

Right now, the Republicans will have a chance to go on the record on whether they actually support family planning, whether they actually want to help people get birth control. And believe me, the same people Republicans have been trying to ignore—the same people who are having their healthcare undermined, their lives upended, their controls over their own bodies taken away—are going to be watching us closely, and they are not going to forget how much or how little Republicans' promises are worth.

Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 4550 and the Senate proceed to its immediate consideration, that the bill be considered read a third time and passed, and that the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER (Mr. KING). Is there objection?

Ms. ERNST. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Ms. ERNST. Mr. President, this bill is a wolf in sheep's clothing. While the language touts supporting access to family planning, in reality, it is likely a \$5 billion gift for Planned Parenthood and other abortion-related providers.

Prior to the Trump administration's protect life rule, Planned Parenthood received nearly \$60 million per year in title X funds. The Biden administration reversed this rule and has aggressively deployed title X funds to abortion providers like Planned Parenthood.

Under this bill, Planned Parenthood and other abortion providers would be allowed to use the funds to build clinics, and abortion counseling referrals would be mandatory. The bill would also force religious providers to violate their beliefs. Congress should not green light family planning dollars at the expense of family destruction.

For those reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

Mrs. MURRAY. Mr. President, there you have it—the real Republican position on expanding family planning summed up in two simple words: “I object.”

As much as Republicans are talking now about supporting women's health, as hard as they might try to pretend that they do support family planning services, when they have been given a chance today to do exactly that—to expand a program with a long track record of helping women get the care they need; a long history, I remind all of us, of bipartisan support—they stood in the way.

Let's be clear. The bill that the Republicans blocked today does not fund abortion. The truth is, title X only provides services like birth control, STI testing, cancer screenings—services Republicans claim to support.

We are not proposing anything radical or groundbreaking; we are simply saying we should expand the national Family Planning Program that already exists, the one President Nixon signed into law decades ago, the one we have already funded before in a bipartisan way many times.

Title X is a program that is already providing patients family planning services and contraception, STI testing and treatment, screenings for breast cancer and cervical cancer, and more. I know that because I have met with title X providers and patients in my home State of Washington many times. I would strongly urge my colleagues who block this bill to do the same. Listen to those patients. Listen to the doctors. Listen to the nurses in their States. This is a program we already know helps so many people, and it can help more.

I can't say I am surprised by Republican objections today. I can't say this is the first time Republicans have said one thing about women's health and done the opposite, and I think we all know full well it won't be the last.

My message to the American people who are witnessing this: Pay attention. Pay attention. The Republican agenda is no to family planning, no to your right to travel for the healthcare you need, and no to your constitutional right to abortion.

Senate Democrats and I will not stop holding them accountable for empty promises or for the devastating harm their extreme abortion bans are now inflicting on so many patients and families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

#### FORMULA ACT

Mr. LEE. Mr. President, for months now, American babies have endured an unprecedented and prolonged formula shortage. Some doctors have called this the worst crisis of their careers. It has become so widespread that nearly everyone knows someone who has been personally affected. Desperate parents have scoured online marketplaces. They reached out to family and friends for help. They paid exorbitant markups just to feed their babies. In some worst-case scenarios, some have even resorted to dangerous homemade formulas. In the U.S.A., no parent should be left to wonder how they are going to feed their newborn baby.

After months of work and bipartisan collaboration with my colleagues in the House and the Senate, I rise to pass needed reforms that will finally provide relief to hungry babies. Today, we can take action to alleviate a crisis largely of the Federal Government's own creation.

Poor governance has crippled our domestic formula market. Tariffs and regulations have prevented safe foreign formulas from entering the United States, even while we are experiencing this acute shortage at home.

Currently, the government imposes a 17.5-percent minimum tariff on formula imports. This tariff has stifled competition. But it doesn't have to be that way. We can lift these substantial tariffs on the importation of baby formulas and reduce the costs borne by retailers to provide access to safe, affordable formula. Doing so will expand the severely limited formula options for American consumers. This modified version of the Formula Act does just that by waiving these tariffs through the end of this year.

While passing my bill won't provide immediate relief, our work is far from complete. I am committed to doing everything I can not only to provide this relief now but also to make the necessary permanent reforms to our system to ensure that a crisis like this never arises again.

We still have work to do, and we must further our efforts by allowing WIC recipients to buy whatever brand of formula might be available. We must make meaningful reforms to how the FDA regulates the formula industry. Passing this bill today is the first step. In the meantime, I am actively working on expanding the list of products to receive temporary relief from tariffs. While this is an important first step, it is certainly not the last.

This crisis is such that American babies cannot wait any longer than they already have. We have a moral obligation to these infants to say that we did everything we possibly could to fight for them.

Passing the Formula Act will be an incredible win for families and hungry babies everywhere. It will make meaningful headway that is so desperately needed today. By suspending the tariff on formula imports, we are providing cheaper access to individual consumers and to retailers alike. This relief has been long overdue and long overdue especially for Utahns, who have the largest families, the most children per capita, and the highest birth rate.

I am grateful for the countless hours of behind-the-scenes work and successful negotiations with my colleagues, Democrats and Republicans alike, in the House and in the Senate, which have resulted in a win for our most vulnerable Americans—babies. I look forward to continuing this important work with them.

Passing my Formula Act today is a victory for families and for babies everywhere.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 8351.

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

The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 8351) to amend the Harmonized Tariff Schedule of the United States to suspend temporarily rates of duty on imports of certain infant formula products, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEE. I ask unanimous consent that the bill be considered read a third time.

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

The bill was ordered to a third reading and was read the third time.

Mr. LEE. I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate on the bill, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 8351) was passed.

Mr. LEE. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

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

The PRESIDING OFFICER. The Senator from Indiana.

UNANIMOUS CONSENT REQUEST—S. RES. 687

Mr. BRAUN. Mr. President, I rise today to fix a troubling loophole in our earmark rules. Earmarks are something I strongly oppose. I believe they breed corruption, overspending, waste, and abuse.

There has been bipartisan concern about the earmarking process for decades. In 2007, the process got so out of control that even earmarking's biggest supporters decided we needed guardrails.

The Senate passed the Honest Leadership and Open Government Act. The bill created Senate standing rule 44, which requires the authors of any bill considered by the Chamber to do this: identify each earmark contained in the bill and ensure that the text is publicly available at least 48 hours prior to proceeding to the bill.

These two protections helped shine light on the earmarking process. There was significant bipartisan support for the protections in rule 44.

In 2007, on the Senate floor, Senator Hillary Clinton said that rule 44 would help curb wasteful spending by creating greater transparency "in the earmark process." It was nearly unanimous, including the two Senators from New Hampshire.

I want to read a portion of her comments.

I believe we can improve accountability by mandating publication of the earmark for a minimum period of time prior to any vote on the underlying measure, ensuring that both other elected officials and the general public have the opportunity to scrutinize the sponsored outlay. Taking these common-sense steps would ensure that legislators are made to answer for the spending they cosponsor.

A quote from Hillary Clinton. I couldn't agree more, in this case. But the drafters of Senate rule 44 left something out. The rule does not apply to legislation brought to the floor as an amendment from the House.

This means that a determined majority can ignore the protections offered under the rule simply by using a common procedural mechanism.

The bill I seek to pass today closes this loophole. Senator DURBIN commented about how important it was back then as well.

Congress should abide by the rules it created for itself. We recently saw the consequences of this loophole. The Omnibus appropriations bill considered in March contained nearly 5,000 earmarks, totaling nearly \$10 billion. The Senate passed the bill less than 48 hours after receiving the text, in violation of the spirit of rule 44.

As Dr. Tom Coburn used to say in this Chamber, earmarks are a "gateway drug." We must close this unintended loophole before the situation gets worse. In fiscal year 2010, the last year of earmarking before the congressional ban, Congress passed 11,000 earmarks at a sum of \$32 billion. We cannot go back there.

Earmarks give Congress a personal incentive to vote for the huge spending bills that are dragging America into bankruptcy. I talked about it last night when I introduced my own budget to try to go the other direction.

Return of earmarks will mean the return of earmark scandals and earmark corruption much sooner than you think. Let's do the minimum to prevent this.

I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration and the Senate now proceed to S. Res. 687; further, that the resolution be agreed to and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from New Hampshire.

Mrs. SHAHEEN. Reserving the right to object.

One of Congress's most basic jobs is the power of the purse. Americans rely on this body to provide Federal funds for programs that support national defense, small businesses, border defenses, conservation of public lands, food assistance for the poor, and so much more.

And as a longstanding member of the Appropriations Committee, I am proud of the work that the Appropriations Committee has done to meet the needs of this Nation. And as a senior Senator from New Hampshire, when I talk to small business owners, educators, healthcare professionals, community leaders across my State, it is unfortunate that not all of the needs of our State are being met.

And for years, New Hampshire, like most small States in this country, has received among the lowest apportionments in the country from formula grant programs that are administered by our Federal Agencies.

Congress has long used earmarks or congressionally directed spending to address funding gaps and inequities between the States. And, in fact, Senator Judd Gregg—whom I had the pleasure of serving with both when he was Governor and I was in the State senate and then when he was in the Senate and I got elected—was a big supporter of congressionally directed spending because he believed, like I do, that I know bet-

ter how money should be spent in New Hampshire than a bureaucrat here who was making decisions about how to spend Federal dollars.

Congressionally directed spending levels the playing field for States like New Hampshire, and even for Indiana, to ensure that our communities can get their fair share to address our local needs.

Unfortunately, back in 2011, when Congress instituted a ban on congressionally directed spending, we ceded the power of the purse to unelected officials in the executive branch. And while I know that many of these individuals are dedicated bureaucrats, they are public servants. They don't necessarily understand the needs of New Hampshire in the same way that I do as somebody who has represented that State for decades.

So that is why I was very pleased that under the leadership of Chairman LEAHY and Ranking Member SHELBY, Congress once again passed a bipartisan bill to include congressionally directed spending in our budget process.

And when we did that, the Appropriations Committee instituted some major reforms to improve accountability and transparency in the process of congressionally directed spending.

I am going to talk about some of those reforms because while I appreciate the perspective of my colleague from Indiana, I think he has not pointed out the reforms that exist in the process of congressionally directed spending.

First of all, Members are required to certify that neither we nor any member of our immediate family would financially benefit from the requests that are made. Secondly, those congressionally directed spending requests have to be made in writing and posted online by the Member and the Appropriations Committee so that the public has every opportunity to view the name and location of the project, the intended recipient, and the purposes of that request. For example, the requests for fiscal year 2023 are available online right now before they would be available if this government, this administration, were determining how to spend that money.

So the Senator from Indiana doesn't have to wait until those Senate bills are posted to inspect congressionally directed spending projects.

The reforms also include a 1-percent cap on discretionary spending for CDS items and a ban on congressionally directed spending items to for-profit entities.

Finally, the Appropriations Committee requires the Government Accountability Office to audit a sample of enacted congressionally directed spending items to ensure that Congress is being held accountable for these projects.

The chair and ranking member instituted these reforms to restore the trust of the American people in the appropriations process, and I believe it is

working. And I can tell you, as I travel around New Hampshire, it is one of the things that I hear from people in our communities that they are interested in.

They want to know about the appropriations process, and they want to know what other opportunities are there to support initiatives that may not fit within some grant program, that they may not be able to raise money in the private sector for but that are very important for our communities.

The resolution sponsored by the Senator from Indiana would require the chair of the Senate Appropriations Committee to certify that not just Senate earmarks have been disclosed but that all House earmarks have been disclosed.

I think that bill is a solution in search of a problem. The House already has its own rule that governs congressionally directed spending items, and it is required to identify these items.

It knows what its Members have requested, and it is responsible for disclosing them. Requiring the Senate to confirm that the House has done its job before we can consider a message from the House is unnecessary, and it could stop consideration of appropriations bills before they ever get here.

The resolution sponsored by my colleague from Indiana would change Senate rule 44 in ways that could have unintended consequences and could delay critical funding for projects that are important in my home State of New Hampshire and in so many States across this country.

So given all of those concerns, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Indiana.

Mr. BRAUN. Mr. President, with all due respect to the Senator from New Hampshire, Senator SHAHEEN, back in 2007, both New Hampshire Senators Gregg and Sununu as well as all 98 Senators who voted back then I think intended not only for the letter of the law but they wanted the spirit of the law to be aligned with it.

We now have a new way, something that can come over here that violates a standing rule of the Senate. I am guessing it will probably be used again down the road where we have to get something, we have no time to look at it. I think the spirit of the law would say that we need the 48 hours and the ability to know who is on it and who isn't.

And then in the bigger picture, I would ask this question—and the American public ought to listen, ask it themselves—is this place getting more responsible or are we giving better value to you? Do we budget? Do we use regular order? And most importantly, are we creating more and more deficit and more and more debt?

We know what the answer is. I talked about it for 15 minutes yesterday evening. We are doing everything we

can to avoid the rules, pay attention to the spirit of the law. And in what we are delivering, it is a product I think that shows less and less responsibility out of a body that should not be making rules that make it easier to run deficits and go into debt. It ought to be the opposite.

And if we don't, I think future generations will hold us accountable for the things that we seem to do best, which are the gimmicks to get around budgeting, avoiding the rules on a technicality.

The American public deserves better. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that at 1:45 p.m., the Senate proceed to executive session and the Senate immediately vote on confirmation of Executive Calendar No. 902, the nomination of Shereef Elnahal.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. SHAHEEN. Mr. President, 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. TESTER. 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 SHEREEF M. ELNAHAL

Mr. TESTER. Mr. President, look, now more than ever, the Department of Veterans Affairs needs a steady hand to guide the Veterans Health Administration. This is the Nation's largest integrated healthcare system, and its job is to deliver quality and timely care to our veterans.

I rise today because in about 15 minutes, we are going to vote on the confirmation of Dr. Shereef Elnahal to run the Veterans Health Administration. He has an impressive record of leading healthcare systems and health agencies. Most recently, Dr. Elnahal served as president and CEO of University Hospital in Newark, NJ, and, previous to that, New Jersey's 21st health commissioner. But more importantly than that, Dr. Elnahal is committed to caring for the more than 9 million veterans in VA's care—a commitment he carried out as Assistant Deputy Under Secretary for Health for Quality, Safety, and Value at the Department.

It is no secret that VHA and healthcare systems and providers are going through a challenging time. The VA continues to battle the impacts of the COVID-19 pandemic, with veterans' cases and hospitalizations and deaths on the rise again. And VA staff are dealing with burnout and increased turnover.

In the past, this body has been able to rise above politics to install quali-

fied individuals at the VA responsible for getting vets the healthcare and benefits they need today.

This is also very, very important because the VA is in the process of putting in an electronic health record. It is going to be transformational—not only for the VA, but once it is done, it is going to be transformational for the country, but we have to get it done in the VA first. There have been some challenges. We need somebody with a steady hand helping meet those challenges. Dr. Elnahal is that person.

Today, in about 12½ minutes, we need to act to confirm Dr. Elnahal as the VA's next Under Secretary for Health, and I would encourage everybody in this body to vote for him, get him in, hold him accountable, and make sure that we are living up to the promises we have made to our veterans for the healthcare they have earned.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant executive clerk proceeded to call the roll.

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

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

Mr. TESTER. Mr. President, I would ask that all time be yielded back and that we start the vote immediately on Dr. Elnahal.

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

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant executive clerk read the nomination of Shereef M. Elnahal, of New Jersey, to be Under Secretary for Health of the Department of Veterans Affairs.

#### VOTE ON ELNAHAL NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Elnahal nomination?

Mr. TESTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY), the Senator from Vermont (Mr. SANDERS), the Senator from Minnesota (Ms. SMITH), the Senator from Virginia (Mr. WARNER) and the Senator from Georgia (Mr. WARNOCK) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: The Senator from Missouri (Mr. BLUNT), the Senator