

acknowledging that there is a border crisis might offend some Democrat interest groups, and that might imperil Democrats' fierce determination to stay in power and enact their Big Government agenda.

Madam President, I mentioned Democrats' fierce determination to stay in power, and it is fierce, so fierce that the Democrats manufactured a voting crisis and almost succeeded in gutting the Senate's rules in an attempt to force through Federal legislation that would give their party an advantage in future elections. And it clearly doesn't matter to them that their claims of voter suppression were pretty clearly refuted by excellent election turnout mere months later. Democrats are still talking about forcing through a Federal takeover of elections to address a nonexistent crisis and give their party a leg up in future elections.

Madam President, I guess it is not necessarily surprising that Democrats' growing commitment to the biggest kind of Big Government has been matched by a growing determination to secure their party's grip on power with government action, if necessary. As government power grows, I suppose the governing party starts to think its power should grow with it. It would explain Democrats' commitment to abolishing protections for the rights of the minority party in the Senate and the Americans that it represents and the commitment expressed by a number of Democrats to packing the Supreme Court, expanding it—expanding the Supreme Court with Democrat Justices until they can be sure they will get the outcomes that they want.

Leading Democrats have been openly crowing about their plans to abolish the filibuster if they manage to gain a sufficient majority in the Senate and then force through a variety of far-left, Big Government legislation—from a government takeover of childcare to that voting bill that they think will give them a leg up in elections to some of the most extreme abortion legislation, literally, in the world.

Clearly, a raging border crisis, an inflation crisis, a weakening economy, and growing energy insecurity mean little to Democrats. Their focus, if they keep their majority, is not on solving these very real problems facing Americans; it is on growing and expanding government and implementing their far-left, Big Government, big-spending visions.

(Mr. SCHATZ assumed the Chair.)

Mr. President, Democrats' Big Government vision is clearly not a vision I share, and despite Democrats' clear belief that their narrow majority gave them a mandate for a far-left remake of our government, I suspect the American people are not looking for that. Democrats may think months and months and months of high inflation are a small price to pay for implementing their Big Government visions, but I suspect the American people disagree.

I also think the American people would like to see the party in power focused on solving problems like violent crime and the crisis at our southern border, not spending their time considering how to consolidate their hold on power or force through extreme or partisan policies. And despite Democrats' clear belief that Washington should be making decisions about most aspects of Americans' lives, I suspect most Americans are not interested in having Washington dictate their choices, whether that is the choices they make about their childcare or about their children's education.

Democrats' devotion to their Big Government, big-spending agenda has left the American people worse off economically, and it has left our country in a more dangerous position, from violent crime in our communities to the security crisis that we see on a daily basis unfolding at our southern border.

I think the American people know with painful certainty that we can't afford another 2 years like the last 2, and for the sake of our country, I hope we won't have to see what 2 more years of Democrat power would bring.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FDA MODERNIZATION ACT 2.0

Mr. PAUL. Mr. President, I rise today to talk about a bill that would lift a mandate in the law dating back to the Great Depression. This mandate is that drugs have to be tested on animals before clinical trials in humans.

This law was created back in the thirties—but I think makes no sense today—when the only methods we had back then were animal trials or human trials. But as the cofounder of a leading bioconvergence startup wrote in "Forbes" last December:

[T]his legislation was passed 20 years before the first modern blood tests, 40 years before [the] modern computers and 60 years before the human genome was mapped. Now, we have all these tools and so many more to evaluate and ensure the safety of cosmetics and drug candidates before they reach human trials.

The problem is, the law never caught up to the science. The law perversely requires drug developers to test on animals, which often means killing them after the test is over, even when non-animal methods would work better. Passing this bill will put a stop to the needless suffering and death of millions of animals in labs across the country.

An emeritus neurology professor at Mayo Clinic, David Wiebers, wrote earlier this month in the Kansas City Star that the—

[D]ifferences in genetics and physiology among species can change the way a drug is metabolized in the body. As a result, the predictive value of using animals for toxicity testing is far from optimal. The intent of the 1938 requirement for animal models was to keep toxic drugs from harming patients.

A noble quest.

Yet, statistics show that these animal tests are flawed and misclassify many toxic compounds as safe.

This partly explains why over 90 percent of drugs found to be safe in animal testing end up failing in human clinical trials. But animal tests can be more than twice as expensive—sometimes up to 30 times more expensive—as nonanimal alternatives. This is despite the fact that it takes over a decade to bring a new drug to market and costs about a billion dollars.

You would think that if you are making that kind of investment, you would be getting something for your money. But not when the government gets in the way of progress.

It is often said that the definition of insanity is doing the same thing over and over again and expecting a different result. We have mandated animal testing for the last 84 years, and it meant slower approval for promising drugs and cures.

The time has come for the law to finally catch up with the science. I am glad the Senate has acted, and I hope the House of Representatives will now move quickly to pass this measure into law.

This law will allow the option of not doing animal testing. It is not that it will forbid and prevent any animal testing; it simply will allow the option of bringing drugs to market without sacrificing animals if we don't need to.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 5002, which is at the desk.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 5002) to allow for alternatives to animal testing for purposes of drug and biological product applications.

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

Mr. PAUL. I ask unanimous consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

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

The bill (S. 5002) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 5002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FDA Modernization Act 2.0".

SEC. 2. ALTERNATIVES TO ANIMAL TESTING.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subsection (i)—

(A) in paragraph (1)(A), by striking “pre-clinical tests (including tests on animals)” and inserting “nonclinical tests”; and

(B) in paragraph (2)(B), by striking “animal” and inserting “nonclinical tests”; and

(2) after subsection (y), by inserting the following:

“(z) NONCLINICAL TEST DEFINED.—For purposes of this section, the term ‘nonclinical test’ means a test conducted in vitro, in silico, or in chemico, or a non-human in vivo test that occurs before or during the clinical trial phase of the investigation of the safety and effectiveness of a drug, and may include animal tests, or non-animal or human biology-based test methods, such as cell-based assays, microphysiological systems, or bioprinted or computer models.”

(b) BIOSIMILAR BIOLOGICAL PRODUCT APPLICATIONS.—Item (bb) of section 351(k)(2)(A)(i)(I) of the Public Health Service Act (42 U.S.C. 262(k)(2)(A)(i)(I)) is amended to read as follows:

“(bb) an assessment of toxicity (which may rely on, or consist of, a study or studies described in item (aa) or (cc)); and”.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I move to proceed to the motion to reconsider the vote on the confirmation by which Executive Calendar No. 1043, the nomination of Arianna J. Freeman, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, was not confirmed.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the motion to reconsider.

The motion was agreed to.

The PRESIDING OFFICER. The motion having been agreed to, the Senate proceeds to executive session and the clerk will report the nomination.

The legislative clerk read the nomination of Arianna J. Freeman, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

NOMINATION OF ARIANNA J. FREEMAN

Mr. DURBIN. Mr. President, the Senate will soon vote to confirm another outstanding nominee to the Federal bench: Arianna Freeman, nominated to the Third Circuit Court of Appeals.

Ms. Freeman is an accomplished appellate attorney and a ground-breaking pick for the Third Circuit. Her perspective, experience, and legal acumen will greatly benefit the court. And once confirmed, she will be the first Black woman to serve on the Third Circuit.

After earning her B.A. with honors from Swarthmore College and her J.D. from Yale Law School, Ms. Freeman clerked for three judges on the Eastern District of Pennsylvania, based in Philadelphia.

In 2009, following her clerkships, Ms. Freeman joined the Federal Community Defender's Office for the Eastern District of Pennsylvania, an office she has served with distinction. As a Federal public defender, Ms. Freeman has dedicated her career to representing indigent criminal defendants seeking to vindicate their constitutional rights—

to due process, effective assistance of counsel, and other constitutional guarantees.

Unfortunately, some of my Republican colleagues have suggested that Ms. Freeman's public defense work disqualifies her from judicial service.

In reality, Ms. Freeman has undertaken this work in support of the Constitution and the rule of law. Her zealous advocacy has helped to ensure that the protections of the Fifth and Sixth Amendments are made real for criminal defendants. Throughout her career, she has advanced the cause of equal justice under law.

Ms. Freeman received a unanimous rating of “well qualified” from the American Bar Association.

She has the strong support of Senator CASEY, as well as many leaders in the Pennsylvania legal community. This includes four former Federal prosecutors who sent a letter to the Judiciary Committee writing, “We are impressed by Arianna's diligence, intelligence, dedication, and integrity. It is because of her ethics and compassion, grounded in sensibility, that we are confident she will provide sound and measured opinions, while approaching each case without bias and with respect for the rule of law.”

I will support Ms. Freeman's confirmation, and I urge my colleagues to do the same.

MOTION TO RECONSIDER

Mr. SCHUMER. Mr. President, I move to reconsider the vote by which Executive Calendar No. 1043 was not confirmed.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

The motion was agreed to.

VOTE ON FREEMAN NOMINATION

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

Mr. SCHUMER. 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 legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Utah (Mr. LEE), the Senator from Ohio (Mr. PORTMAN), and the Senator from Florida (Mr. RUBIO).

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

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 350 Ex.]

YEAS—50

Baldwin	Casey	Heinrich
Bennet	Coons	Hickenlooper
Blumenthal	Cortez Masto	Hirono
Booker	Duckworth	Kaine
Brown	Durbin	Kelly
Cantwell	Feinstein	King
Cardin	Gillibrand	Klobuchar
Carper	Hassan	Leahy

Lujan	Peters
Manchin	Reed
Markey	Rosen
Menendez	Sanders
Merkley	Schatz
Murphy	Schumer
Murray	Shahen
Ossoff	Sinema
Padilla	Smith

Stabenow
Tester
Van Hollen
Warner
Warnock
Warren
Whitehouse
Wyden

NAYS—47

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

NOT VOTING—3

Lee	Portman	Rubio
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(Mr. HEINRICH assumed the Chair.)

(Mr. REED assumed the Chair.)

The PRESIDING OFFICER (Mr. SCHATZ). On this vote, the yeas are 50, the nays are 47.

Upon reconsideration, the nomination is confirmed.

The majority leader.

Mr. SCHUMER. Mr. President, I ask unanimous consent that for any nominations confirmed during today's session of the Senate, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

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

LEGISLATIVE SESSION

AFFORDABLE INSULIN NOW ACT—Continued

UNANIMOUS CONSENT AGREEMENT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate resume legislative session; that it be in order for Senator BRAUN to offer amendment No. 5765; that at 1:45 p.m., all motions and amendments other than the substitute be withdrawn; that no further amendments be in order to the bill; that substitute amendment No. 5745 be agreed to; that the bill, as amended, be considered read a third time; and that the Senate vote on the passage of the bill, as amended, with 60 affirmative votes required for passage, without further intervening action or debate.

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

ORDER OF PROCEDURE

Mr. SCHUMER. Mr. President, for the information of the Senate, there will be two rollcall votes at 1:45 p.m. The first vote will be on the passage of the continuing resolution to fund the government through December 16. The second vote will be on the confirmation of the Gomez nomination upon reconsideration.