

(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 pre-existing 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 anti-discrimination 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 Sen-

ators 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