

right for their family. He described this as “constitutionally unsound.”

Rather than settling the debate on abortion, the draft Dobbs opinion would further divide our fractious Nation and set the stage for a radical majority in the Court to erase even more constitutional rights. It would give government the power to dictate your rights and dictate your future. That is why we must take action to protect women’s productive rights.

Tomorrow, the Senate will vote on the Women’s Health Protection Act. This bill will codify the right to provide or obtain an abortion free from medically unnecessary restrictions. The American people deserve to know where their Senators stand. I will not stop fighting for the right of every American, especially the women of America, to have these rights as established for over 50 years.

For years, the Republicans have claimed they are the party of families, the party of family values. Yet they have spent decades ignoring the needs of working families. Republicans are willing to force women to carry unwanted or unexpected or even dangerous pregnancies to term, but they are not willing to help them raise their children.

There are aspects of their voting patterns in the Senate that make it clear that when it comes to helping families with the basics, such as tax credits for children, making sure that families have paid medical leave for their newborns or other family members—all of these things are family friendly and family values. Unfortunately, they are not supported by many, if any, Republicans. That would be a demonstration that they truly care for families.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### NOMINATION OF ASMERET ASEFAW BERHE

Mr. BARRASSO. Mr. President, I come to the floor today in opposition to the nomination of Dr. Asmeret Berhe, who has been nominated to serve as the Director of the Office of Science at the U.S. Department of Energy.

The Office of Science is the Nation’s largest Federal sponsor of basic research in physical sciences. Its mission is to advance the energy, economic, and national security of the United States. This job, this mission to advance the energy, economic, and national security of the United States is one that I view as very critical.

Dr. Berhe has been a professor of soil biogeochemistry—soil biogeochemistry—at the University of California Merced for over a decade. Now,

she has focused her research on soil management and sequestering carbon in the soil. Her background and her experience have very little to do with the Department of Energy’s main scientific focus.

A May 9, 2001, op-ed in the Wall Street Journal by a physicist whose expertise is theoretical physics has noted:

Ms. Berhe’s research program on soil chemistry, exploring the capture of carbon dioxide, is relevant to climate-change policy. But her research expertise isn’t in any of the Office of Science’s major programs, and she has no experience as a scientific administrator and minimal experience with the Energy Department itself.

So not that there is anything wrong with her underlying experience to do other things, but for this specific position, the qualifications just aren’t there. Dr. Berhe is clearly not the right choice to lead the Office of Science.

Certain positions Dr. Berhe has taken or endorsed are also concerning. On February 28, 2001, she retweeted this statement:

I’m just going to propose that a nation that can land an SUV sized rover in an ancient lake on another planet can build an electrical grid that is not [f---ing] useless—

This is her retweeting—

because of slavish devotion to the free market.

Apparently, we are devoted to the free market, and she doesn’t like it.

On May 7, 2015, she wrote in Science that “the practice of farming” is to blame for climate change. “The practice of farming” is to blame for climate change.

Dr. Berhe is not the right person to serve as the Director of the Office of Science. I rise in opposition to her nomination. I urge my colleagues to join me in voting against this nominee.

I yield the floor.

#### VOTE ON PHILLIPS NOMINATION

Mr. BARRASSO. Mr. President, I ask unanimous consent to start the vote.

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

The question is, Will the Senate advise and consent to the Phillips nomination?

Mr. BARRASSO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Wyoming (Ms. LUMMIS) and the Senator from Florida (Mr. SCOTT).

Further, if present and voting, the Senator from Florida (Mr. SCOTT) would have voted “nay.”

The result was announced—yeas 75, nays 22, as follows:

[Rollcall Vote No. 162 Ex.]

#### YEAS—75

Baldwin	Hassan	Portman
Bennet	Heinrich	Reed
Blackburn	Hickenlooper	Risch
Blumenthal	Hirono	Romney
Blunt	Hoeben	Rosen
Booker	Hyde-Smith	Rounds
Brown	Kaine	Sasse
Burr	Kelly	Schatz
Cantwell	Kennedy	Schumer
Capito	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Lujan	Stabenow
Collins	Manchin	Sullivan
Coons	Markey	Tester
Cortez Masto	McConnell	Thune
Cramer	Menendez	Tillis
Crapo	Merkley	Van Hollen
Duckworth	Moran	Warner
Durbin	Murkowski	Warnock
Feinstein	Murphy	Warren
Fischer	Murray	Whitehouse
Gillibrand	Ossoff	Wicker
Graham	Padilla	Wyden
Grassley	Peters	Young

#### NAYS—22

Barrasso	Ernst	Paul
Boozman	Hagerty	Rubio
Braun	Hawley	Scott (SC)
Cassidy	Inhofe	Shelby
Cornyn	Johnson	Toomey
Cotton	Lankford	Tuberville
Cruz	Lee	
Daines	Marshall	

#### NOT VOTING—3

Lummis	Sanders	Scott (FL)
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The nomination was confirmed.

The PRESIDING OFFICER (Mr. LUJÁN). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate’s action.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant 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, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 773, Asmeret Asefaw Berhe, of California, to be Director of the Office of Science, Department of Energy.

Charles E. Schumer, Sheldon Whitehouse, Mark Kelly, Jack Reed, Catherine Cortez Masto, Patty Murray, Margaret Wood Hassan, Mazie Hirono, Tim Kaine, Tammy Baldwin, Robert P. Casey, Jr., Kirsten E. Gillibrand, Patrick J. Leahy, Ron Wyden, Amy Klobuchar, Richard J. Durbin, Jeff Merkley.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Asmeret Asefaw Berhe, of California, to be Director of the Office of Science, Department of Energy, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Wyoming (Ms. LUMMIS).

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 163 Ex.]

YEAS—53

Baldwin	Hassan	Padilla
Bennet	Heinrich	Peters
Blumenthal	Hickenlooper	Reed
Booker	Hirono	Rosen
Brown	Kaine	Schatz
Cantwell	Kelly	Schumer
Cardin	King	Shaheen
Carper	Klobuchar	Sinema
Casey	Leahy	Smith
Cassidy	Lujan	Stabenow
Collins	Manchin	Tester
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warnock
Durbin	Murkowski	Warren
Feinstein	Murphy	Whitehouse
Gillibrand	Murray	Wyden
Graham	Ossoff	

NAYS—45

Barrasso	Grassley	Risch
Blackburn	Hagerty	Romney
Blunt	Hawley	Rounds
Boozman	Hoeven	Rubio
Braun	Hyde-Smith	Sasse
Burr	Inhofe	Scott (FL)
Capito	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	Marshall	Tillis
Cruz	McConnell	Toomey
Daines	Moran	Tuberville
Ernst	Paul	Wicker
Fischer	Portman	Young

NOT VOTING—2

Lummis Sanders

The PRESIDING OFFICER (Ms. SINEMA). On this vote, the yeas are 53, the nays are 45.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Asmeret Asefaw Berhe, of California, to be Director of the Office of Science, Department of Energy.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:11 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. SINEMA).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Massachusetts.

WOMEN'S HEALTH PROTECTION ACT

Mr. MARKEY. Mr. President, in the aftermath of last week's leak of the draft Supreme Court opinion of Dobbs v. Jackson Women's Health Organization, we are facing one of the lowest moments in history for our Nation's highest Court.

An illegitimate, far-right majority on the Court is poised to overturn Roe v. Wade and Planned Parenthood v. Casey and take away a fundamental constitutional right that has been the law of the land for almost 50 years—the right to a legal, safe abortion. Every American deserves the right to make their own decisions about their own bodies.

While the leaked opinion may only be a draft, we cannot ignore the profound threat it poses. That is because the opinion is the outrageous culmination of a rightwing campaign to take over the Court and take America back to the days when far too many faced not only a loss of liberty but a loss of life when seeking abortion care.

It validates the theft of two Supreme Court seats by President Trump, then-Leader MCCONNELL, and Senate Republicans.

It confirms that conservative Justices lied to the Congress and the American people about their commitment to the Court's precedent and the rule of law.

Overturing Roe v. Wade will undermine the health, safety, and freedom of millions of Americans, and it will create horrific pain and hardship for people all across the Nation, especially those without the means or resources to travel to States where abortion will remain safe and legal.

Already, for pregnant Americans in red States across the country, access to abortion is functionally denied because of a lack of funds, geography, immigration status, and other barriers. This war on people of color and the poor is already being waged, and we cannot let the Supreme Court provide deadlier weapons.

If the extremist rightwing of the Court is willing to abandon something as fundamental as the right to privacy and the right for Americans to make decisions about their own bodies, then we are on a slippery slope to the undoing of other fundamental rights the Court has recognized as being grounded in the right to privacy, including the right to use contraception or the right to marry whomever you love.

But this was the goal of the Republicans and the rightwing all along: steal the Supreme Court seats, steal an election, and steal the rights of Americans.

This is the direct consequence of an anti-majoritarian and anti-democratic national electoral system that allowed two Presidents, who both lost the popular vote, to nominate more than half of the current Justices to the U.S. Supreme Court and allowed them to be confirmed by Senators representing a minority of the Nation's population.

This is the racist, misogynistic, xenophobic manifestation of a radical rightwing, extremist vision of America that is out of step with the vast majority of Americans. In fact, by a 2-to-1 margin, Americans say Roe v. Wade should be upheld.

This egregious and overtly political act cannot be allowed to go unanswered. Faith in our judicial system is in jeopardy, so we are left with no other choice. We have to immediately pass Federal legislation that protects millions of Americans' right to choose, that lifts dangerous and discriminatory bans on abortion, and that removes unnecessary limits on reproductive freedom.

The Women's Health Protection Act will do all of that by codifying Roe so as to affirm it as the law of the land. The Women's Health Protection Act enshrines in Federal law a healthcare provider's right to provide abortion services and a patient's right to receive them.

Among its provisions, the bill would prohibit viability bans designed to undercut the right to an abortion, like the 15-week ban imposed by the Mississippi law at issue in Dobbs or specious "heartbeat" bans like the one imposed by Texas's SB 8.

The Women's Health Protection Act would prohibit bans that do not make exceptions for the patient's health or life. I am appalled that any Member of Congress could consider themselves in support of women but then support a ban that explicitly devalues life.

This bill would also ban so-called TRAP laws—the targeted regulation of abortion providers—that impose onerous and unwarranted requirements on facilities and providers who do nothing to promote health but, rather, make it nearly impossible for healthcare providers to keep their doors open.

The bill would also prohibit requirements that providers share medically inaccurate information and impose medically unnecessary and manipulative tests and procedures like mandatory ultrasounds.

It would prohibit limitations that prevent providers from caring for patients by telemedicine—a service that we have all learned to have been invaluable over the course of the pandemic and one that is all the more necessary for abortion care given the already draconian laws in some red States across the country.

It would bar other unjustified, onerous, and discriminatory practices intended to place obstacles in the path of those seeking abortion services.

In short, the Women's Health Protection Act will safeguard the rights established by 50 years of Supreme Court precedent and would protect abortion access even if Roe is overturned.

This bill is all that is standing between the America we have known for decades and one that plunges millions of people back in time—into despair, pain, poverty, and forced parenthood.

If we fail to act, we know Republicans will. If the Supreme Court overturns Roe v. Wade, 28 States are poised to ban abortion outright. Of those, 13 States already have trigger bans in place—activating laws that would ban abortion automatically when Roe is overturned.