalibrate those authorities and the related oversight regimes. The USA FREEDOM Act that Congressman JIM SENSENBRENNER and I introduced last week along with more than 100 members of Congress does just that.

It is important, however, to acknowledge that some of the leaks have led to needless risk to our national security and have threatened our relationships with some of our most important international partners.

And all of this leads back to a 29-year-old contractor named Edward Snowden.

Let me make clear once more that I do not condone the way any of these highly classified programs were disclosed. I am deeply concerned about the potential damage to our intelligence gathering capabilities, foreign relationships, and national security.

I am also deeply concerned that one person could wreak this much havoc in such a short period of time. Especially in the wake of the Private Manning leaks, I do not understand how the National Security Agency could have allowed this to happen.

This past weekend, Colbert King wrote in the Washington Post that this damage was, in a sense, self-inflicted. I ask unanimous consent that the King op-ed be printed in the RECORD. As Mr. King put it, ''I want to know how Snowden got his hands on so much of the nation's most sensitive intelligence and was able to flee the country, all within three months.''

I want to know too. We need to hold people accountable for allowing such a massive leak to occur and we need to change the way we do business to ensure that we prevent this type of breach in the future. In public and in private, I have continued to ask the leaders of the intelligence community to tell me who is being held accountable and what is being done to prevent this from happening again.

Without adequate answers to these questions, the American people are rightly concerned that their private information could be swept up into a massive database, and then compromised. The NSA has acknowledged that it is collecting U.S. phone records on an unprecedented scale, and that it is also collecting massive amounts of Internet content against targets abroad, which also includes some communications of law-abiding Americans. And yet the government asks us to trust that it will keep this information safe, and that we should have faith in its internal policies and procedures.

This plea comes from the same intelligence community that the FISA

court found to have made substantial misrepresentations about the scope of its collection; and the same intelligence community that allowed Edward Snowden to steal such vast amounts of information.

And it comes from the same intelligence community whose inspector general just wrote to tell me that he is unable at this time to conduct a communitywide review of government activities conducted under section 215 of the USA PATRIOT Act and section 702 of the Foreign Intelligence Surveillance Act. I ask unanimous consent that the September 23, 2013, letter from a bipartisan group of Senate Judiciary Committee members to the inspector general of the intelligence community be printed in the RECORD, as well as his November 5, 2013, response.

The intelligence community faces a trust deficit, and I am particularly concerned that the NSA has strayed and overreached beyond its core missions. One important step toward rebuilding that trust would be for the NSA to spend less of its time collecting data on innocent Americans, and more on keeping our Nation's secrets safe and holding its own accountable.

The Senate Judiciary Committee will continue its work on these issues in the next few weeks. On November 13, the Subcommittee on Privacy, Technology, and the Law will hold a hearing on Senator FRANKEN's Surveillance Transparency Act, which I have cosponsored. And on November 20, I have invited back to the committee Director of National Intelligence James Clapper, NSA Director Keith Alexander, and Deputy Attorney General James Cole for another hearing to review the intelligence community's surveillance authorities.

[From the Washington Post, Nov. 2, 2013]

LATEST NSA SPYING REVELATIONS DISTRACT FROM THE REAL ISSUES

(By Colbert I. King)

What's this about governments spying on their closest allies?

We called it ''the bubble.'' It was a 12-by-15-foot acoustic conference room made of clear plastic and aluminum. There were at least five inches of space between the walls of the bubble and the walls of the room in which it was located. The bubble's plastic walls, ceiling and floor allowed visual inspection for electronic listening devices, or ''bugs.''

As an extra security measure, a noise-generating machine was installed in the outer room to prevent interception of any discussions of classified information within the bubble. The outer room was secured by a combination lock, the code known only to my office.

The first U.S. ''bubble'' was installed after hidden microphones were found in American diplomatic missions in Moscow, Prague and elsewhere in the 1960s.

Our bubble, within a room on an upper floor of the U. S. Embassy in Bad Godesberg, West Germany, was a countermeasure against possible technical penetration by the Soviet KGB and the East German Stasi. But Eastern Bloc countries weren't the only concern.

Our bubble allowed classified discussions to occur beyond the hearing of our host and ally, the-then Federal Republic of Germany, and our friends down the road in the French and British embassies.

That was nearly 50 years ago.

This year, in my current capacity, I was sitting in the office of an ambassador in Washington when a member of his staff alerted him to an important call. There was a phone on the ambassador's desk. But he left the room to take the call.

It turns out that his prime minister was calling from overseas. The ambassador went to a secure location in the embassy where he could conduct a confidential conversation.

True, he was in the capital city of his nation's closest ally. But the matter to be discussed was for the ears of his countrymen only, U. S. friendship notwithstanding.

Today, as the United States has been doing for decades, close allies in Europe, the Middle East and elsewhere take similar precautions even when their missions are in friendly countries.

Gentlemen may know that it is bad form to read each other's mail or to eavesdrop. But in diplomacy and national security, the desire to know what another country is up to tends to overwhelm any sense of rectitude.

Consequently, the European outrage over snooping among friends may be slightly overdone. That is an entirely separate matter from the National Security Agency's (NSA) vacuum-cleanerlike collection of the communication records and metadata of millions of Americans, including private citizens and, apparently, foreign citizens both here and overseas. The scope of that intelligence-collection program, disputed by Gen. Keith Alexander, the director of the NSA, this week is the cause of uproar around the country and in Congress. There is still much to sort out and probably reform.

The monitoring of foreign leaders' phone calls, however, is closer to the larger deed of spying on allied governments.

Which takes us to an indelicate question: Why is a foreign leader, a repository of a nation's secrets, communicating by text messages and smartphone?

The most junior Foreign Service officer or government civil servant entrusted with sensitive information assumes that e-mails and cellphones are susceptible to eavesdropping. What makes a head of state behave as if he or she is immune from monitoring?

Which brings up another tactless question: Why haven't the security services of those foreign leaders developed countermeasures to prevent successful spying on personal communications?

The danger here isn't simply that the NSA may have overstepped its bounds with respect to U.S. allies. The intelligence services of the foes of Germany, France, Spain, Brazil and the like may have the capacity to listen in on high-level conversations.

The naiveté of outraged foreign leaders and their vulnerability to spying are nearly—but not totally—as surprising as the scale of NSA snooping.

The NSA revelations, meanwhile, should not draw attention away from the revelations' primary source: Edward Joseph Snowden.

How in the world is it possible that a high school dropout with a GED, a community college student who didn't graduate, a failed Army recruit and security guard can catapult himself into a CIA information technology job, an overseas posting and subsequently a $200,000-a-year job with a company contracted to do NSA work in Hawaii, where he was able to gain access to the crown jewels of America's secrets?

Whistleblower, traitor, patriot: Debate the labels all you want. The government has charged him with espionage. Take it up with Attorney General Eric Holder.

I want to know how Snowden got his hands on so much of the nation's most sensitive intelligence and was able to flee the country, all within three months.

Damage? Done by the U.S. government to itself.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 23, 2013.

Hon. I. CHARLES MCCULLOUGH III,
Inspector General of the Intelligence Community, Office of the Director of National Intelligence, Washington, DC.

DEAR INSPECTOR GENERAL MCCULLOUGH: Recent disclosures about classified government surveillance activities have generated significant public discussion about the breadth of these programs, many of which are conducted pursuant to the Foreign Intelligence Surveillance Act (FISA), and the need for appropriate oversight and checks and balances.

In particular, concerns have arisen about activities conducted under Section 215 of the USA PATRIOT Act and Section 702 of FISA, which was enacted as part of the FISA Amendments Act of 2008. Recently declassified documents appear to reveal numerous violations of law and policy in the implementation of these authorities, including what the FISA Court characterized as three ''substantial misrepresentation[s]'' to the Court. These declassified documents also demonstrate that the implementation of these authorities involves several components of the Intelligence Community (IC), including the National Security Agency, Department of Justice, Federal Bureau of Investigation, Central Intelligence Agency, and the Office of the Director of National Intelligence, among others.

We urge you to conduct comprehensive reviews of these authorities and provide a full accounting of how these authorities are being implemented across the Intelligence Community. The IC Inspector General was created in 2010 for this very purpose. Comprehensive and independent reviews by your office of the implementation of Sections 215 and 702 will fulfill a critical oversight role. Providing a publicly available summary of the findings and conclusions of these reviews will help promote greater oversight, transparency, and public accountability.

In conducting such reviews, we encourage you to draw on the excellent work already done by the Inspectors General of several agencies, including the Department of Justice, in reviewing these authorities. But only your office can bring to bear an IC-wide perspective that is critical to effective oversight of these programs. The reviews previously conducted have been more narrowly focused—as might be expected—on a specific agency.

In particular, we urge you to review for calendar years 2010 through 2013:

- The use and implementation of Section 215 and Section 702 authorities, including the manner in which information—and in particular, information about U.S. persons—is collected, retained, analyzed and disseminated;
- applicable minimization procedures and other relevant procedures and guidelines, including whether they are consistent across agencies and the extent to which they protect the privacy rights of U.S. persons;
- any improper or illegal use of the authorities or information collected pursuant to them; and
- an examination of the effectiveness of the authorities as investigative and intelligence tools.

We have urged appropriate oversight of these activities long before the problems

with the implementation of these FISA authorities became public. We believe it is important for your office to begin this review without further delay.

Please proceed to administratively perform reviews of the implementation of Section 215 of the USA PATRIOT Act and Section 702 of FISA, and submit the reports no later than December 31, 2014. Thank you in advance for your efforts to ensure a full accounting of the implementation of these surveillance authorities across the Intelligence Community.

Sincerely,

Patrick Leahy, Charles Schumer, Sheldon Whitehouse, Christopher Coons, Richard Blumenthal, Chuck Grassley, Ted Cruz, Michael S. Lee, Jeff Flake.

INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

Washington, DC, November 5, 2013.

Memorandum for: See distribution.

Subject: IC IG Review of Section 215 of the USA PATRIOT Act and Section 702 of FISA Authorities.

Thank you for your 23 September 2013 letter requesting that my office review the Intelligence Community's (IC) use of Section 215 of the USA PATRIOT Act authorities and Section 702 of FISA authorities.

At present, we are not resourced to conduct the requested review within the requested timeframe. As you stated in your letter, several IC inspectors general have oversight of the IC's use of foreign electronic surveillance authorities. While my office has the jurisdiction to conduct an IC-wide review of all IC elements using these authorities, such a review will implicate ongoing oversight efforts. Therefore, I have been conferring with several IC Inspectors General Forum members in order to consider how such a review might be accomplished given the potential impact to IG resources and ongoing projects. As my IG colleagues and I confer regarding the possibility of conducting a joint review of the requested topic, I will keep you and the committee staff informed.

Again, I thank you for your continued support of the IG community. If you have any questions regarding this subject, please contact me or my Legislative Counsel, Melissa Wright, at 571–204–8149.

Sincerely,

I. CHARLES MCCULLOUGH, III,
Inspector General of the Intelligence Community.

FEDERAL FINANCIAL TRANSPARENCY

Mr. WARNER. Mr. President, I rise today to discuss a topic not debated nearly enough here on the Senate floor—making the Federal Government more accountable and transparent.

Today, the Homeland Security and Governmental Affairs Committee, under the leadership of Chairman CARPER and Ranking Member COBURN, passed important legislation that will expand Federal financial transparency and accountability in many important ways.

I sponsored this legislation—the Digital Accountability and Transparency, or DATA, Act—because it will significantly reform the way agencies report Federal spending, and for the first time provide checkbook-type spending data from across the Federal Government.

The Federal Government spends more than $3.7 trillion each year, with more than $1 trillion being distributed as awards. However, the public cannot clearly track where this money goes. We currently have a Web site—USASpending.gov—that is supposed to show taxpayers and policymakers where the money goes, but it is not accurate.

Most States already have an online portal so that taxpayers can track where their dollars are spent, and it is long past time for the Federal Government to move into the 21st century and adopt a similar system.

At a recent hearing of the Budget Committee Task Force on Government Performance that I chair, it was reported that over $900 billion of direct assistance data on USASpending.gov was misreported in 2011 alone.

No wonder the public has such little confidence in government—we can't even tell them where their tax money goes.

It seems to me that the data collected by the budget shops, the accountants, the procurement offices, and grant makers all needs to be combined, reconciled, and then presented in a relevant and transparent way.

These various systems should be able to work together based on financial standards so that policymakers and the public can track the full cycle of Federal spending clearly.

The DATA Act will help us move in that direction by making four specific improvements that I want to highlight today.

First, it creates transparency for all Federal funds. DATA will expand USAspending.gov to include spending data for all Federal funds by appropriation, Federal agency, program, function, and maintain the current reporting for Federal awards like contracts, grants, and loans. This is important because there is currently no place online to find and compare all government spending.

This expansion of USASpending.gov will allow policymakers and taxpayers to track Federal funds more clearly and to more easily link spending to budget priorities.

Second, the DATA Act sets government-wide financial data standards. Currently there are no consistent standards for reporting financial data to USAspending.gov, and it makes much of the data confusing and unreliable—especially if you want to compile and compare spending from multiple Federal agencies.

DATA tasks the Department of Treasury with establishing consistent financial data standards for the Federal agencies to support the USAspending.gov website.

Third, the DATA Act will actually reduce recipient reporting requirements. I have long been concerned about the compliance costs for the recipients of Federal funds. It appears that all the overlapping systems are frustrating and also create additional waste—especially for State and local governments.

For example, many universities file similar financial reports, multiple times, to multiple agencies on an annual, quarterly and monthly basis. If all this reporting redundancy were streamlined, we could direct more money to programs and less to administrative costs.

This legislation requires the Office of Management and Budget to review the existing Federal award recipient financial reporting to reduce compliance costs based on the new financial data standards.

Finally, the DATA Act will improve data quality. The inspectors general at each agency will be required to provide reports on the quality and accuracy of the financial data provided to USASpending.gov. Then GAO will then create a government-wide assessment on data quality and accuracy based on the inspectors generals' findings.

Being able to follow the money is critically important to running our government in a more efficient way and getting the best value for the taxpayer. The DATA Act will help us take steps in that direction, and that is why passing it is so important.

I want to close today by saying thanks again to my colleagues for passing the DATA Act out of committee. I am also pleased to be working with my friend, Republican ROB PORTMAN of Ohio, as my Senate cosponsor of the DATA Act. We will continue working to make sure this important bipartisan legislation becomes law this year.

ADDITIONAL STATEMENTS

TRIBUTE TO CAPTAIN EDWARD KLEIN

• Mr. BOOZMAN. Mr. President, I rise today to honor U.S. Army CPT Edward ''Flip'' Klein, an Arkansas soldier who fought for his country on the battlefield and is fighting to recover from injuries he sustained in Afghanistan.

On October 22, 2012, while out on patrol near Kandahar, Captain Klein, a 2006 West Point graduate, was severely wounded, losing both of his legs, his right arm, and severely damaging his left hand. Captain Klein credits much of his recovery success to his wife Jessica who he calls his ''rock.'' His determination is an inspiration to everyone who meets him. Albert Carey Caswell wrote this poem, ''The Battle, After the Fight,'' in honor of Captain Klein and his family:

And on that morning . . .
When we awake . . .
As we so see what this war would take . . .
As all of our hearts so begin to break!
Will we be ready,
for this new battle that which before us now awaits?
All in our strength,
and faith!
The . . .
The Battle,
After The Fight!
From out of the darkness,
into the light!

Those brave hearts,
who bring their light!
Who evil must fight!
After That Battle,
But Begins The Fight!
When,
hearts of honor so chose to ignite!
When,
death stands so all in sight!
All out on that edge,
after The Battle But Begins The Fight!
All in what . . .
within ones chest ignites!
While,
so close to death!
All in this most divine sight!
When,
heroic hearts of valor so reach to new heights!
To Fight!
After That Battle!
But So Comes The Fight!
Moving forth,
throughout all of this darkness as courageously onward they stride!
While against all odds,
to a place where only the most magnificent of all hearts of honor reside!
After The Battle!
With but tears in their eyes!
As their families so cry!
Asking our Lord up above,
for the strength to supply!
After That Battle!
As somehow!
As someway!
So very deep down inside,
as onward they fight!
How Brilliant! How Brilliant!
How Brilliant they shine!
So surely these are America's brightest of all lights!
After The Battle!
Now Into The Fight!
Hooo . . . aaah!
As Captain Klein,
your most magnificent of all hearts would ignite!
For you are a warrior whose heart burns bright!
As man who is Army Strong!
Who all for his Country Tis Thee,
his fine heart beats loud and so long!
After That Battle Flip,
As So Began Your Most Courageous of All Fights!
As one of the few,
who to West Point so belongs!
As you Flip,
so earned that most honored of all rights!
The kind of man,
that MacArthur or Mahollen would so sing of both day and night!
Both day and night!
And General Petraeus,
would give a big Hooo . . . aah so all on sight!
Because After The Battle!
But So Brings The Fight!
The kind which so bring tears to The Angel's eyes on this night!
As it was while out on patrol,
when death to you so spoke!
With you Captain Klein lying there so close to death . . .
As all in that moment,
to yourself you so made a pledge!
To live on,
while your heart of valor would crest!
As they so gave you last rites!
As from you but so came a most magnificent sight!
After That Battle,
as your fine heart so chose to fight!
As so came your light!
As You Edward So Chose To Stand and To Fight!
With All of Your Might!
Which to this day,
lives on brighter than bright!
TO SO REACH US!
TO SO TEACH US!
TO SO SPEAK TO US!
TO SO BESEECH US!
All in hearts born,
which now so warmly lives on which so greets us!
After That Battle,
but so Came Your Most Heroic of All Fights!
Oh what a most beautiful,
most sacred of all sights!
From out of The Point,
a fine hero whose heart would anoint!
A world,
with its faith and its courage . . .
to so surely nourish to keep hope alive!
After That Battle!
As onward Captain you were so to stride!
With your fine wife Jessica all by your side!
As together you cried!
You cried!
As when you awoke and looked down . . .
All in what you found . . .
As your heart broke!
As The Real Captain America's heart spoke!
For you had miles to go!
And so many hearts to touch so,
all in this load!
All out in the distance which so means the most!
For you have mountains to so climb!
And hilltops to so reach,
so all in your time!
And out of so many valleys to climb!
As you take that beach!
While watching you,
all of our hearts so break with feelings so very deep!
After That Battle Which To All Of Us Teach!
All left in your most courageous of all wakes,
that which so speaks!
As on ward you continued your climb,
no matter how steep!
After That Battle!
After That Fight!
What This World Must So Know On This Very Night!
Teaching us all about life,
as there you would so courageously go!
While watching your fine heart all in leaps and bounds grow!
While,
holding onto to your faith and not letting go!
After That Battle So!
All in your angelic glow!
As somehow the courage you found so!
For you live in a town without pity,
and oh how it shows!
No Flip,
you're not half the man you used to be!
For your sum,
for your whole . . .
has grown far much more greater see!
And I could climb to the highest of all mountaintops,
to the very top!
And still I would have to look up to you to see!
Because After That Battle,
your heart would not so stop!
Because minutes,
are all that we so have!
Moments,
to make a difference to defeat all of that bad!
Better to live for something,
than realize your life meant nothing at all!
Better to die for something,
than in the end wishing your life you could recall!
Better to give up your strong legs and arm while standing tall!
Than look back in such regret realizing,
all you ever did was crawl!
Yes arms and legs we need,
one and all!
But we can get by!
But without a heart,
we will so surely die!
For it's all what's found from deep down within,
the reason why!
And up in Heaven you need not arms nor even legs,
and Captain Klein that's where you're going you can rely!
I'd much rather limp here on earth,
and run with our Lord up in Heaven for what I gave because of my worth!
Where you lead Captain,
I will follow!
Because After That Battle!
As So Began Your Most Courageous Fight!
Bringing Such Warmth!
Bringing Such Light!
Breaking hearts,
to your left and to your right!
Bringing tears to all of your Brothers In Arms,
who After The Battle So Saw Your Fight!
With this sacred bond,
and this blood which binds you both day and night!
And After The Battle!
Will we so choose to run?
Or will we so choose to fight?
Will all of our hearts so ignite?
Will we so bring our light?
Or will we in the darkness reside?
Or will we move on,
and to like the sunlight shine so very bright?
All In That Battle,
After That Fight!●

COMMENDING THE GEORGIA AIR NATIONAL GUARD

● Mr. CHAMBLISS. Mr. President, today I wish to recognize the 10th anniversary of the 165th Airlift Wing of the Georgia Air National Guard. Since 2003, the Georgia Air National Guard has played a vital role in fighting the war on terror, with over 80 percent of the wing's 900 airmen serving in Operation Iraqi Freedom, Operation Enduring Freedom, and Operation New Dawn.

I could not be prouder that these brave men and women call Georgia their home. They protected our Nation during a critical time, and in doing so set the standard for service in the Georgia Air National Guard. As a unit, they have flown more than 11,363 hours and 7,441 combat sorties. They were the first C–130 unit to deploy and operate out of Iraq under the famous ''Red Tail'' designation of the 332nd Air Expeditionary Wing, and they were also the only squadron in the U.S. Central Command area of responsibility tasked at 100 percent. The wing crew supported the rescue mission of SEAL Team 10 and 3rd Battalion of the 160th Special Operations Aviation Regiment when they lost three members of their team, and their heroic actions became the subject of Marcus Luttrell's book, Lone Survivor.

It is only fitting we commend these courageous individuals of the 165th Airlift Wing of the Georgia Air National

Guard for their outstanding service and sacrifice. Their determination to protect our fellow Americans and defend our freedom should be an example to us all.●

● Mr. ISAKSON. Mr. President, I wish to honor in the RECORD the 165th Airlift Wing of the Georgia Air National Guard for 10 years of exemplary service on behalf of the United States.

During the wing's decorated career, it served in Operation Iraqi Freedom, Operation Enduring Freedom and Operation New Dawn with the majority of the unit's 900 airmen having been deployed in support of these major war operations.

Over the past decade, the unit has flown over 11,363 hours and 7,441 combat sorties, and in 2004, the wing was the first C–130 unit to deploy and operate out of Iraq and fly under the distinguished ''Red Tail'' designation 332nd Air Expeditionary Wing.

A unit of precision and valor, the wing crew supported the rescue mission of SEAL Team 10 and 3rd Battalion of the 160th Special Operations Aviation Regiment. During the mission, 16 U.S. servicemembers were tragically killed in action, including three from the wing after a MH–47D Chinook was shot down during a reaction force task in support of the U.S. Navy SEALS. Acting swiftly and heroically, the wing was the first C–130 aircraft to respond. The courageous response from the unit was later celebrated in Marcus Luttrell's book, Lone Survivor.

The 165th Airlift Wing of the Georgia Air National Guard has set a standard of military excellence, and its decade of service during the War on Terror has demonstrated remarkable strength and diligence.

It is with great pleasure that I recognize the altruism and bravery showed by the 165th Airlift Wing of the Georgia Air National Guard and thank the unit for its courageousness and dedication toward protecting the freedom of our country.●

TRIBUTE TO WILBUR FAISS

● Mr. HELLER. Mr. President, today I wish to recognize a true Nevadan, humble public servant, and dedicated family man, Wilbur Faiss. Believed to have been the Nation's oldest-living legislator, Mr. Faiss's passing is a great loss and his commitment to serving the Silver State will never be forgotten.

Representing Las Vegas, Mr. Faiss served 2 terms in the Senate from 1976 to 1984. During his time in the Legislature, he authored two important laws, including one allowing pharmacists to substitute affordable, generic brands in place of name brand drugs, and another to allow seniors to access State parks and campgrounds for free. Mr. Faiss was also a strong advocate for the Equal Rights Amendment in 1977 and has professed that voting in support of that piece of legislation was one of the proudest moments of his life.

On his 100th birthday, Mr. Faiss lent advice from his experience in the Senate, stressing the importance of compromise and a positive outlook, whether in your professional or personal life. It is clear that he practiced these sensibilities in the Senate and at home. His marriage of 79 years to his late wife, Theresa, is a testament to this philosophy. In 2012, he and Theresa were recognized as one of the longest married couples in the U.S.

The citizens of the Silver State were fortunate that such a dedicated and passionate individual called Nevada home. Mr. Faiss serves as an example for others who hold the role of public office. My thoughts and prayers go out to his three sons, six grandchildren, five-great grandchildren, and four great-great grandchildren. Today, I would ask my colleagues to join me in remembering the life of a devoted Nevadan and honoring his accomplishments.●

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:40 a.m., a message from the House of Representatives, delivered by Mrs. Chiappardi, one of its reading clerks, announced that the Speaker pro tempore (Mr. UPTON) had signed the following enrolled bills:

H.R. 2094. An act to amend the Public Health Service Act to increase the preference given, in awarding certain asthma-related grants, to certain States (those allowing trained school personnel to administer epinephrine and meeting other related requirements).

H.R. 3302. An act to name Department of Veterans Affairs medical center in Bay Pines, Florida, as the ''C.W. Bill Young Department of Veterans Affairs Medical Center''.

The enrolled bills were subsequently signed by the President pro tempore (Mr. LEAHY).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3491. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Spirotetramat; Pesticide Tolerances'' (FRL No. 9399–4) received in the Office of the President of the Senate on November 5, 2013; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3492. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Department of Defense (DoD) providing military compensation and retirement modernization recommendations to the Military Compensation and Retirement Modernization Commission and Congress; to the Committee on Armed Services.

EC–3493. A communication from the Assistant Secretary of Defense (Global Strategic Affairs), transmitting, pursuant to law, a report entitled ''Report on Utilization of Contributions to the Cooperative Threat Reduction Program''; to the Committee on Armed Services.

EC–3494. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Removal of References to Credit Ratings in Certain Regulations Governing the Federal Home Loan Banks'' (RIN2590–AA40) received in the Office of the President of the Senate on November 4, 2013; to the Committee on Banking, Housing, and Urban Affairs.

EC–3495. A communication from the Chair, Securities and Exchange Commission, transmitting, pursuant to law, the 2012 Annual Report of the Securities Investor Protection Corporation (SIPC); to the Committee on Banking, Housing, and Urban Affairs.

EC–3496. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA–2013–0002)) received during adjournment of the Senate in the Office of the President of the Senate on November 1, 2013; to the Committee on Banking, Housing, and Urban Affairs.

EC–3497. A communication from the Associate General Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Housing Capital Fund Program'' (RIN2577–AC50) received in the Office of the President of the Senate on October 30, 2013; to the Committee on Banking, Housing, and Urban Affairs.

EC–3498. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Kingdom of Saudi Arabia; to the Committee on Banking, Housing, and Urban Affairs.

EC–3499. A communication from the Administrator, U.S. Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''The Availability and Price of Petroleum and Petroleum Products Produced in Countries Other Than Iran''; to the Committee on Energy and Natural Resources.

EC–3500. A communication from the Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, (10) ten reports relative to vacancies in the Department of Energy, received during adjournment of the Senate in the Office of the President of the Senate on November 1, 2013; to the Committee on Energy and Natural Resources.

EC–3501. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled ''Quality of Water, Colorado River Basin, Progress Report No. 24''; to the Committee on Energy and Natural Resources.

EC–3502. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Qualification Tests for Safety-Related Actuators in Nuclear Power Plants'' (Regulatory Guide 1.73, Revision 1) received in the Office of the President of the Senate on November 4, 2013; to the Committee on Environment and Public Works.

EC–3503. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Design of Structures, Components, Equipment, and Systems'' (NUREG–0800) received in the Office of the President of the Senate on November 4, 2013; to the Committee on Environment and Public Works.

EC–3504. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant

to law, the report of a rule entitled ''Revisions to Radiation Protection'' (NUREG–0800) received in the Office of the President of the Senate on November 4, 2013; to the Committee on Environment and Public Works.

EC–3505. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Significant New Use Rule on Certain Chemical Substances; Removal of Significant New Use Rules'' (FRL No. 9902–16) received in the Office of the President of the Senate on November 5, 2013; to the Committee on Environment and Public Works.

EC–3506. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Civil Monetary Penalty Inflation Adjustment Rule'' (FRL No. 9901–98–OECA) received in the Office of the President of the Senate on November 5, 2013; to the Committee on Environment and Public Works.

EC–3507. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Extension of Deadline for Action on the Section 126 Petition from Eliot, Maine'' (FRL No. 9902–55–OAR) received in the Office of the President of the Senate on November 5, 2013; to the Committee on Environment and Public Works.

EC–3508. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio: Bellefontaine; Determination of Attainment for the 2008 Lead Standard'' (FRL No. 9902–33–Region 5) received in the Office of the President of the Senate on November 5, 2013; to the Committee on Environment and Public Works.

EC–3509. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Addition of ortho-Nitrotoluene; Community Right-to-Know Toxic Chemical Release Reporting'' (FRL No. 9902–12–OEI) received in the Office of the President of the Senate on November 5, 2013; to the Committee on Environment and Public Works.

EC–3510. A communication from the Acting Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel (OSS–2013–1711); to the Committee on Foreign Relations.

EC–3511. A communication from the Acting Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel (OSS–2013–1685); to the Committee on Foreign Relations.

EC–3512. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to section 36(d) of the Arms Export Control Act (RSAT–13–3485); to the Committee on Foreign Relations.

EC–3513. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''United States Participation in the United Nations in 2012''; to the Committee on Foreign Relations.

EC–3514. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to the Benjamin A. Gilman International Scholarship Program for 2013; to the Committee on Foreign Relations.

EC–3515. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the issuance of a determination to waive certain restrictions on maintaining a Palestine Liberation Organization (PLO) Office in Washington and on the receipt and expenditure of PLO funds for a period of six months; to the Committee on Foreign Relations.

EC–3516. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2013–0179–2013–0184); to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. CARPER for the Committee on Homeland Security and Governmental Affairs.

*Nanci E. Langley, of Hawaii, to be a Commissioner of the Postal Regulatory Commission for a term expiring November 22, 2018.

*Tony Hammond, of Missouri, to be a Commissioner of the Postal Regulatory Commission for a term expiring October 14, 2018.

*William Ward Nooter, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1344. A bill to promote research, monitoring, and observation of the Arctic and for other purposes (Rept. No. 113–117).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 987. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media (Rept. No. 113–118).

By Mr. CARPER, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1499. A bill to designate the facility of the United States Postal Service located at 278 Main Street in Chadron, Nebraska, as the ''Sergeant Cory Mracek Memorial Post Office''.

S. 1512. A bill to designate the facility of the United States Postal Service located at 1335 Jefferson Road in Rochester, New York, as the ''Specialist Theodore Matthew Glende Post Office''.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOOZMAN:

S. 1655. A bill to require the Secretary of Health and Human Services to approve waivers under the Medicaid Program under title XIX of the Social Security Act that are related to State provider taxes that exempt certain retirement communities; to the Committee on Finance.

By Mr. BOOZMAN (for himself and Mr. PRYOR):

S. 1656. A bill to clarify that volunteers at a children's consignment event are not employees under the Fair Labor Standards Act of 1938; to the Committee on Health, Education, Labor, and Pensions.

By Mr. UDALL of New Mexico:

S. 1657. A bill to reduce prescription drug misuse and abuse; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TOOMEY (for himself and Mr. MENENDEZ):

S. 1658. A bill to amend the Internal Revenue Code of 1986 to make permanent certain small business tax provisions, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. HARKIN):

S. 1659. A bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HAGAN (for herself, Mr. PRYOR, Mr. BEGICH, Mr. HEINRICH, Mr. TESTER, Mr. UDALL of Colorado, and Mr. WARNER):

S. 1660. A bill to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FLAKE (for himself and Mr. COONS):

S. Res. 288. A resolution supporting enhanced maritime security in the Gulf of Guinea and encouraging increased cooperation between the United States and West and Central African countries to fight armed robbery at sea, piracy, and other maritime threats; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 562

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 562, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

S. 623

At the request of Mr. CARDIN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 623, a bill to amend title XVIII of the Social Security Act to ensure the continued access of Medicare beneficiaries to diagnostic imaging services.

S. 653

At the request of Mr. BLUNT, the names of the Senator from Illinois (Mr. KIRK) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 653, a bill to provide for the establishment of the Special Envoy to Promote Religious Freedom of Religious Minorities in the Near East and South Central Asia.

S. 699

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. SCOTT) was added as a cosponsor of S. 699, a bill to reallocate Federal judgeships for the courts of appeals, and for other purposes.

S. 700

At the request of Mr. KAINE, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 700, a bill to ensure that the education and training provided members of the Armed Forces and veterans better assists members and veterans in obtaining civilian certifications and licenses, and for other purposes.

S. 795

At the request of Mr. COONS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 795, a bill to amend the Internal Revenue Code of 1986 to extend the publicly traded partnership ownership structure to energy power generation projects and transportation fuels, and for other purposes.

S. 842

At the request of Mr. SCHUMER, the name of the Senator from Maine (Mr. KING) was added as a cosponsor of S. 842, a bill to amend title XVIII of the Social Security Act to provide for an extension of the Medicare-dependent hospital (MDH) program and the increased payments under the Medicare low-volume hospital program.

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 842, supra.

S. 928

At the request of Mr. SANDERS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 928, a bill to amend title 38, United States Code, to improve the processing of claims for compensation under laws administered by the Secretary of Veterans Affairs, and for other purposes.

S. 932

At the request of Mr. BEGICH, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S. 932, a bill to amend title 38, United States Code, to provide for advance appropriations for certain discretionary accounts of the Department of Veterans Affairs.

S. 1012

At the request of Mr. BLUNT, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1012, a bill to amend title XVIII of the Social Security Act to improve operations of recovery auditors under the Medicare integrity program, to increase transparency and accuracy in audits conducted by contractors, and for other purposes.

S. 1046

At the request of Mr. SCHATZ, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1046, a bill to clarify certain provisions of the Native American Veterans' Memorial Establishment Act of 1994.

S. 1053

At the request of Mr. WYDEN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1053, a bill to amend title XVIII of the Social Security Act to strengthen and protect Medicare hospice programs.

S. 1069

At the request of Mrs. GILLIBRAND, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1069, a bill to prohibit discrimination in adoption or foster care placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

S. 1089

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 1089, a bill to provide for a prescription drug take-back program for members of the Armed Forces and veterans, and for other purposes.

S. 1143

At the request of Mr. MORAN, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1143, a bill to amend title XVIII of the Social Security Act with respect to physician supervision of therapeutic hospital outpatient services.

S. 1155

At the request of Mr. TESTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1155, a bill to provide for advance appropriations for certain information technology accounts of the Department of Veterans Affairs, to include mental health professionals in training programs of the Department, and for other purposes.

S. 1158

At the request of Mr. WARNER, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1158, a bill to require the Secretary of the Treasury to mint coins commemorating the 100th anniversary of the establishment of the National Park Service, and for other purposes.

S. 1187

At the request of Ms. STABENOW, the names of the Senator from New Mexico (Mr. UDALL), the Senator from Massachusetts (Ms. WARREN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1187, a bill to prevent homeowners from being forced to pay taxes on forgiven mortgage loan debt.

S. 1296

At the request of Mr. NELSON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1296, a bill to amend the Wounded Warrior Act to establish a specific timeline for the Secretary of Defense and the Secretary of Veterans Affairs to achieve interoperable electronic health records, and for other purposes.

S. 1302

At the request of Mr. HARKIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1302, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for cooperative and small employer charity pension plans.

S. 1310

At the request of Mr. PORTMAN, the name of the Senator from Arizona (Mr. FLAKE) was added as a cosponsor of S. 1310, a bill to require Senate confirmation of Inspector General of the Bureau of Consumer Financial Protection, and for other purposes.

S. 1332

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1332, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 1505

At the request of Mr. THUNE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1505, a bill to amend the Toxic Substances Control Act to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from definition under that Act.

S. 1557

At the request of Mr. NELSON, his name was added as a cosponsor of S. 1557, a bill to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

S. 1590

At the request of Mr. ALEXANDER, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 1590, a bill to amend the Patient Protection and Affordable Care

Act to require transparency in the operation of American Health Benefit Exchanges.

S. 1600

At the request of Ms. MURKOWSKI, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1600, a bill to facilitate the reestablishment of domestic, critical mineral designation, assessment, production, manufacturing, recycling, analysis, forecasting, workforce, education, research, and international capabilities in the United States, and for other purposes.

S. 1602

At the request of Mr. BLUMENTHAL, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1602, a bill to establish in the Department of Veterans Affairs a national center for the diagnosis, treatment, and research of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces, to provide certain services to those descendants, to establish an advisory board on exposure to toxic substances, and for other purposes.

S. 1610

At the request of Mr. MENENDEZ, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 1610, a bill to delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and for other purposes.

S. 1622

At the request of Ms. HEITKAMP, the names of the Senator from Hawaii (Mr. SCHATZ) and the Senator from Hawaii (Ms. HIRONO) were added as cosponsors of S. 1622, a bill to establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes.

S. 1624

At the request of Mr. BLUMENTHAL, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1624, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit for hiring veterans, and for other purposes.

S. 1632

At the request of Mr. WICKER, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1632, a bill to protect 10th Amendment rights by providing special standing for State government officials to challenge proposed regulations, and for other purposes.

S. 1644

At the request of Mrs. BOXER, the names of the Senator from Nebraska (Mrs. FISCHER), the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1644, a bill to amend title 10, United States Code, to provide for preliminary hearings on alleged offenses under the Uniform Code of Military Justice.

S. 1647

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1647, a bill to amend the Patient Protection and Affordable Care Act to repeal distributions for medicine qualified only if for prescribed drug or insulin.

S. RES. 128

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. Res. 128, a resolution expressing the sense of the Senate that supporting seniors and individuals with disabilities is an important responsibility of the United States, and that a comprehensive approach to expanding and supporting a strong home care workforce and making long-term services and supports affordable and accessible in communities is necessary to uphold the right of seniors and individuals with disabilities in the United States to a dignified quality of life.

S. RES. 251

At the request of Mr. SESSIONS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 251, a resolution expressing the sense of the Senate that the United States Preventive Services Task Force should reevaluate its recommendations against prostate-specific antigen-based screening for prostate cancer for men in all age groups in consultation with appropriate specialists.

S. RES. 284

At the request of Mr. CRUZ, his name was added as a cosponsor of S. Res. 284, a resolution calling on the Government of Iran to immediately release Saeed Abedini and all other individuals detained on account of their religious beliefs.

At the request of Mr. RISCH, the names of the Senator from Florida (Mr. RUBIO), the Senator from Illinois (Mr. KIRK) and the Senator from Ohio (Mr. PORTMAN) were added as cosponsors of S. Res. 284, supra.

S. RES. 287

At the request of Ms. COLLINS, her name was added as a cosponsor of S. Res. 287, a resolution congratulating the Boston Red Sox on winning the 2013 World Series.

AMENDMENT NO. 2011

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of amendment No. 2011 intended to be proposed to S. 815, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. HARKIN):

S. 1659. A bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. 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. 1659

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 Our Students and Taxpayers Act of 2013'' or ''POST Act of 2013''.

SEC. 2. 85/15 RULE.

(a) IN GENERAL.—Section 102(b) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''and'' after the semicolon;

(B) in subparagraph (E), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(F) meets the requirements of paragraph (2).'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) REVENUE SOURCES.—

''(A) IN GENERAL.—In order to qualify as a proprietary institution of higher education under this subsection, an institution shall derive not less than 15 percent of the institution's revenues from sources other than Federal funds, as calculated in accordance with subparagraphs (B) and (C).

''(B) FEDERAL FUNDS.—In this paragraph, the term 'Federal funds' means any Federal financial assistance provided, under this Act or any other Federal law, through a grant, contract, subsidy, loan, guarantee, insurance, or other means to a proprietary institution, including Federal financial assistance that is disbursed or delivered to an institution or on behalf of a student or to a student to be used to attend the institution, except that such term shall not include any monthly housing stipend provided under the Post-9/11 Veterans Educational Assistance Program under chapter 33 of title 38, United States Code.

''(C) IMPLEMENTATION OF NON-FEDERAL REVENUE REQUIREMENT.—In making calculations under subparagraph (A), an institution of higher education shall—

''(i) use the cash basis of accounting;

''(ii) consider as revenue only those funds generated by the institution from—

''(I) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under title IV;

''(II) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

''(aa) conducted on campus or at a facility under the control of the institution;

''(bb) performed under the supervision of a member of the institution's faculty; and

''(cc) required to be performed by all students in a specific educational program at the institution; and

''(III) a contractual arrangement with a Federal agency for the purpose of providing job training to low-income individuals who are in need of such training;

''(iii) presume that any Federal funds that are disbursed or delivered to an institution on behalf of a student or directly to a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits

such funds to the student's account or pays such funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

''(I) grant funds provided by an outside source that—

''(aa) has no affiliation with the institution; and

''(bb) shares no employees with the institution; and

''(II) institutional scholarships described in clause (v);

''(iv) include no loans made by an institution of higher education as revenue to the school, except for payments made by students on such loans;

''(v) include a scholarship provided by the institution—

''(I) only if the scholarship is in the form of monetary aid based upon the academic achievements or financial need of students, disbursed to qualified student recipients during each fiscal year from an established restricted account; and

''(II) only to the extent that funds in that account represent designated funds, or income earned on such funds, from an outside source that—

''(aa) has no affiliation with the institution; and

''(bb) shares no employees with the institution; and

''(vi) exclude from revenues—

''(I) the amount of funds the institution received under part C of title IV, unless the institution used those funds to pay a student's institutional charges;

''(II) the amount of funds the institution received under subpart 4 of part A of title IV;

''(III) the amount of funds provided by the institution as matching funds for any Federal program;

''(IV) the amount of Federal funds provided to the institution to pay institutional charges for a student that were refunded or returned; and

''(V) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

''(D) REPORT TO CONGRESS.—Not later than July 1, 2014, and by July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under title IV and as provided in the audited financial statements submitted to the Secretary by each institution pursuant to the requirements of section 487(c)—

''(i) the amount and percentage of such institution's revenues received from Federal funds; and

''(ii) the amount and percentage of such institution's revenues received from other sources.''.

(b) REPEAL OF EXISTING REQUIREMENTS.—Section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) by striking paragraph (24);

(B) by redesignating paragraphs (25) through (29) as paragraphs (24) through (28), respectively;

(C) in paragraph (24)(A)(ii) (as redesignated by subparagraph (B)), by striking ''subsection (e)'' and inserting ''subsection (d)''; and

(D) in paragraph (26) (as redesignated by subparagraph (B)), by striking ''subsection (h)'' and inserting ''subsection (g)'';

(2) by striking subsection (d);

(3) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively;

(4) in subsection (f)(1) (as redesignated by paragraph (3)), by striking ''subsection (e)(2)'' and inserting ''subsection (d)(2)''; and

(5) in subsection (g)(1) (as redesignated by paragraph (3)), by striking ''subsection (a)(27)'' in the matter preceding subparagraph (A) and inserting ''subsection (a)(26)''.

(c) CONFORMING AMENDMENTS.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 152 (20 U.S.C. 1019a)—

(A) in subsection (a)(1)(A), by striking ''subsections (a)(27) and (h) of section 487'' and inserting ''subsections (a)(26) and (g) of section 487''; and

(B) in subsection (b)(1)(B)(i)(I), by striking ''section 487(e)'' and inserting ''section 487(d)'';

(2) in section 153(c)(3) (20 U.S.C. 1019b(c)(3)), by striking ''section 487(a)(25)'' each place the term appears and inserting ''section 487(a)(24)'';

(3) in section 496(c)(3)(A) (20 U.S.C. 1099b(c)(3)(A)), by striking ''section 487(f)'' and inserting ''section 487(e)''; and

(4) in section 498(k)(1) (20 U.S.C. 1099c(k)(1)), by striking ''section 487(f)'' and inserting ''section 487(e)''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 288—SUPPORTING ENHANCED MARITIME SECURITY IN THE GULF OF GUINEA AND ENCOURAGING INCREASED COOPERATION BETWEEN THE UNITED STATES AND WEST AND CENTRAL AFRICAN COUNTRIES TO FIGHT ARMED ROBBERY AT SEA, PIRACY, AND OTHER MARITIME THREATS

Mr. FLAKE (for himself and Mr. COONS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 288

Whereas, although the number of armed robbery at sea and piracy attacks worldwide dropped substantially in recent years, such acts in the Gulf of Guinea are increasing, with more than 40 reported through October 2013 and many more going unreported;

Whereas the United States imported more than 315,000,000 barrels of oil through the region in 2012, and United States businesses have extensive fixed assets in the region that are important to United States energy security;

Whereas the nature of attacks in the Gulf of Guinea demonstrates an ongoing pattern of cargo thefts and robbery, often occurring in the territorial waters of West and Central African states;

Whereas there are countries in West and Central Africa that are susceptible to acts of armed robbery at sea and piracy that lack adequate law enforcement and naval capabilities to stop or deter such attacks;

Whereas acts of maritime crime raise the costs and risks of trade and commerce in Africa and beyond because the security of vessels, crews, and cargoes cannot be guaranteed;

Whereas shipping insurance premiums increase after such attacks, and in so doing, create disincentives for local, regional, and international investors and companies seeking to do business in the region;

Whereas imports provide indispensable goods and services for the people of West and Central Africa, generate port fees and customs duties for their governments, and are essential in spurring economic growth and development in the region;

Whereas the U.S. Strategy Toward Sub-Saharan Africa issued by President Barack Obama in June 2012 states, ''It is in the interest of the United States to improve the region's trade competitiveness, encourage the diversification of exports beyond natural resources, and ensure that the benefits from growth are broad-based.'';

Whereas a vibrant trade relationship between Africa and its partners, including the United States, can lead to expanded economic opportunities that can spur competition, raise productivity, and facilitate job creation in the economies of all participating countries;

Whereas the African Union, in collaboration with numerous official and nongovernmental stakeholders, developed the ''2050 Africa's Integrated Maritime Security'' strategy (the 2050 AIM STRATEGY) which seeks ''to address contending, emerging and future maritime challenges and opportunities in Africa . . . with a clear focus on enhanced wealth creation from a sustainable governance of Africa's oceans and seas'';

Whereas the African Union's 2050 AIM STRATEGY seeks to combat ''diverse illegal activities which include . . . arms and drug trafficking, human trafficking and smuggling, piracy, and armed robbery at sea'', among other objectives;

Whereas the June 24–25, 2013, meeting of the Gulf of Guinea Maritime Security Heads of State Summit held in Cameroon marked the culmination of a United States Government-supported Economic Communities of Central African States (ECCAS) and Economic Community of West African States (ECOWAS)-led initiative and process that produced an approved ECOWAS-ECCAS Memorandum of Understanding for regional cooperation, and adopted a Gulf of Guinea Code of Conduct to address maritime crime and a Heads of State Political Declaration;

Whereas ECOWAS and ECCAS states are working to cooperate and build their joint capacities in order to increase maritime security in the Gulf of Guinea and are working to achieve this goal with such partners as the United Nations Offices for West and Central Africa, the Gulf of Guinea Commission, the International Maritime Organization, the Maritime Organization for West and Central Africa, and the African Union;

Whereas the United States Government in the Gulf of Guinea has focused on encouraging multi-layered regional and national ownership in developing sustainable capacity building efforts, including working with partners through the G8++ Friends of Gulf of Guinea Group, to coordinate United States Government maritime security activities in the region;

Whereas the United States Government has assisted the countries of West and Central Africa to enhance regional maritime security through programs such as the ''African Partnership Station'', operated by United States Naval Forces Africa ''to build maritime safety and security by increasing maritime awareness, response capabilities and infrastructure'', and the ''African Maritime Law Enforcement Partnership'', which ''enables African partner nations to build maritime security capacity and improve management of their maritime environment through real world law enforcement operations, and through provision of diverse types of training and equipment assistance and participation in diverse regional maritime military exercises'', as well as by employing analytical tools such as the Maritime Security Sector Reform Guide; and

Whereas United Nations Security Council Resolution 2039, ''expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea pose to international navigation, security and the

economic development of states in the region'', was unanimously adopted on February 29, 2012: Now, therefore, be it

Resolved, That the Senate—

(1) condemns acts of armed robbery at sea, piracy, and other maritime crime in the Gulf of Guinea;

(2) endorses and supports the efforts made by United States Government agencies to assist affected West and Central African countries to build capacity to combat armed robbery at sea, piracy, and other maritime threats, and encourages the President to continue such assistance, as appropriate, within resource constraints; and

(3) commends the African Union, subregional entities such as the ECOWAS and ECCAS, and the various international agencies that have worked to develop policy and program frameworks for enhancing maritime security in West and Central Africa, and encourages these entities and their member states to continue to build upon these and other efforts to achieve that end.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2012. Mr. REID (for Mr. PORTMAN (for himself, Ms. AYOTTE, Mr. HELLER, Mr. HATCH, and Mr. MCCAIN)) proposed an amendment to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity.

SA 2013. Mr. REID (for Mr. TOOMEY (for himself, Mr. FLAKE, and Mr. MCCAIN)) proposed an amendment to the bill S. 815, supra.

SA 2014. Mr. REID proposed an amendment to the bill S. 815, supra.

SA 2015. Mr. REID proposed an amendment to amendment SA 2014 proposed by Mr. REID to the bill S. 815, supra.

SA 2016. Mr. REID proposed an amendment to the bill S. 815, supra.

SA 2017. Mr. REID proposed an amendment to amendment SA 2016 proposed by Mr. REID to the bill S. 815, supra.

SA 2018. Mr. REID proposed an amendment to amendment SA 2017 proposed by Mr. REID to the amendment SA 2016 proposed by Mr. REID to the bill S. 815, supra.

SA 2019. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 815, supra; which was ordered to lie on the table.

SA 2020. Ms. COLLINS (for Mr. REID) proposed an amendment to amendment SA 2013 proposed by Mr. REID (for Mr. TOOMEY (for himself, Mr. FLAKE, and Mr. MCCAIN)) to the bill S. 815, supra.

SA 2021. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 815, supra; which was ordered to lie on the table.

SA 2022. Mr. FLAKE submitted an amendment intended to be proposed by him to the bill S. 815, supra; which was ordered to lie on the table.

SA 2023. Ms. HIRONO (for Mr. SANDERS) proposed an amendment to the bill S. 287, to amend title 38, United States Code, to improve assistance to homeless veterans, and for other purposes.

TEXT OF AMENDMENTS

SA 2012. Mr. REID (for Mr. PORTMAN (for himself, Ms. AYOTTE, Mr. HELLER, Mr. HATCH, and Mr. MCCAIN)) proposed an amendment to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

Strike sections 2 through 6 and insert the following:

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to address the history and persistent, widespread pattern of discrimination on the bases of sexual orientation and gender identity by private sector employers and local, State, and Federal Government employers;

(2) to provide an explicit, comprehensive Federal prohibition against employment discrimination on the bases of sexual orientation and gender identity, including meaningful and effective remedies for any such discrimination;

(3) to invoke congressional powers, including the powers to enforce the 14th Amendment to the Constitution, and to regulate interstate commerce pursuant to section 8 of article I of the Constitution, in order to prohibit employment discrimination on the bases of sexual orientation and gender identity; and

(4) to reinforce the Nation's commitment to fairness and equal opportunity in the workplace consistent with the fundamental right of religious freedom.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term ''covered entity'' means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DEMONSTRATES.—The term ''demonstrates'' means meets the burdens of production and persuasion.

(4) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee to which section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)) applies;

(iii) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 411(c) of title 3, United States Code; or

(iv) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EXCEPTION.—The provisions of this Act that apply to an employee or individual shall not apply to a volunteer who receives no compensation.

(5) EMPLOYER.—The term ''employer'' means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h)) who has 15 or more employees (as defined in subparagraphs (A)(i) and (B) of paragraph (4)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 or section 411(c) of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(6) EMPLOYMENT AGENCY.—The term ''employment agency'' has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(7) GENDER IDENTITY.—The term ''gender identity'' means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

(8) LABOR ORGANIZATION.—The term ''labor organization'' has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(9) PERSON.—The term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(10) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, heterosexuality, or bisexuality.

(11) STATE.—The term ''State'' has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

(b) APPLICATION OF DEFINITIONS.—For purposes of this section, a reference in section 701 of the Civil Rights Act of 1964—

(1) to an employee or an employer shall be considered to refer to an employee (as defined in subsection (a)(4)) or an employer (as defined in subsection (a)(5)), respectively, except as provided in paragraph (2) of this subsection; and

(2) to an employer in subsection (f) of that section shall be considered to refer to an employer (as defined in subsection (a)(5)(A)).

SEC. 4. EMPLOYMENT DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's actual or perceived sexual orientation or gender identity; or

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee, because of such individual's actual or perceived sexual orientation or gender identity.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the actual or perceived sexual orientation or gender identity of the individual or to classify or refer for employment any individual on the basis of the actual or perceived sexual orientation or gender identity of the individual.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the actual or perceived sexual orientation or gender identity of the individual;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment, or would limit such employment or otherwise adversely affect the status of the individual as an employee or as an applicant for employment because of such individual's actual or perceived sexual orientation or gender identity; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-

management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the actual or perceived sexual orientation or gender identity of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) ASSOCIATION.—An unlawful employment practice described in any of subsections (a) through (d) shall be considered to include an action described in that subsection, taken against an individual based on the actual or perceived sexual orientation or gender identity of a person with whom the individual associates or has associated.

(f) NO PREFERENTIAL TREATMENT OR QUOTAS.—Nothing in this Act shall be construed or interpreted to require or permit—

(1) any covered entity to grant preferential treatment to any individual or to any group because of the actual or perceived sexual orientation or gender identity of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any actual or perceived sexual orientation or gender identity employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such actual or perceived sexual orientation or gender identity in any community, State, section, or other area, or in the available work force in any community, State, section, or other area; or

(2) the adoption or implementation by a covered entity of a quota on the basis of actual or perceived sexual orientation or gender identity.

(g) NO DISPARATE IMPACT CLAIMS.—Only disparate treatment claims may be brought under this Act.

(h) STANDARDS OF PROOF.—Except as otherwise provided, an unlawful employment practice is established when the complaining party demonstrates that sexual orientation or gender identity was a motivating factor for any employment practice, even though other factors also motivated the practice.

SEC. 5. RETALIATION PROHIBITED.

It shall be an unlawful employment practice for a covered entity to discriminate against an individual because such individual—

(1) opposed any practice made an unlawful employment practice by this Act; or

(2) made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

SEC. 6. EXEMPTION FOR RELIGIOUS ORGANIZATIONS.

(a) IN GENERAL.—This Act shall not apply to a corporation, association, educational institution or institution of learning, or society that is exempt from the religious discrimination provisions of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) pursuant to section 702(a) or 703(e)(2) of such Act (42 U.S.C. 2000e–1(a), 2000e–2(e)(2)) (referred to in this section as a ''religious employer'').

(b) PROHIBITION ON CERTAIN GOVERNMENT ACTIONS.—A religious employer's exemption under this section shall not result in any action by a Federal agency, or any State or local agency that receives Federal funding or financial assistance, to penalize or withhold licenses, permits, certifications, accreditation, contracts, grants, guarantees, tax-exempt status, or any benefits or exemptions from that employer, or to prohibit the employer's participation in programs or activities sponsored by that Federal, State, or local agency. Nothing in this subsection shall be construed to invalidate any other Federal, State, or local law (including a regulation) that otherwise applies to a religious employer exempt under this section.

SA 2013. Mr. REID (for Mr. TOOMEY (for himself, Mr. FLAKE, and Mr. MCCAIN)) proposed an amendment to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

In section 6, insert before ''This Act'' the following: ''(a) IN GENERAL.—''.

In section 6, insert at the end the following:

(b) IN ADDITION.—In addition, an employer, regardless of whether the employer or an employee in the employment position at issue engages in secular activities as well as religious activities, shall not be subject to this Act if—

(1) the employer is in whole or in substantial part owned, controlled, or managed by a particular religion or by a particular religious corporation, association, or society;

(2) the employer is officially affiliated with a particular religion or with a particular religious corporation, association, or society; or

(3) the curriculum of such employer is directed toward the propagation of a particular religion.

SA 2014. Mr. REID proposed an amendment to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

At the end, add the following:

This Act shall become effective 3 days after enactment.

SA 2015. Mr. REID proposed an amendment to amendment SA 2014 proposed by Mr. REID to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

In the amendment, strike ''3 days'' and insert ''4 days''.

SA 2016. Mr. REID proposed an amendment to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

At the end, add the following:

This Act shall become effective 5 days after enactment.

SA 2017. Mr. REID proposed an amendment to amendment SA 2016 proposed by Mr. REID to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

In the amendment, strike ''5 days'' and insert ''6 days''.

SA 2018. Mr. REID proposed an amendment to amendment SA 2017 proposed by Mr. REID to the amendment SA 2016 proposed by Mr. REID to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

In the amendment, strike ''6 days'' and insert ''7 days''.

SA 2019. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION _____. PRENATAL NONDISCRIMINATION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Prenatal Nondiscrimination Act (PRENDA) of 2013''.

(b) FINDINGS AND CONSTITUTIONAL AUTHORITY.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Women are a vital part of American society and culture and possess the same fundamental human rights and civil rights as men.

(B) United States law prohibits the dissimilar treatment of males and females who are similarly situated and prohibits sex discrimination in various contexts, including the provision of employment, education, housing, health insurance coverage, and athletics.

(C) Sex is an immutable characteristic ascertainable at the earliest stages of human development through existing medical technology and procedures commonly in use, including maternal-fetal bloodstream DNA sampling, amniocentesis, chorionic villus sampling or ''CVS'', and obstetric ultrasound. In addition to medically assisted sex determination, a growing sex determination niche industry has developed and is marketing low-cost commercial products, widely advertised and available, that aid in the sex determination of an unborn child without the aid of medical professionals. Experts have demonstrated that the sex-selection industry is on the rise and predict that it will continue to be a growing trend in the United States. Sex determination is always a necessary step to the procurement of a sex-selection abortion.

(D) A ''sex-selection abortion'' is an abortion undertaken for purposes of eliminating an unborn child based on the sex or gender of the child. Sex-selection abortion is barbaric, and described by scholars and civil rights advocates as an act of sex-based or gender-based violence, predicated on sex discrimination. Sex-selection abortions are typically late-term abortions performed in the 2nd or 3rd trimester of pregnancy, after the unborn child has developed sufficiently to feel pain. Substantial medical evidence proves that an unborn child can experience pain at 20 weeks after conception, and perhaps substantially earlier. By definition, sex-selection abortions do not implicate the health of the mother of the unborn, but instead are elective procedures motivated by sex or gender bias.

(E) The targeted victims of sex-selection abortions performed in the United States and worldwide are overwhelmingly female. The selective abortion of females is female infanticide, the intentional killing of unborn females, due to the preference for male offspring or ''son preference''. Son preference is reinforced by the low value associated, by some segments of the world community, with female offspring. Those segments tend to regard female offspring as financial burdens to a family over their lifetime due to their perceived inability to earn or provide financially for the family unit as can a male. In addition, due to social and legal convention, female offspring are less likely to carry on the family name. ''Son preference'' is one of the most evident manifestations of sex or

gender discrimination in any society, undermining female equality, and fueling the elimination of females' right to exist in instances of sex-selection abortion.

(F) Sex-selection abortions are not expressly prohibited by United States law or the laws of 47 States. Sex-selection abortions are performed in the United States. In a March 2008 report published in the Proceedings of the National Academy of Sciences, Columbia University economists Douglas Almond and Lena Edlund examined the sex ratio of United States-born children and found ''evidence of sex selection, most likely at the prenatal stage''. The data revealed obvious ''son preference'' in the form of unnatural sex-ratio imbalances within certain segments of the United States population, primarily those segments tracing their ethnic or cultural origins to countries where sex-selection abortion is prevalent. The evidence strongly suggests that some Americans are exercising sex-selection abortion practices within the United States consistent with discriminatory practices common to their country of origin, or the country to which they trace their ancestry. While sex-selection abortions are more common outside the United States, the evidence reveals that female feticide is also occurring in the United States.

(G) The American public supports a prohibition of sex-selection abortion. In a March 2006 Zogby International poll, 86 percent of Americans agreed that sex-selection abortion should be illegal, yet only 3 States proscribe sex-selection abortion.

(H) Despite the failure of the United States to proscribe sex-selection abortion, the United States Congress has expressed repeatedly, through Congressional resolution, strong condemnation of policies promoting sex-selection abortion in the ''Communist Government of China''. Likewise, at the 2007 United Nation's Annual Meeting of the Commission on the Status of Women, 51st Session, the United States delegation spearheaded a resolution calling on countries to condemn sex-selective abortion, a policy directly contradictory to the permissiveness of current United States law, which places no restriction on the practice of sex-selection abortion. The United Nations Commission on the Status of Women has urged governments of all nations ''to take necessary measures to prevent . . . prenatal sex selection''.

(I) A 1990 report by Harvard University economist Amartya Sen, estimated that more than 100 million women were ''demographically missing'' from the world as early as 1990 due to sexist practices, including sex-selection abortion. Many experts believe sex-selection abortion is the primary cause. Current estimates of women missing from the world range in the hundreds of millions.

(J) Countries with longstanding experience with sex-selection abortion—such as the Republic of India, the United Kingdom, and the People's Republic of China—have enacted restrictions on sex-selection, and have steadily continued to strengthen prohibitions and penalties. The United States, by contrast, has no law in place to restrict sex-selection abortion, establishing the United States as affording less protection from sex-based feticide than the Republic of India or the People's Republic of China, whose recent practices of sex-selection abortion were vehemently and repeatedly condemned by United States congressional resolutions and by the United States Ambassador to the Commission on the Status of Women. Public statements from within the medical community reveal that citizens of other countries come to the United States for sex-selection procedures that would be criminal in their country of origin. Because the United States permits abortion on the basis of sex, the United States may effectively function as a ''safe haven'' for those who seek to have American physicians do what would otherwise be criminal in their home countries—a sex-selection abortion, most likely late-term.

(K) The American medical community opposes sex-selection. The American Congress of Obstetricians and Gynecologists, commonly known as ''ACOG'', stated in its 2007 Ethics Committee Opinion, Number 360, that sex-selection is inappropriate because it ''ultimately supports sexist practices''. The American Society of Reproductive Medicine (commonly known as ''ASRM'') 2004 Ethics Committee Opinion on sex-selection notes that central to the controversy of sex-selection is the potential for ''inherent gender discrimination'', . . . the ''risk of psychological harm to sex-selected offspring (i.e., by placing on them expectations that are too high)'', . . . and ''reinforcement of gender bias in society as a whole''. Embryo sex-selection, ASRM notes, remains ''vulnerable to the judgment that no matter what its basis, [the method] identifies gender as a reason to value one person over another, and it supports socially constructed stereotypes of what gender means''. In doing so, it not only ''reinforces possibilities of unfair discrimination, but may trivialize human reproduction by making it depend on the selection of nonessential features of offspring''. The ASRM ethics opinion continues, ''ongoing problems with the status of women in the United States make it necessary to take account of concerns for the impact of sex-selection on goals of gender equality''. The American Association of Pro-Life Obstetricians and Gynecologists, an organization with hundreds of members—many of whom are former abortionists—makes the following declaration: ''Sex selection abortions are more graphic examples of the damage that abortion inflicts on women. In addition to increasing premature labor in subsequent pregnancies, increasing suicide and major depression, and increasing the risk of breast cancer in teens who abort their first pregnancy and delay childbearing, sex selection abortions are often targeted at fetuses simply because the fetus is female. As physicians who care for both the mother and her unborn child, the American Association of Pro-Life Obstetricians and Gynecologists vigorously opposes aborting fetuses because of their gender.''. The President's Council on Bioethics published a Working Paper stating the council's belief that society's respect for reproductive freedom does not prohibit the regulation or prohibition of ''sex control'', defined as the use of various medical technologies to choose the sex of one's child. The publication expresses concern that ''sex control might lead to . . . dehumanization and a new eugenics''.

(L) Sex-selection abortion results in an unnatural sex-ratio imbalance. An unnatural sex-ratio imbalance is undesirable, due to the inability of the numerically predominant sex to find mates. Experts worldwide document that a significant sex-ratio imbalance in which males numerically predominate can be a cause of increased violence and militancy within a society. Likewise, an unnatural sex-ratio imbalance gives rise to the commoditization of humans in the form of human trafficking, and a consequent increase in kidnapping and other violent crime.

(M) Sex-selection abortions have the effect of diminishing the representation of women in the American population, and therefore, the American electorate.

(N) Sex-selection abortion reinforces sex discrimination and has no place in a civilized society.

(O) The history of the United States includes examples of sex discrimination. The people of the United States ultimately responded in the strongest possible legal terms by enacting a constitutional amendment correcting elements of such discrimination. Women, once subjected to sex discrimination that denied them the right to vote, now have suffrage guaranteed by the 19th amendment. The elimination of discriminatory practices has been and is among the highest priorities and greatest achievements of American history.

(P) Implicitly approving the discriminatory practice of sex-selection abortion by choosing not to prohibit them will reinforce these inherently discriminatory practices, and evidence a failure to protect a segment of certain unborn Americans because those unborn are of a sex that is disfavored. Sex-selection abortions trivialize the value of the unborn on the basis of sex, reinforcing sex discrimination, and coarsening society to the humanity of all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit sex-selection abortion.

(2) CONSTITUTIONAL AUTHORITY.—In accordance with the above findings, Congress enacts the following pursuant to Congress' power under—

(A) the Commerce Clause;

(B) section 5 of the 14th amendment, including the power to enforce the prohibition on Government action denying equal protection of the laws; and

(C) section 8 of article I to make all laws necessary and proper for the carrying into execution of powers vested by the Constitution in the Government of the United States.

(c) DISCRIMINATION AGAINST THE UNBORN ON THE BASIS OF SEX.—

(1) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''§ 250. Discrimination against the unborn on the basis of sex

''(a) IN GENERAL.—Whoever knowingly—

''(1) performs an abortion knowing that such abortion is sought based on the sex or gender of the child;

''(2) uses force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection abortion;

''(3) solicits or accepts funds for the performance of a sex-selection abortion; or

''(4) transports a woman into the United States or across a State line for the purpose of obtaining a sex-selection abortion;

or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) CIVIL REMEDIES.—

''(1) CIVIL ACTION BY WOMAN ON WHOM ABORTION IS PERFORMED.—A woman upon whom an abortion has been performed pursuant to a violation of subsection (a)(2) may in a civil action against any person who engaged in a violation of subsection (a) obtain appropriate relief.

''(2) CIVIL ACTION BY RELATIVES.—The father of an unborn child who is the subject of an abortion performed or attempted in violation of subsection (a), or a maternal grandparent of the unborn child if the pregnant woman is an unemancipated minor, may in a civil action against any person who engaged in the violation, obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

''(3) APPROPRIATE RELIEF.—Appropriate relief in a civil action under this subsection includes—

''(A) objectively verifiable money damages for all injuries, psychological and physical, including loss of companionship and support,

occasioned by the violation of this section; and

''(B) punitive damages.

''(4) INJUNCTIVE RELIEF.—

''(A) IN GENERAL.—A qualified plaintiff may in a civil action obtain injunctive relief to prevent an abortion provider from performing or attempting further abortions in violation of this section.

''(B) DEFINITION.—In this paragraph the term 'qualified plaintiff' means—

''(i) a woman upon whom an abortion is performed or attempted in violation of this section;

''(ii) any person who is the spouse or parent of a woman upon whom an abortion is performed in violation of this section; or

''(iii) the Attorney General.

''(5) ATTORNEYS FEES FOR PLAINTIFF.—The court shall award a reasonable attorney's fee as part of the costs to a prevailing plaintiff in a civil action under this subsection.

''(c) LOSS OF FEDERAL FUNDING.—A violation of subsection (a) shall be deemed for the purposes of title VI of the Civil Rights Act of 1964 to be discrimination prohibited by section 601 of that Act.

''(d) REPORTING REQUIREMENT.—A physician, physician's assistant, nurse, counselor, or other medical or mental health professional shall report known or suspected violations of any of this section to appropriate law enforcement authorities. Whoever violates this requirement shall be fined under this title or imprisoned not more than 1 year, or both.

''(e) EXPEDITED CONSIDERATION.—It shall be the duty of the United States district courts, United States courts of appeal, and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under this section.

''(f) EXCEPTION.—A woman upon whom a sex-selection abortion is performed may not be prosecuted or held civilly liable for any violation of this section, or for a conspiracy to violate this section.

''(g) PROTECTION OF PRIVACY IN COURT PROCEEDINGS.—

''(1) IN GENERAL.—Except to the extent the Constitution or other similarly compelling reason requires, in every civil or criminal action under this section, the court shall make such orders as are necessary to protect the anonymity of any woman upon whom an abortion has been performed or attempted if she does not give her written consent to such disclosure. Such orders may be made upon motion, but shall be made sua sponte if not otherwise sought by a party.

''(2) ORDERS TO PARTIES, WITNESSES, AND COUNSEL.—The court shall issue appropriate orders under paragraph (1) to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman must be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists.

''(3) PSEUDONYM REQUIRED.—In the absence of written consent of the woman upon whom an abortion has been performed or attempted, any party, other than a public official, who brings an action under this section shall do so under a pseudonym.

''(4) LIMITATION.—This subsection shall not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

''(h) DEFINITIONS.—

''(1) The term 'abortion' means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child, unless the act is done with the intent to—

''(A) save the life or preserve the health of the unborn child;

''(B) remove a dead unborn child caused by spontaneous abortion; or

''(C) remove an ectopic pregnancy.

''(2) The term 'sex-selection abortion' is an abortion undertaken for purposes of eliminating an unborn child based on the sex or gender of the child.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding after the item relating to section 249 the following new item:

''250. Discrimination against the unborn on the basis of sex.''.

(d) SEVERABILITY.—If any portion of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the portions or applications of this section which can be given effect without the invalid portion or application.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a healthcare provider has an affirmative duty to inquire as to the motivation for the abortion, absent the healthcare provider having knowledge or information that the abortion is being sought based on the sex or gender of the child.

SA 2020. Ms. COLLINS (for Mr. REID) proposed an amendment to amendment SA 2013 proposed by Mr. REID (for Mr. TOOMEY (for himself, Mr. FLAKE, and Mr. MCCAIN)) to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; as follows:

At the end, add the following:

This Act shall become effective 1 day after enactment.

SA 2021. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; which was ordered to lie on the table; as follows:

After section 14, insert the following:

SEC. 14A. DISCRIMINATION ON THE BASIS OF MILITARY SERVICE.

(a) DEFINITIONS.—In this section:

(1) CIVIL RIGHTS DEFINITIONS.—The terms ''complaining party'', ''demonstrates'', ''employee'', ''employer'', ''employment agency'', ''labor organization'', ''person'', ''respondent'', and ''State'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(2) MEMBER OF THE UNIFORMED SERVICES.—The term ''member of the uniformed services'' means an individual who—

(A) is a member of—

(i) the uniformed services (as defined in section 101 of title 10, United States Code); or

(ii) the National Guard in State status under title 32, United States Code; or

(B) was discharged or released from service in the uniformed services (as so defined) or the National Guard in such status under conditions other than dishonorable.

(3) MILITARY SERVICE.—The term ''military service'' means status as a member of the uniformed services.

(b) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's military service; or

(2) to limit, segregate, or classify the employer's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of such individual's military service.

(c) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because of the individual's military service, or to classify or refer for employment any individual on the basis of the individual's military service.

(d) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the individual's military service;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the individual's status as an employee or as an applicant for employment, because of such individual's military service; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(e) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the individual's military service in admission to, or employment in, any program established to provide apprenticeship or other training.

(f) BUSINESSES OR ENTERPRISES WITH PERSONNEL QUALIFIED ON BASIS OF MILITARY SERVICE.—Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of the individual's military service in those certain instances where military service is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(g) NATIONAL SECURITY.—Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) SENIORITY OR MERIT SYSTEM; QUANTITY OR QUALITY OF PRODUCTION; ABILITY TESTS.—Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of military service, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration, or action upon the results is not designed, intended, or used to discriminate because of military service.

(i) PREFERENTIAL TREATMENT NOT TO BE GRANTED ON ACCOUNT OF EXISTING NUMBER OR PERCENTAGE IMBALANCE.—Nothing contained in this section shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this section to grant preferential treatment to any individual or to any group because of the military service of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons with military service employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons with military service in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

(j) BURDEN OF PROOF IN DISPARATE IMPACT CASES.—

(1) DISPARATE IMPACT.—

(A) ESTABLISHMENT.—An unlawful employment practice based on disparate impact is established under this section only if—

(i) a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of military service and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity; or

(ii) the complaining party makes the demonstration described in subparagraph (C) with respect to an alternative employment practice and the respondent refuses to adopt such alternative employment practice.

(B) DEMONSTRATION OF CAUSATION.—

(i) PARTICULAR EMPLOYMENT PRACTICES.—With respect to demonstrating that a particular employment practice causes a disparate impact as described in subparagraph (A)(i), the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one employment practice.

(ii) DEMONSTRATION OF NONCAUSATION.—If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

(C) ALTERNATIVE EMPLOYMENT PRACTICE.—The demonstration referred to by subparagraph (A)(ii) shall be in accordance with the law as it existed on June 4, 1989, with respect to the concept of ''alternative employment practice''.

(2) BUSINESS NECESSITY NO DEFENSE TO INTENTIONAL DISCRIMINATION.—A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this section.

(3) RULES CONCERNING CONTROLLED SUBSTANCES.—Notwithstanding any other provision of this section, a rule barring the employment of an individual who currently and knowingly uses or possesses a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) and included in schedule I or II of the schedules specified in that section, other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act (21 U.S.C. 801 et seq.) or any other provision of Federal law, shall be considered an unlawful employment practice under this section only if such rule is adopted or applied with an intent to discriminate because of military service.

(k) PROHIBITION OF DISCRIMINATORY USE OF TEST SCORES.—It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of military service.

(l) IMPERMISSIBLE CONSIDERATION OF MILITARY SERVICE IN EMPLOYMENT PRACTICES.—Except as otherwise provided in this section, an unlawful employment practice is established when the complaining party demonstrates that military service was a motivating factor for any employment practice, even though other factors also motivated the practice.

(m) RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

(1) PRACTICES NOT CHALLENGEABLE.—

(A) PRACTICES TO IMPLEMENT A LITIGATED OR CONSENT JUDGMENT OR ORDER.—Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

(B) CIRCUMSTANCES.—A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

(II) a reasonable opportunity to present objections to such judgment or order; or

(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

(B) apply to the rights of parties to the action in which a litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) COURT FOR ACTIONS THAT ARE CHALLENGEABLE.—Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.

(n) DISCRIMINATION FOR MAKING CHARGES, TESTIFYING, ASSISTING, OR PARTICIPATING IN ENFORCEMENT PROCEEDINGS.—It shall be an unlawful employment practice for an employer to discriminate against any of the employer's employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, individuals, or member involved has opposed any practice made an unlawful employment practice by this section, or has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

(o) PRINTING OR PUBLICATION OF NOTICES OR ADVERTISEMENTS.—It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination, based on military service, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on military service when military service is a bona fide occupational qualification for employment.

(p) EXEMPTIONS.—

(1) INAPPLICABILITY OF TITLE TO CERTAIN ALIENS.—This section shall not apply to an employer with respect to the employment of aliens outside any State.

(2) COMPLIANCE WITH STATUTE AS VIOLATION OF FOREIGN LAW.—It shall not be unlawful under this section for an employer (or a corporation controlled by an employer), labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

(3) CONTROL OF CORPORATION INCORPORATED IN FOREIGN COUNTRY.—

(A) IN GENERAL.—If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by this section engaged in by such corporation shall be presumed to be engaged in by such employer.

(B) FOREIGN PERSON NOT CONTROLLED BY EMPLOYER.—This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(C) CONTROL.—For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

(i) the interrelation of operations;

(ii) the common management;

(iii) the centralized control of labor relations; and

(iv) the common ownership or financial control,

of the employer and the corporation.

(4) CLAIMS OF NO MILITARY SERVICE.—Nothing in this section shall provide the basis for a claim by an individual without military service that the individual was subject to discrimination because of the individual's lack of military service.

(q) POSTING NOTICES.—Every employer, employment agency, labor organization, or joint labor-management committee covered under this section shall post notices to applicants, employees, and members describing the applicable provisions of this section, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

(r) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Commission shall issue regulations to carry out this section in accordance with subchapter II of chapter 5 of title 5, United States Code.

(s) ENFORCEMENT.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 708, 709, 710, and 712 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–7, 2000e–8, 2000e–9, and 2000e–11) shall be the powers, remedies, and procedures this section provides to the Equal Employment Opportunity Commission, to the Attorney General, or to any person alleging discrimination on the basis of military service in violation of any provision of this section, or regulations promulgated under subsection (r), concerning employment.

(t) APPLICATION.—Nothing in sections 2 through 14 shall be construed to apply to this section.

SA 2022. Mr. FLAKE submitted an amendment intended to be proposed by him to the bill S. 815, to prohibit employment discrimination on the basis of sexual orientation or gender identity; which was ordered to lie on the table; as follows:

In section 8, add at the end the following:

(c) GUIDANCE ON GENDER TRANSITION.—Not later than the effective date of this Act, the Commission shall issue guidance with respect to this Act and gender transition, including defining the term ''transition'' (including other forms of the word).

(d) GUIDANCE ON SHARED FACILITIES.—Not later than the effective date of this Act, the Commission shall issue guidance with respect to this Act on shared facilities. When issuing such guidance, the Commission shall take into account any undue hardship on employers in meeting the nondiscrimination requirements of this Act.

SA 2023. Ms. HIRONO (for Mr. SANDERS) proposed an amendment to the bill S. 287, to amend title 38, United States Code, to improve assistance to homeless veterans, and for other purposes; as follows:

On page 11, strike line 25 and insert the following: lessness pursuant to such partnerships.

''(f) SUNSET.—The authority of the Secretary to enter into partnerships under this section as described in subsection (a) shall expire on December 31, 2016.''.

On page 13, strike lines 3 through 18 and insert the following:

SEC. 10. EXTENSION OF AUTHORITY FOR PROGRAM OF REFERRAL AND COUNSELING SERVICES FOR VETERANS AT RISK OF HOMELESSNESS WHO ARE TRANSITIONING FROM CERTAIN INSTITUTIONS.

Section 2023 of title 38, United States Code, is amended—

(1) by striking subsection (b);

(2) in subsection (c)(1), by striking ''To the extent practicable, the program'' and inserting ''The program'';

(3) in subsection (d), by striking ''September 30, 2014'' and inserting ''September 30, 2017'';

(4) in subsection (e)(2), by striking ''provided under the demonstration program''; and

(5) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

On page 14, strike lines 2 through 14 and insert the following:

(a) TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.—Section 2031(b) of title 38, United States Code, is amended by striking ''December 31,

Beginning on page 14, strike line 24 and all that follows through page 15, line 7, and insert the following:

(f) TRAINING ENTITIES FOR PROVISION OF SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING.—Section 2044(e)(3) of such title is amended by striking ''2012'' and inserting ''2014''.

On page 15, strike lines 8 through 12.

On page 16, line 7, strike ''March 31, 2018'' and insert ''August 31, 2017''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 6, 2013, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''America COMPETES: Science and the U.S. Economy.''

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

COMMITTEE ON FINANCE

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 6, 2013, at 10 a.m. in room SD–215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Health Insurance Exchanges: An Update from the Administration.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 6, 2013, at 10:30 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 6, 2013, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 6, 2013, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the Bureau of Prisons & Cost-Effective Strategies for Reducing Recidivism.''

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

COMMITTEE ON THE JUDCIARY

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on November 6, 2013, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Judicial Nominations.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. KAINE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate, on November 6, 2013, at 10 a.m. in room SR–418, of the Russell Senate Office Building.

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

SUBCOMMITTEE ON EMERGENCY MANAGEMENT, INTERGOVERNMENTAL RELATIONS, AND THE DISTRICT OF COLUMBIA

Mr. KAINE. Mr. President, I ask unanimous consent that the Subcommittee on Emergency Management, Intergovernmental Relations, and the District of Columbia of the Committee on Homeland Security and Governmental Affairs be authorized to

meet during the session of the Senate, on November 6, 2013, at 2:30 p.m., to conduct a hearing entitled ''One Year Later: Examining the Ongoing Recovery from Hurricane Sandy.''

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

SPECIAL COMMITTEE ON AGING

Mr. KAINE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate, on November 6, 2013, to conduct a hearing entitled ''Transportation: A Challenge to Independence for Seniors.''

The Committee will meet in room 562 of the Dirksen Senate Office Building beginning at 2:15 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. MERKLEY. Mr. President, I rise to ask unanimous consent that my intern, Chloe Becker, who is shadowing me today, be accorded full privileges of the floor for the balance of the day.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Lauren Sarkesian and Jennifer Lucas of my staff be granted floor privileges for the duration of today's session.

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

HOMELESS VETERANS EXPANSION ACT

Ms. HIRONO. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 197, S. 287.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 287) to amend title 38, United States Code, to expand the definition of a homeless veteran for purposes of benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment and an amendment to the title, as follows:

S. 287

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Helping Homeless Veterans Act of 2013''.

SEC. 2. EXPANSION OF DEFINITION OF HOMELESS VETERAN FOR PURPOSES OF BENEFITS UNDER THE LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

Section 2002(1) of title 38, United States Code, is amended by striking ''in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a))'' and inserting ''in subsection (a) or (b) of section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)''.

SEC. 3. IMPROVEMENTS TO GRANT PROGRAM FOR COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.

(a) MODIFICATION OF AUTHORITY TO PROVIDE CAPITAL IMPROVEMENT GRANTS FOR PROGRAMS THAT ASSIST HOMELESS VETERANS.—Subsection (a) of section 2011 of title 38, United States Code, is amended, in the matter before paragraph (1)—

(1) by striking ''or modifying'' and inserting '', modifying, or maintaining''; and

(2) by inserting ''privately, safely, and securely,'' before ''the following''.

(b) REQUIREMENT THAT RECIPIENTS OF GRANTS MEET PHYSICAL PRIVACY, SAFETY, AND SECURITY NEEDS OF HOMELESS VETERANS.—Subsection (f) of such section is amended by adding at the end the following new paragraph:

''(6) To meet the physical privacy, safety, and security needs of homeless veterans receiving services through the project.''.

SEC. 4. INCREASED PER DIEM PAYMENTS FOR TRANSITIONAL HOUSING ASSISTANCE THAT BECOMES PERMANENT HOUSING FOR HOMELESS VETERANS.

Section 2012(a)(2) of title 38, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(2) in subparagraph (C), as redesignated, by striking ''in subparagraph (D)'' and inserting ''in subparagraph (E)'';

(3) in subparagraph (D), as redesignated, by striking ''under subparagraph (B)'' and inserting ''under subparagraph (C)'';

(4) in subparagraph (E), as redesignated, by striking ''in subparagraphs (B) and (C)'' and inserting ''in subparagraphs (C) and (D)''; and

(5) in subparagraph (A)—

(A) by striking ''The rate'' and inserting ''Except as otherwise provided in subparagraph (B), the rate''; and

(B) by striking ''under subparagraph (B)'' and all that follows through the end and inserting the following: ''under subparagraph (C).

''(B)(i) Except as provided in clause (ii), in no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

''(ii) In the case of services furnished to a homeless veteran who is placed in housing that will become permanent housing for the veteran upon termination of the furnishing of such services to such veteran, the maximum rate of per diem authorized under this section is 150 percent of the rate described in clause (i).''.

SEC. 5. AUTHORIZATION OF PER DIEM PAYMENTS FOR FURNISHING CARE TO DEPENDENTS OF CERTAIN HOMELESS VETERANS.

Subsection (a) of section 2012 of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(4) Services for which a recipient of a grant under section 2011 of this title (or an entity described in paragraph (1)) may receive per diem payments under this subsection may include furnishing care for a dependent of a homeless veteran who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient (or entity).''.

SEC. 6. REQUIREMENT FOR DEPARTMENT OF VETERANS AFFAIRS TO ASSESS COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall assess and measure the capacity of programs for which entities receive grants under section 2011 of title 38, United States Code, or per diem payments under section 2012 or 2061 of such title.

(b) ASSESSMENT AT NATIONAL AND LOCAL LEVELS.—In assessing and measuring under subsection (a), the Secretary shall develop and use tools to examine the capacity of programs described in such subsection at both the national and local level in order to assess the following:

(1) Whether sufficient capacity exists to meet the needs of homeless veterans in each geographic area.

(2) Whether existing capacity meets the needs of the subpopulations of homeless veterans located in each geographic area.

(3) The amount of capacity that recipients of grants under sections 2011 and 2061 and per diem payments under section 2012 of such title have to provide services for which the recipients are eligible to receive per diem under section 2012(a)(2)(B)(ii) of title 38, United States Code, as added by section 4(5)(B).

(c) USE OF INFORMATION.—The Secretary shall use the information collected under this section as follows:

(1) To set specific goals to ensure that programs described in subsection (a) are effectively serving the needs of homeless veterans.

(2) To assess whether programs described in subsection (a) are meeting goals set under paragraph (1).

(3) To inform funding allocations for programs described in subsection (a).

(4) To improve the referral of homeless veterans to programs described in subsection (a).

(d) REPORT.—Not later than 180 days after the date on which the assessment required by subsection (b) is completed, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on such assessment and such recommendations for legislative and administrative action as the Secretary may have to improve the programs and per diem payments described in subsection (a).

SEC. 7. EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS AUTHORITY TO PROVIDE DENTAL CARE TO HOMELESS VETERANS.

(a) IN GENERAL.—Section 2062(b) of title 38, United States Code, is amended to read as follows:

''(b) ELIGIBLE VETERANS.—(1) Subsection (a) applies to a veteran who—

''(A) is enrolled for care under section 1705(a) of this title; and

''(B) for a period of 60 consecutive days, is receiving—

''(i) assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)); or

''(ii) care (directly or by contract) in any of the following settings:

''(I) A domiciliary under section 1710 of this title.

''(II) A therapeutic residence under section 2032 of this title.

''(III) Community residential care coordinated by the Secretary under section 1730 of this title.

''(IV) A setting for which the Secretary provides funds for a grant and per diem provider.

''(V) A setting—

''(aa) in which the veteran is receiving transitional housing assistance;

''(bb) for which funding is not provided for transitional housing assistance under the laws administered by the Secretary;

''(cc) for which the Secretary receives verification from the provider of care that the veteran is receiving care for a period of 60 consecutive days; and

''(dd) from which the Secretary determines that the veteran cannot reasonably access comparable dental services at no cost and in a reasonable period of time.

''(2) For purposes of paragraph (1), in determining whether a veteran has received assistance or care for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of assistance or care for which the veteran is not responsible.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act.

SEC. 8. PARTNERSHIPS WITH PUBLIC AND PRIVATE ENTITIES TO PROVIDE LEGAL SERVICES TO HOMELESS VETERANS AND VETERANS AT RISK OF HOMELESSNESS.

(a) IN GENERAL.—Chapter 20 of title 38, United States Code, is amended by inserting after section 2022 the following new section:

''§ 2022A. Partnerships with public and private entities to provide legal services to homeless veterans and veterans at risk of homelessness

''(a) PARTNERSHIPS AUTHORIZED.—Subject to the availability of funds for that purpose, the Secretary may enter into partnerships with public or private entities to fund a portion of the general legal services specified in subsection (c) that are provided by such entities to homeless veterans and veterans at risk of homelessness.

''(b) LOCATIONS.—The Secretary shall ensure that, to the extent practicable, partnerships under this section are made with entities equitably distributed across the geographic regions of the United States, including rural communities, tribal lands of the United States, Native Americans, and tribal organizations (as defined in section 3765 of title 38, United States Code).

''(c) LEGAL SERVICES.—Legal services specified in this subsection include legal services provided by public or private entities that address the needs of homeless veterans and veterans at risk of homelessness as follows:

''(1) Legal services related to housing, including eviction defense and representation in landlord-tenant cases.

''(2) Legal services related to family law, including assistance in court proceedings for child support, divorce, and estate planning.

''(3) Legal services related to income support, including assistance in obtaining public benefits.

''(4) Legal services related to criminal defense, including defense in matters symptomatic of homelessness, such as outstanding warrants, fines, and driver's license revocation, to reduce recidivism and facilitate the overcoming of reentry obstacles in employment or housing.

''(d) CONSULTATION.—In developing and carrying out partnerships under this section, the Secretary shall, to the extent practicable, consult with public and private entities—

''(1) for assistance in identifying and contacting organizations capable of providing the legal services described in subsection (c); and

''(2) to coordinate appropriate outreach relationships with such organizations.

''(e) REPORTS.—The Secretary may require entities that have entered into partnerships under this section to submit to the Secretary periodic reports on legal services provided to homeless veterans and veterans at risk of homelessness pursuant to such partnerships.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 of such title is amended by adding after the item relating to section 2022 the following new item:

''2022A. Partnerships with public and private entities to provide legal services to homeless veterans and veterans at risk of homelessness.''.

SEC. 9. REQUESTS FOR DATA TO EVALUATE AND IMPROVE SERVICES PROVIDED TO VETERANS AT RISK OF HOMELESSNESS.

Section 2022 of title 38, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g);

(2) by inserting after subsection (e) the following new subsection (f):

''(f) REQUESTS FOR DATA TO EVALUATE AND IMPROVE SERVICES PROVIDED TO VETERANS AT RISK OF HOMELESSNESS.—(1) The Secretary shall from time to time request from the Federal Bureau of Investigation, the Bureau of Prisons, the Bureau of Justice Statistics, and other appropriate Federal law enforcement agencies data in the possession of such agencies useful for the evaluation and improvement of the services provided to veterans at risk of homelessness under this section and section 2023 of this title.

''(2) Such agencies shall make reasonable efforts to comply with any such request by the Secretary.''.

SEC. 10. REPEAL OF SUNSET ON AUTHORITY TO CARRY OUT PROGRAM OF REFERRAL AND COUNSELING SERVICES FOR VETERANS AT RISK OF HOMELESSNESS WHO ARE TRANSITIONING FROM CERTAIN INSTITUTIONS.

Section 2023 of title 38, United States Code, is amended—

(1) by striking subsection (b);

(2) in subsection (c)(1), by striking ''To the extent practical, the program'' and inserting ''The program'';

(3) by striking subsection (d);

(4) in subsection (e)(2), by striking ''provided under the demonstration program''; and

(5) by redesignating subsections (c) and (e) as subsections (b) and (c), respectively.

SEC. 11. REPEAL OF REQUIREMENT FOR ANNUAL REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

(a) IN GENERAL.—Section 2065 of title 38, United States Code, is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 of such title is amended by striking the item relating to section 2065.

SEC. 12. EXTENSIONS OF AUTHORITIES.

(a) COMPREHENSIVE SERVICE PROGRAMS.—Section 2013 of title 38, United States Code, is amended by striking paragraphs (4) through (6) and inserting the following:

''(4) $250,000,000 for each of fiscal years 2012 through 2014.

''(5) $150,000,000 for fiscal year 2015 and each subsequent fiscal year.''.

(b) HOMELESS VETERANS REINTEGRATION PROGRAMS.—Section 2021(e)(1)(F) of such title is amended by striking ''2013'' and inserting ''2014''.

(c) TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.—Section 2031(b) of such title is amended by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

(d) CENTERS FOR THE PROVISION OF COMPREHENSIVE SERVICES TO HOMELESS VETERANS.—Section 2033(d) of such title is amended by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

(e) HOUSING ASSISTANCE FOR HOMELESS VETERANS.—Section 2041(c) of such title is amended by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

(f) FINANCIAL ASSISTANCE FOR SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING.—

(1) IN GENERAL.—Paragraph (1) of section 2044(e) of such title is amended by adding at the end the following new subparagraph (F):

''(F) $300,000,000 for fiscal year 2014.''.

(2) TRAINING ENTITIES FOR PROVISION OF SUPPORTIVE SERVICES.—Paragraph (3) of such section is amended by striking ''2012'' and inserting ''2014''.

(g) GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.—Section 2061(d)(1) of such title is amended by striking ''for each of'' through ''shall be available'' and inserting ''for each of fiscal years 2007 through 2014, $5,000,000 shall be available''.

(h) TECHNICAL ASSISTANCE GRANTS FOR NONPROFIT COMMUNITY-BASED GROUPS.—Section 2064(b) of such title is amended by striking ''2012'' and inserting ''2014''.

(i) ADVISORY COMMITTEE ON HOMELESS VETERANS.—Section 2066(d) of such title is amended by striking ''December 31, 2013'' and inserting ''December 31, 2014''.

SEC. 13. EXTENSION OF REDUCED PENSION FOR CERTAIN VETERANS COVERED BY MEDICAID PLANS FOR SERVICES FURNISHED BY NURSING FACILITIES.

(a) IN GENERAL.—Subsection (d)(7) of section 5503 of title 38, United States Code, is amended by striking ''November 30, 2016'' and inserting ''March 31, 2018''.

(b) CLERICAL AMENDMENTS.—

*(1) SECTION HEADING.—The section heading of such section is amended to read as follows: ''**Reduced pension for certain hospitalized veterans and certain veterans receiving domiciliary, nursing home, or nursing facility care**''.*

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 55 of such title is amended by striking the item relating to section 5503 and inserting the following new item:

''5503. Reduced pension for certain hospitalized veterans and certain veterans receiving domiciliary, nursing home, or nursing facility care.''.

Ms. HIRONO. I ask unanimous consent the committee-reported substitute amendment be considered, the Sanders amendment, which is at the desk, be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the committee-reported title amendment be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate.

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

The amendment (No. 2023) was agreed to, as follows:

On page 11, strike line 25 and insert the following:

lessness pursuant to such partnerships.

''(f) SUNSET.—The authority of the Secretary to enter into partnerships under this section as described in subsection (a) shall expire on December 31, 2016.''.

On page 13, strike lines 3 through 18 and insert the following:

SEC. 10. EXTENSION OF AUTHORITY FOR PROGRAM OF REFERRAL AND COUNSELING SERVICES FOR VETERANS AT RISK OF HOMELESSNESS WHO ARE TRANSITIONING FROM CERTAIN INSTITUTIONS.

Section 2023 of title 38, United States Code, is amended—

(1) by striking subsection (b);

(2) in subsection (c)(1), by striking ''To the extent practicable, the program'' and inserting ''The program'';

(3) in subsection (d), by striking ''September 30, 2014'' and inserting ''September 30, 2017'';

(4) in subsection (e)(2), by striking ''provided under the demonstration program''; and

(5) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

On page 14, strike lines 2 through 14 and insert the following:

(a) TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.—Section 2031(b) of title 38, United States Code, is amended by striking ''December 31,

Beginning on page 14, strike line 24 and all that follows through page 15, line 7, and insert the following:

(f) TRAINING ENTITIES FOR PROVISION OF SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING.—Section 2044(e)(3) of such title is amended by striking ''2012'' and inserting ''2014''.

On page 15, strike lines 8 through 12.

On page 16, line 7, strike ''March 31, 2018'' and insert ''August 31, 2017''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 287), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 287

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 ''Helping Homeless Veterans Act of 2013''.

SEC. 2. EXPANSION OF DEFINITION OF HOMELESS VETERAN FOR PURPOSES OF BENEFITS UNDER THE LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

Section 2002(1) of title 38, United States Code, is amended by striking ''in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a))'' and inserting ''in subsection (a) or (b) of section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)''.

SEC. 3. IMPROVEMENTS TO GRANT PROGRAM FOR COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.

(a) MODIFICATION OF AUTHORITY TO PROVIDE CAPITAL IMPROVEMENT GRANTS FOR PROGRAMS THAT ASSIST HOMELESS VETERANS.—Subsection (a) of section 2011 of title 38, United States Code, is amended, in the matter before paragraph (1)—

(1) by striking ''or modifying'' and inserting '', modifying, or maintaining''; and

(2) by inserting ''privately, safely, and securely,'' before ''the following''.

(b) REQUIREMENT THAT RECIPIENTS OF GRANTS MEET PHYSICAL PRIVACY, SAFETY, AND SECURITY NEEDS OF HOMELESS VETERANS.—Subsection (f) of such section is amended by adding at the end the following new paragraph:

''(6) To meet the physical privacy, safety, and security needs of homeless veterans receiving services through the project.''.

SEC. 4. INCREASED PER DIEM PAYMENTS FOR TRANSITIONAL HOUSING ASSISTANCE THAT BECOMES PERMANENT HOUSING FOR HOMELESS VETERANS.

Section 2012(a)(2) of title 38, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(2) in subparagraph (C), as redesignated, by striking ''in subparagraph (D)'' and inserting ''in subparagraph (E)'';

(3) in subparagraph (D), as redesignated, by striking ''under subparagraph (B)'' and inserting ''under subparagraph (C)'';

(4) in subparagraph (E), as redesignated, by striking ''in subparagraphs (B) and (C)'' and inserting ''in subparagraphs (C) and (D)''; and

(5) in subparagraph (A)—

(A) by striking ''The rate'' and inserting ''Except as otherwise provided in subparagraph (B), the rate''; and

(B) by striking ''under subparagraph (B)'' and all that follows through the end and inserting the following: ''under subparagraph (C).

''(B)(i) Except as provided in clause (ii), in no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

''(ii) In the case of services furnished to a homeless veteran who is placed in housing that will become permanent housing for the veteran upon termination of the furnishing of such services to such veteran, the maximum rate of per diem authorized under this section is 150 percent of the rate described in clause (i).''.

SEC. 5. AUTHORIZATION OF PER DIEM PAYMENTS FOR FURNISHING CARE TO DEPENDENTS OF CERTAIN HOMELESS VETERANS.

Subsection (a) of section 2012 of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(4) Services for which a recipient of a grant under section 2011 of this title (or an entity described in paragraph (1)) may receive per diem payments under this subsection may include furnishing care for a dependent of a homeless veteran who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient (or entity).''.

SEC. 6. REQUIREMENT FOR DEPARTMENT OF VETERANS AFFAIRS TO ASSESS COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall assess and measure the capacity of programs for which entities receive grants under section 2011 of title 38, United States Code, or per diem payments under section 2012 or 2061 of such title.

(b) ASSESSMENT AT NATIONAL AND LOCAL LEVELS.—In assessing and measuring under subsection (a), the Secretary shall develop and use tools to examine the capacity of programs described in such subsection at both the national and local level in order to assess the following:

(1) Whether sufficient capacity exists to meet the needs of homeless veterans in each geographic area.

(2) Whether existing capacity meets the needs of the subpopulations of homeless veterans located in each geographic area.

(3) The amount of capacity that recipients of grants under sections 2011 and 2061 and per diem payments under section 2012 of such title have to provide services for which the recipients are eligible to receive per diem under section 2012(a)(2)(B)(ii) of title 38, United States Code, as added by section 4(5)(B).

(c) USE OF INFORMATION.—The Secretary shall use the information collected under this section as follows:

(1) To set specific goals to ensure that programs described in subsection (a) are effectively serving the needs of homeless veterans.

(2) To assess whether programs described in subsection (a) are meeting goals set under paragraph (1).

(3) To inform funding allocations for programs described in subsection (a).

(4) To improve the referral of homeless veterans to programs described in subsection (a).

(d) REPORT.—Not later than 180 days after the date on which the assessment required by subsection (b) is completed, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on such assessment and such recommendations for legislative and administrative action as the Secretary may have to improve the programs and per diem payments described in subsection (a).

SEC. 7. EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS AUTHORITY TO PROVIDE DENTAL CARE TO HOMELESS VETERANS.

(a) IN GENERAL.—Section 2062(b) of title 38, United States Code, is amended to read as follows:

''(b) ELIGIBLE VETERANS.—(1) Subsection (a) applies to a veteran who—

''(A) is enrolled for care under section 1705(a) of this title; and

''(B) for a period of 60 consecutive days, is receiving—

''(i) assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)); or

''(ii) care (directly or by contract) in any of the following settings:

''(I) A domiciliary under section 1710 of this title.

''(II) A therapeutic residence under section 2032 of this title.

''(III) Community residential care coordinated by the Secretary under section 1730 of this title.

''(IV) A setting for which the Secretary provides funds for a grant and per diem provider.

''(V) A setting—

''(aa) in which the veteran is receiving transitional housing assistance;

''(bb) for which funding is not provided for transitional housing assistance under the laws administered by the Secretary;

''(cc) for which the Secretary receives verification from the provider of care that the veteran is receiving care for a period of 60 consecutive days; and

''(dd) from which the Secretary determines that the veteran cannot reasonably access comparable dental services at no cost and in a reasonable period of time.

''(2) For purposes of paragraph (1), in determining whether a veteran has received assistance or care for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of assistance or care for which the veteran is not responsible.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act.

SEC. 8. PARTNERSHIPS WITH PUBLIC AND PRIVATE ENTITIES TO PROVIDE LEGAL SERVICES TO HOMELESS VETERANS AND VETERANS AT RISK OF HOMELESSNESS.

(a) IN GENERAL.—Chapter 20 of title 38, United States Code, is amended by inserting after section 2022 the following new section:

The title was amended so as to read:

''A bill to amend title 38, United States Code, to improve assistance to homeless veterans, and for other purposes.''.

CONDEMING THE NAIROBI TERRORIST ATTACK

Ms. HIRONO. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 234, S. Res. 268.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 268) condemning the September 2013 terrorist attack at the Westgate Mall in Nairobi, Kenya, and reaffirming United States support for the people and Government of Kenya, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Ms. HIRONO. I further ask that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table, with no intervening action or debate.

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

The resolution (S. Res. 268) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of October 11, 2013, under ''Submitted Resolutions.'')

ORDERS FOR THURSDAY, NOVEMBER 7, 2013

Ms. HIRONO. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, November 7, 2013; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of S. 815, the Employee Non-Discrimination Act, under the previous order; and that the first-degree filing deadline be 10:30 a.m. and the second-degree filing deadline be 11:30 a.m.

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

PROGRAM

Ms. HIRONO. Mr. President, there will be two rollcall votes at 11:45 a.m. tomorrow and a third rollcall vote at 1:45 p.m.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Ms. HIRONO. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:18 p.m., adjourned until Thursday, November 7, 2013, at 10 a.m.