

RESERVATION OF LEADER TIME

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

EMPLOYMENT NON-DISCRIMINATION ACT OF 2013—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 815, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 184, S. 815, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, today marks another step forward in the progress of the United States of America in making sure that all of our citizens are treated fairly and equitably under the law, that each citizen of this country will know he or she cannot be discriminated against because of race, religion, sex, or national origin. That was all covered in the Civil Rights Act of 1964.

In 1990 I was proud to stand at this very desk when we took another step forward when we said we were going to extend civil rights to cover people with disabilities. Today I stand here to mark another step forward when we will have a vote on proceeding to the debate to end discrimination in employment because of a person's sexual orientation. It is a huge step forward, one too long in coming.

I was here in 1996 when we voted on the Employment Non-Discrimination Act, the bill that is now before the Senate. We lost by one vote—50 to 49. That was a dark day. We have been trying to get it before the Senate ever since, and we have finally done so. I am proud to say that we got it through the HELP Committee this summer on a strong bipartisan vote, and we now have it before the Senate.

People should understand this is a momentous day in the development of our country, ensuring that every person is recognized for their individual worth and for what they contribute to society, not for the color of their skin or race or religion or national origin or whether they have a disability. Today we also say: We will make sure you cannot be discriminated against because of your sexual identity or whom you love.

It has been 17 years since Ted Kennedy, who chaired the committee at the time, brought this bill to the floor in 1996, and it was, again, one vote shy of passage. In the meantime, over those 17 years, the attitudes in this country have changed dramatically about the rights of gay, lesbian, transsexual, and transgender Americans. In a nutshell, I think the vast majority of Americans believe that individuals ought to have

the right to earn a living free from discrimination and that they should be judged on their performance in the workplace based on their talent, their ability, and their qualifications.

Interestingly enough, since 1996, 17 States—including my State of Iowa—have passed legislation that includes basic employment protections for all LGBT Americans. I will use that acronym or those letters to explain lesbian, gay, bisexual, and transgender Americans.

Eighty-eight percent of Fortune 500 businesses have included protections in their nondiscrimination policies, as have the majority of small businesses. Over 100 major businesses, including pharmaceutical and technology companies, banks, manufacturing companies, and chemical companies have announced their support for this bill. In fact, there are polls that show 8 out of 10 Americans already believe that discrimination against people because of their sexual orientation is already illegal; for example, that it is illegal to fire someone for being gay or for being a lesbian.

Why are we here today? Twenty-three years ago I stood at this desk as the manager of the Americans with Disabilities Act. That bill was to extend nondiscrimination clauses to people with disabilities. At that time a lot of people said: What is the problem?

Here is the problem in a nutshell. Let's say you are an African American—or a woman or Jewish or Catholic or anything else—and you applied for a job for which you were fully qualified and the prospective employer said: No, I am not hiring African Americans. I don't want any Black people working here. No, you are Jewish; get out of here. Do you know what you could do? You could turn right around, walk out the door, go down to the courthouse, and the courthouse door would be open for you. You can go into that courthouse and take that case to court.

When I stood here 23 years ago, I said: Until the President signs that bill into law, a person with a disability—for example, someone bound to a wheelchair—could be turned down in spite of being qualified for the job. The prospective employer could say: Get out of here; I don't hire cripples. If you then went down to the courthouse, the door was locked. You had no recourse under law for the violation of your civil rights. That is true today for gays, lesbians, bisexual, and transgender Americans. They could be fired just because of that. If they go down to the courthouse door, it is locked. They have no recourse under law.

As I said, 17 States have State laws, some municipalities have municipal laws, but the vast majority of Americans live in States in which there is no civil rights law governing LGBT people. The majority of Americans—more than 56 percent—live in States in which it is perfectly legal to fire or

refuse to hire someone because of who they are—lesbian, gay, bisexual, or transgender. They have no recourse under law. As I said, most people in America think they are covered. They think you can't discriminate against someone because of that. The fact is that it is still perfectly legal to do so in most States in the United States.

As I said, I think we have changed quite a bit in the 17 years since we last considered this bill. That last vote was 49 to 50. We lost by one vote, and there were no amendments. At that time a majority of Senators would have been enough to pass it. All we needed was one more vote. I remember Vice President Al Gore was sitting in the chair, but we were one vote short.

Today, however, as times have changed, we know we need 60 votes to pass bills. Just think about that—17 years ago 51 votes would have passed this bill; now we have to have 60 votes. I won't get into the necessity of having to change the rules of the Senate. We need 60 votes before we can even bring up the bill. It is a tribute to the leadership of the bill's sponsors, Senator JEFF MERKLEY and Senator MARK KIRK, that we have now reached 60 votes. As of last week we only had about 57 or 58 votes, and then 2 more people decided to support the bill. Now that Senator HELLER of Nevada has announced his support for the bill, we have 60 votes. We have 60 votes, and I predict we will get more than 60 votes. Once we reach the critical mass, I think my colleagues will understand that this is another step in the direction of opening America and making our society more inclusive rather than exclusive.

Senator KIRK, who is managing the bill for the minority, had been a supporter of this legislation before he was elected to the House. Senator MERKLEY, who is the sponsor of the bill, was the leader of this effort when he was in the Oregon State Legislature. One Republican and one Democrat were champions of this bill before they came to Congress. They both played a critical role in ensuring the bill was brought before our committee. Even though Senator MERKLEY left our committee to join the Appropriations Committee, he always kept on top of this. With their help, we voted it out of our HELP Committee in July with a strong bipartisan vote of 15 to 7. I thank the present occupant of the Chair, the distinguished Senator from Connecticut, for all of his help and support for getting this bill through. We had the support of three Members of the minority as well. The vote was 15 to 7. It was a great vote.

Despite the passage of laws at the State and local levels, discrimination in the workplace continues to be all too real. Forty-two percent of lesbian, gay, and bisexual workers report having experienced some form of discrimination at work. Even with the progress that has been made at the State and local levels, as I mentioned, too many