

“(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

“(1) IN GENERAL.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if—

“(A) such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting ‘80 percent’ for ‘60 percent’, or

“(B) such corporation is an inverted domestic corporation.

“(2) INVERTED DOMESTIC CORPORATION.—For purposes of this subsection, a foreign corporation shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

“(A) the entity completes after May 8, 2014, the direct or indirect acquisition of—

“(i) substantially all of the properties held directly or indirectly by a domestic corporation, or

“(ii) substantially all of the assets of, or substantially all of the properties constituting a trade or business of, a domestic partnership, and

“(B) after the acquisition, either—

“(i) more than 50 percent of the stock (by vote or value) of the entity is held—

“(I) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

“(II) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, or

“(ii) the management and control of the expanded affiliated group which includes the entity occurs, directly or indirectly, primarily within the United States, and such expanded affiliated group has significant domestic business activities.

“(3) EXCEPTION FOR CORPORATIONS WITH SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN COUNTRY OF ORGANIZATION.—A foreign corporation described in paragraph (2) shall not be treated as an inverted domestic corporation if after the acquisition the expanded affiliated group which includes the entity has substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group. For purposes of subsection (a)(2)(B)(iii) and the preceding sentence, the term ‘substantial business activities’ shall have the meaning given such term under regulations in effect on January 18, 2017, except that the Secretary may issue regulations increasing the threshold percent in any of the tests under such regulations for determining if business activities constitute substantial business activities for purposes of this paragraph.

“(4) MANAGEMENT AND CONTROL.—For purposes of paragraph (2)(B)(ii)—

“(A) IN GENERAL.—The Secretary shall prescribe regulations for purposes of determining cases in which the management and control of an expanded affiliated group is to be treated as occurring, directly or indirectly, primarily within the United States. The regulations prescribed under the preceding sentence shall apply to periods after May 8, 2014.

“(B) EXECUTIVE OFFICERS AND SENIOR MANAGEMENT.—Such regulations shall provide that the management and control of an expanded affiliated group shall be treated as occurring, directly or indirectly, primarily within the United States if substantially all of the executive officers and senior management of the expanded affiliated group who exercise day-to-day responsibility for making decisions involving strategic, financial,

and operational policies of the expanded affiliated group are based or primarily located within the United States. Individuals who in fact exercise such day-to-day responsibilities shall be treated as executive officers and senior management regardless of their title.

“(5) SIGNIFICANT DOMESTIC BUSINESS ACTIVITIES.—For purposes of paragraph (2)(B)(ii), an expanded affiliated group has significant domestic business activities if at least 25 percent of—

“(A) the employees of the group are based in the United States,

“(B) the employee compensation incurred by the group is incurred with respect to employees based in the United States,

“(C) the assets of the group are located in the United States, or

“(D) the income of the group is derived in the United States,

determined in the same manner as such determinations are made for purposes of determining substantial business activities under regulations referred to in paragraph (3) as in effect on January 18, 2017, but applied by treating all references in such regulations to ‘foreign country’ and ‘relevant foreign country’ as references to ‘the United States’. The Secretary may issue regulations decreasing the threshold percent in any of the tests under such regulations for determining if business activities constitute significant domestic business activities for purposes of this paragraph.”

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 7874(a)(2)(B) of such Code is amended by striking “after March 4, 2003,” and inserting “after March 4, 2003, and before May 8, 2014.”

(2) Subsection (c) of section 7874 of such Code is amended—

(A) in paragraph (2)—

(i) by striking “subsection (a)(2)(B)(ii)” and inserting “subsections (a)(2)(B)(i) and (b)(2)(B)(i)”; and

(ii) by inserting “or (b)(2)(A)” after “(a)(2)(B)(i)” in subparagraph (B);

(B) in paragraph (3), by inserting “or (b)(2)(B)(i), as the case may be,” after “(a)(2)(B)(ii)”; and

(C) in paragraph (5), by striking “subsection (a)(2)(B)(ii)” and inserting “subsections (a)(2)(B)(i) and (b)(2)(B)(i)”; and

(D) in paragraph (6), by inserting “or inverted domestic corporation, as the case may be,” after “surrogate foreign corporation”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 8, 2014.

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 604—RECOGNIZING THAT IT IS THE DUTY OF THE FEDERAL GOVERNMENT TO DEVELOP AND IMPLEMENT A TRANSGENDER BILL OF RIGHTS TO PROTECT AND CODIFY THE RIGHTS OF TRANSGENDER AND NONBINARY PEOPLE UNDER THE LAW AND ENSURE THEIR ACCESS TO MEDICAL CARE, SHELTER, SAFETY, AND ECONOMIC SECURITY

Mr. MARKEY (for himself, Mr. MERKLEY, Ms. WARREN, Ms. HIRONO, Mr. WYDEN, Mr. HEINRICH, Mr. PADILLA, Mr. SANDERS, and Mr. WELCH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 604

Whereas an estimated 1,600,000 transgender adults live in the United States;

Whereas title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) requires equal treatment under the law regardless of sex;

Whereas the Supreme Court of the United States affirmed in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020) that Federal protection against discrimination on the basis of sex includes protection from discrimination on the basis of sexual orientation and gender identity;

Whereas several Federal courts have correctly concluded that discrimination against transgender people because of their sex and gender identity violates title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116), and the Fourteenth Amendment to the Constitution of the United States;

Whereas, despite the protections against discrimination on the basis of sexual orientation and gender identity, transgender people still experience discrimination in—

- (1) medical care;
- (2) employment;
- (3) housing;
- (4) education;
- (5) lending; and
- (6) other basic necessities;

Whereas President Trump has issued several executive orders that attempt to unlawfully discriminate against transgender people;

Whereas anti-trans individuals strive to deprive transgender and nonbinary people of access to gender affirming care, despite the overwhelming consensus of the medical community that gender-affirming care is essential, safe, and life-saving health care;

Whereas the provision of best-practice, age-appropriate, gender-affirming health care is endorsed by major medical associations such as the American Academy of Child and Adolescent Psychiatry, the American Academy of Family Physicians, the American Academy of Nursing, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American College of Physicians, the American Counseling Association, the American Heart Association, the American Medical Association, the American Nurses Association, the American Osteopathic Association, the American Psychiatric Association, the American Psychological Association, the American Public Health Association, the Endocrine Society, the National Association of Nurse Practitioners in Women’s Health, the Pediatric Endocrine Society, the Society for Adolescent Health and Medicine, the World Medical Association, and the World Professional Association for Transgender Health;

Whereas transgender and nonbinary people—

(1) face significant barriers to legal recognition of their truest selves on government-issued documentation and identification that reflects their gender;

(2) experience disproportionately high rates of poverty, homelessness, violence, and suicide due to discrimination and persecution; and

(3) are especially vulnerable to violence and abuse and are often deprived of gender-affirming resources and health care while detained in jails, prisons, and immigration detention centers; and

Whereas transgender and nonbinary people—

(1) make unique, valuable contributions to American society and culture worth honoring and celebrating;

(2) have existed throughout history across the globe, demonstrating resilience, bravery, and authenticity; and

(3) are parents, siblings, children, chosen family, and friends deserving of human dignity and support: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the Federal Government has a duty to protect the rights of transgender and nonbinary people by implementing a “Transgender Bill of Rights” that includes—

(A) ensuring that transgender and nonbinary people have equal access to services and public accommodations that align with their gender identity by—

(i) amending the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) to prohibit discrimination on the basis of sex, including gender identity and sex characteristics, in public accommodations and federally funded programs and activities;

(ii) expanding the definition of public accommodation to address the full range of places and services that members of the general public utilize;

(iii) explicitly clarifying that it is illegal to discriminate on the basis of sex, including gender identity or sex characteristics, in public accommodations and services on religious grounds; and

(iv) amending Federal law to ensure that it protects students from discrimination based on sex, including gender identity and sex characteristics, thus guaranteeing the right of students to participate, free from discrimination, including harassment and sexual violence, in all areas of school life, including in classes, extracurriculars (including athletics), access to facilities, and other school activities;

(B) clarifying and reaffirming the right to bodily autonomy and health care for transgender and nonbinary people by—

(i) enforcing prohibitions against discrimination in the provision of health care on the basis of sex, including on the basis of actual or perceived gender identity or sex characteristics;

(ii) eliminating unnecessary governmental restrictions on the provision of, and access to, gender-affirming medical care and counseling for transgender and nonbinary adults and adolescents;

(iii) ensuring that health care providers that follow recognized standards of care for transgender and nonbinary people are not targeted for criminal or civil penalties, or for professional discipline;

(iv) protecting children against forceful removal from supportive homes;

(v) protecting providers of gender-affirming care, reproductive health care, and abortion health care from threats and acts of violence related to their work;

(vi) expanding access to competent health care providers serving transgender and nonbinary patients, including by recruiting and training more health care providers to provide appropriate care;

(vii) expanding telehealth access to provide patients in rural and other underserved locations better access to health care services;

(viii) codifying the right to abortion and reproductive health care, such as contraceptives and assistive reproductive technology, for everyone, including transgender and nonbinary people;

(ix) banning the performing of nonconsensual surgeries that violate medical ethics and the human rights of intersex children and infants;

(x) banning conversion practices and other abusive and torturous pseudo-medical treatments that are overwhelmingly rejected by every major medical organization as lacking efficacy and carrying significant risks of harm;

(xi) protecting providers of gender-affirming care from specious consumer and medical

fraud accusations based on their provision of medically necessary care; and

(xii) ensuring that the Sexual & Gender Minority Research Office of the National Institutes of Health is re-opened and remains operational;

(C) ensuring transgender and nonbinary people can care for themselves and their families by fully codifying the judgment of the Supreme Court in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020) by—

(i) eliminating hiring and employment discrimination and workforce exclusion by amending title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) to explicitly clarify that employers may not discriminate on the basis of actual or perceived gender identity or sex characteristics;

(ii) amending the Fair Housing Act (42 U.S.C. 3601 et seq.) to explicitly clarify that it prohibits all forms of sex discrimination, including on the basis of gender identity or sex characteristics; and

(iii) amending the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) to explicitly clarify that it prohibits all forms of sex discrimination, including on the basis of gender identity or sex characteristics;

(D) providing accessible avenues for legal recognition of transgender and nonbinary identities and guaranteeing full participation in civil life by—

(i) eliminating Federal gender identification requirements on government documents that are unnecessary to determine the identity of the holder or are otherwise irrelevant to the purpose of the document;

(ii) eliminating burdensome barriers to, or prohibitions on, updating sex and names on passports, Social Security cards, and other forms of Federal Government identification and records, permitting, where possible, changes on self-attestation alone;

(iii) requiring that an “X” marker be available on Federal Government identification and records that require gender;

(iv) requiring States to permit voters to update their name and gender on their voter registration and vote on the same day of Federal elections;

(v) making explicit that existing Federal statutes prohibiting sex discrimination in jury service also prohibit discrimination based on gender identity and sex characteristics;

(vi) eliminating anti-trans bias in the immigration system, including the asylum process, by requiring culturally competent training for adjudicators and ensuring that gender identity and sex characteristics are not used to the detriment of individuals in immigration proceedings;

(vii) ensuring that dedicated and capable transgender and nonbinary servicemembers can continue to serve proudly and openly in the Armed Forces;

(viii) requiring the TRICARE program (as defined in section 1072 of title 10, United States Code) and the Department of Veterans Affairs to pay for gender-affirming health care; and

(ix) requiring a review of military discharges for transgender and nonbinary veterans, and reclassification of discharge status and code, to ensure the patriotism and sacrifices of transgender and nonbinary servicemembers is respected above partisan politics;

(E) strengthening the safety of transgender and nonbinary people by—

(i) investing in community services to prevent intimate partner, family, and community violence against transgender and nonbinary people and expand services for transgender and nonbinary survivors;

(ii) investing in mental health services and suicide prevention programs designed for transgender and nonbinary people;

(iii) ensuring robust regulations and procedures that affirm that claims for immigration relief or asylum based on persecution related to gender, sexual orientation, gender identity, and sex characteristics are protected grounds in the context of asylum adjudications;

(iv) ensuring housing assignments for transgender and nonbinary people in government custody are based on their safety needs and providing individual housing determinations that incorporate assessments by qualified caseworkers and the assessment of the individual of their safety needs;

(v) prohibiting involuntary solitary or administrative confinement of a transgender or nonbinary individual because of their gender identity; and

(vi) exploring policies and practices that improve the safety of transgender and nonbinary individuals incarcerated in jails, prisons, and immigration detention facilities and ensuring that those populations of transgender and nonbinary individuals have access to gender-affirming care, appropriate services, and commissary items consistent with their gender identity; and

(F) actively enforcing the civil rights of transgender and nonbinary people by all government agencies including by—

(i) requiring the Attorney General to designate a liaison within the Civil Rights Division of the Department of Justice whose job is dedicated to advising on and overseeing enforcement of the civil rights of transgender and nonbinary people; and

(ii) appropriating the funds necessary to fully staff and support the enforcement of these rights across agencies;

(2) to carry out the goals in this resolution, Federal agencies must collect gender identity and sex characteristics information on a voluntary, confidential basis solely for equity and public health purposes in key Federal surveys;

(3) the Federal Government must make an ongoing commitment to the rights of transgender and nonbinary people;

(4) policies concerning transgender rights must be led and informed by transgender communities, in particular Black and Indigenous women who face heightened risk of violence, poverty, discrimination, and other harm due to their intersecting identities; and

(5) the actions listed in this resolution are only the first steps toward transgender equality.

SENATE RESOLUTION 605—DENOUNCING STATEMENTS BY PRESIDENT DONALD J. TRUMP THAT HE MAY “NATIONALIZE,” COMMANDEER, OR OTHERWISE ASSUME DIRECT CONTROL OVER ELECTIONS

Mr. MARKEY (for himself, Mr. BLUMENTHAL, and Mr. SCHIFF) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 605

Whereas the Constitution of the United States vests primary authority over the times, places, and manner of Federal elections in the legislatures of the several States and Congress, and does not assign to the President any power to directly control or administer elections;

Whereas section 4 of article I of the Constitution of the United States provides that “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but Congress may at any