LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2023

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

House Message to accompany H.R. 2617, a bill to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes.

Pending:

Schumer motion to concur in the amendment of the House to the amendment of the Senate No. 4 to the bill, with Schumer (for Leahy) amendment No. 6552, in the nature of a substitute.

Schumer amendment No. 6571 (to amendment No. 6552), to add an effective date.

Schumer motion to refer the message of the House on the bill to the Committee on Appropriations, with instructions, Schumer amendment No. 6572, to add an effective date.

Schumer amendment No. 6573 (to the instructions (amendment No. 6572) of the motion to refer), to modify the effective date.

Schumer amendment No. 6574 (to amendment No. 6573), to modify the effective date.

The PRESIDING OFFICER. The Senator from Georgia.

UNANIMOUS CONSENT REQUEST—H.R. 5746

Mr. WARNOCK. Mr. President, as we work in these remaining days of the 117th Congress, I rise today to ask the Chamber to take needed action on a critical priority before we close out this Congress.

For all that we have achieved this session, much of it on a bipartisan basis, I would argue that our inability to move or our failure to move on this critical issue is a moral failure on our watch, the failure to get done that which is most basic to who we are, a democracy, to vigorously defend the right to vote.

Yesterday, our colleagues in the House of Representatives presented their final findings regarding the tragic attack on our U.S. Capitol on January 6, 2021. I commend their work and their dedication on this issue to help ensure that something like January 6—a day that almost broke our democracy—never happens again.

I believe in democracy. In fact, as a man of faith, I believe that democracy is the political enactment of a spiritual idea, this notion that each of us has within us a spark of the divine, and therefore we ought to have a voice, a vote in the direction of our country and our destiny within it.

In this government funding legislation we are working to pass, the Senate is preparing to take action toward the same aim of protecting our democracy—to prevent future subversion in our Presidential elections—by passing the Electoral Count Reform Act.

I commend my colleagues for their bipartisan work that will clarify the role of the Vice President in certifying our Presidential elections and strengthen our ability to ensure a peaceful transfer of power. It is part of what makes us America. And I look forward to voting in favor of the legislation, along with the rest of the government funding bill, which will send critical Federal investments—investments I fought for—that will help people in every corner of my home State of Georgia.

But we must be very clear that there is more than one way to subvert an election and to silence the voices of the people. While the Senate takes action to protect Presidential elections and the integrity of the electoral college, in Georgia right now, during our most recent election, we had to sue officials of the State of Georgia just to allow people to vote on the Saturday that began the runoff period.

Voters waited in long lines—lines that would have been even longer had I not sued the officials of the State of Georgia. People stood in line for hours and hours and hours in the cold and in the rain to cast their ballots. Now, some folks might be fine with that, but I am not. You can have a right to the vote and yet be denied access.

Georgia voters decided that their voices would not be silenced. They did show up in record numbers, thank God. But that does not mean that voter suppression does not exist; it just means that the people refused to have their voices silenced.

We cannot in good conscience abhor election subversion in our Presidential elections while at the same time turning a blind eye when the voices of voters are suppressed and subverted on a local and State level. It is a contradiction that I cannot abide.

So while we do the important work today of passing the Electoral Count Reform Act, we must also pass the Freedom to Vote: John R. Lewis Act, which will, one, restore bedrock voting protections established by the Voting Rights Act of 1965; two, set a Federal baseline for voting standards to ensure every eligible voter has access to the ballot no matter where they live, no matter their ZIP Code; and three, we have to protect our elections from subversion by craven politicians. Voters should pick their representatives, not the other way around. It doesn't matter if your votes are properly counted if you can barely cast your vote in the first place.

The Electoral Count Reform Act, while important to pass, will not protect voters from long lines; it will not prevent efforts to sow confusion through mass challenges of voter registration; and it will not stop State politicians from trying to take over local election administrations.

I would encourage my colleagues to Google a county in Georgia, and see what has happened in recent history. Just Google Quitman County, GA. See what happened there just a few years ago, and you will see that our struggle continues.

So as we prepare now to celebrate Dr. King next month, we must remember his words, which are as true now as they were back then: ''Justice delayed is justice denied.'' And I will never stop fighting to protect our democracy and the sacred right to vote.

I ask unanimous consent that the Chair lay before the Senate the message to accompany H.R. 5746; that the motion to concur in the House amendment to the Senate amendment to the bill be considered and agreed to and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska.

Mrs. FISCHER. Mr. President, reserving the right to object, this is one of those election takeover bills.

Last January, our colleagues on the other side of the aisle tried to break Senate rules to ram this bill through Congress. The American people do not want the Federal takeover of anything, and our Founders understood that. That is why anything not enumerated in the Constitution goes to State and local government—the institutions that are closest to the people that they represent. That is transparency. That is fairness.

The best election laws are the ones that make it easy to vote but hard to cheat. And we already know that this is possible. With Georgia's new law in place, the State set a new record for most ballots ever cast in a midterm election. Both early voting and mail-in voting broke the alltime midterm records. These Republican-led States—they got it right. Their critics got it wrong.

This election takeover bill, which the Senate has already rejected, is not going to be passed today.

Therefore, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. WARNOCK. Mr. President, I would yield some of my time to the gentlewoman from the great State of Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I am so honored to join my colleague Senator WARNOCK to speak on the urgent need to pass this legislation, the Freedom to Vote: John R. Lewis Act.

No one speaks better to this than Reverend WARNOCK. I have often told the story that we were out on the steps of the Supreme Court after a number of voter suppression laws had been introduced and passed around the country. I gave what I thought was an excellent speech, and then he came in and just said a few words, and they were these: ''Some people don't want some people to vote.'' And I thought, all those words I said, it really just comes down to that.

Our country has always believed in the freedom to vote. For years, this has been a bipartisan issue with voting rights acts, with George Bush doing

press conferences declaring his support for the Voting Rights Act.

So the reauthorization of the John Lewis bill and the changes made to that bill are necessary, but so is the Freedom to Vote Act because it sets the stage so that every person in America, regardless of their ZIP Code, has the ability to drop off a ballot in a ballot box or send in their ballot by mail or do it without having to have a notary sign for their ballot.

All of this for many of us is about the reason we came here, which is to uphold our democracy.

I want to thank Senator WARNOCK for hosting the Rules Committee in Atlanta for the first field hearing in 20 years. I will end with a story I heard that day. Jose Segarra, a veteran living in Central Georgia, told us how he took his older neighbors to vote early—this was in the last election—but they gave up because there was a line wrapped around the block and then went back to vote, and he waited for hours in the hot Sun.

He is a veteran. He served in the Air Force during Operation Desert Storm. I asked him whether, when he signed up to serve, there was a waiting line, and he said: No, ma'am. But when I came home and I had to vote and I wanted to exercise my freedom that I fought for on the battlefield, I had to wait in line for hours.

It is not just about, as Reverend WARNOCK has pointed out, making it impossible for people to vote; sometimes it is just making it really hard for them to vote, and that is what we are fighting against with this bill. I thank him.

I look forward to working with Senator FISCHER. She was a strong supporter of the Electoral Count Act. She is the new incoming ranking member of the Rules Committee, and I know we will do great work together. But I stand in support of Reverend WARNOCK's unanimous consent motion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. WARNOCK. Mr. President, my distinguished colleague Senator FISCHER is no longer here, and what I would want to ask her is whether she thinks the 1965 voting rights law was a Federal takeover of State elections and local elections. I submit, without the 1965 voting rights law, I would not be standing here. So I think we should have a principled conversation about that. More recently, I had to sue the State of Georgia so we could vote on Saturday.

I would call on the Senate to live up to its obligation, as in article I. The Senate must pass substantive voting rights legislation. And know this: I will not rest until we live up to that moral obligation and do what the people of America have sent us here to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

UNANIMOUS CONSENT REQUEST—S. 3959

Mr. HAGERTY. Mr. President, last month, a Federal judge in Washington, DC, ruled that the Department of Homeland Security could not continue to use title 42 pandemic-related authority to expedite the removal of aliens who enter our country illegally. That is effective as of December 21. That is today. Although it has been temporarily halted while the Supreme Court hears an emergency appeal, title 42 is hanging by a thread. It is unconscionable for Congress to stand aside and do nothing to preserve it.

Title 42 authority was initially based on the pandemic, and while I agree that the pandemic is over, the border crisis is worse than ever. Whether to keep effective border security policies in place should not depend on whether there is a pandemic.

There is another epidemic plaguing our Nation, one that demands immediate attention. Deadly fentanyl—produced with the help of the Chinese Communist Party and smuggled across our southern border by deadly drug cartels—has flooded our communities across America.

More than 100,000 Americans died of drug overdoses in the last 12 months alone, most of them from synthetic opioids like fentanyl. It is the No. 1 cause of death for American adults aged 18 to 45.

The rise in fentanyl overdoses and deaths affects every State and congressional district. It kills the young and the old, the rich and the poor, people in cities and people in small towns alike. It is not a partisan issue, and finding a solution should not be partisan either.

When I talk to Tennessee sheriffs, they tell me that fentanyl is becoming more and more lethal, how a so-called bad batch can kill dozens of people in an instant.

Once this deadly substance arrives in American communities, it is too late. We have to stop it before it crosses our borders. That is why I have introduced legislation that allows for the use of title 42 authority to stop the smuggling of illicit and lethal drugs like fentanyl.

When I travelled to the border in April, Border Patrol agents told me that cartels use waves of illegal border crossings as a cover to transport fentanyl and other deadly narcotics. While Border Patrol agents are focused on managing caravans and border crossers, the gap in coverage is exploited by the smugglers. In many cases, these are well-planned and coordinated occurrences. The agents told me that the people don't stay at the border, and the drugs don't either.

Title 42 is the last tool Border Patrol has left to partially slow the ongoing tidal wave of illegal crossings. Without this tool, our Border Patrol agents will have no way to slow down the massive increase in illegal immigration, which will get far worse as a result. Americans will pay the price. That is why, given the potential expiration of title 42 within hours or days, passing my legislation today is imperative. Letting title 42 end without creating a permanent new authority to replace it empowers drug cartels. It enables them to send migrants across the border at strategic points, bogging down Border Patrol agents with processing—processing that takes five times longer without title 42. Cartels will then use the longer and more frequent enforcement gaps to move more fentanyl across our border. We cannot allow this to happen.

My legislation simply adds drug smuggling as an additional basis for using title 42 authority. It is called the Stop Fentanyl Border Crossings Act. It would allow the Secretary of Health and Human Services to use title 42 to combat substantial dangerous drug trafficking across the border. It would give Border Patrol a necessary tool to stop drug traffickers.

Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 3959, and the Senate proceed to its immediate consideration; I further ask 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. Is there objection?

The Senator from Washington.

Mrs. MURRAY. Mr. President, reserving the right to object. I share my colleague's determination to address the opioid crisis. In fact, I worked in a bipartisan way with Senator BURR to ensure that this end-of-the-year spending bill includes serious steps to help our communities. We worked yearround on bipartisan policies to support States as they tackle fentanyl and the worsening opioid crisis, to help people get treatment for substance use disorders, and a lot more.

So I sincerely hope the Senator from Tennessee will join us in voting to get this across the finish line. This is really important to help folks on the front line of this fight. And, of course, we have more work to do here, and I will keep pushing with everything I have got to help fight the opioid crisis. But as I have reminded my colleague before, title 42 is a public health tool, and how it is used should be guided by public health experts looking at data and looking at science, not politicians looking to score political points.

Drug trafficking is a serious problem and one we have law enforcement agencies who are responsible for. We should leave that work to them and support their efforts, and we can do that by passing the omnibus bill, which increases their funding.

So while I welcome the opportunity to work with my Republican colleagues on this serious issue, bipartisan solutions are needed to address drug trafficking—we need to build on the strong steps we are taking in the omnibus to fight fentanyl. So at this time, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HAGERTY. Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. HAGERTY. Mr. President, we are experiencing a tidal wave at our southern border of illegal immigration, and that tidal wave is going to turn into a tsunami the minute title 42 is dropped. Title 42 may be removed at any minute, at any hour. It is on a temporary hold after today.

More than 100,000 Americans are dying every year because of poison from fentanyl coming across the southern border. I find it especially disheartening that my colleagues are not willing to allow discretionary authority to limit border crossings when necessary to combat substantial and dangerous illicit drug smuggling. Even the Biden administration is already preparing for a tidal wave across this border. Yet my Democrat colleagues can't even agree on a commonsense policy to address this glaring problem. My legislation will work immediately to address this problem.

Border Patrol agents are now predicting daily crossings will roughly double to 15,000 to 18,000 per day as soon as title 42 is lifted. This is going to be truly overwhelming at our border, and the results are predictable. More young Americans will die, and I just don't know how bad this crisis has to get before Democrats will join me to acknowledge it and work to stop it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

UNANIMOUS CONSENT REQUEST—S. 1658

Mr. MERKLEY. Mr. President, I come to the floor to address an important issue, which is the ability of our women who have given birth to a child to be able to sustain breastfeeding by being able to pump breast milk when they return to work.

We adopted this law in Oregon. It was universally successful. When I came here to the Senate, I proposed that we do the same across the Nation; and 12 years ago, we passed that bill. It was a great time for nursing mothers, enabling 49 million women of childbearing age to know that if they wanted to breastfeed, they would have a cooperative employer giving them privacy and flexible break times to be able to pump breast milk.

It was a triple win. It was a triple win for the babies; it was a triple win for the mothers; and it turned out to be a big win for the employer as well because the employers found that their employees were more likely to come back to work and that they felt appreciated because the employer recognized the importance of that mother trying to do their very best by their newborn.

We know that half of women in America return to work within 3 months of giving birth. We know that about one in four will return to work after just 2 weeks. That is why this is so important.

When I first raised this idea here in the Senate, I thought that there would be significant opposition, but an unexpected champion was Senator Coburn of Oklahoma. Senator Coburn said that Senator MERKLEY had not begun to list all the ways that breastfeeding works to the benefit of the baby and the mother. He went on to list all of the health benefits, and we passed the amendment unanimously in the HELP Committee. Democrats and Republicans working together for new moms and for our children to get the best launch into life.

I will have a unanimous consent request in a moment, but I want to turn to the cosponsor of our bill. I so much appreciate Senator MURKOWSKI of Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I join my colleague to speak about the PUMP Act, Providing Urgent Maternal Protections for Nursing Mothers Act. Senator MERKLEY has outlined, I think well, the benefits of this bill. Effectively, what this act does is it fixes an oversight which unintentionally excluded about 9 million working moms from being able to pump breast milk while at work.

I think we recognize, as Senator MERKLEY has said, women want to come—so many want to be able to come back to the workforce after giving birth, but they also want to be able to provide their infant, their child, with the significant benefits that come with a mother's milk.

These working moms are a significant part of our workforce. I think it is incumbent upon us to make sure that they can pump while at work without imposing burdensome requirements on businesses.

I have been the lead Republican on the PUMP Act now, working with Senator MERKLEY for a couple years—a couple years working to get to this point. It is so unfortunate that at this late date on the calendar, as we are looking to close out, that this measure, this important measure—important for the mothers, important for babies, important for employers—it is so unfortunate that it is being held at this moment.

It is unfortunate because I think what we have in front of us now is a fair and a balanced proposal. It allows moms to pump at work while ensuring that, again, businesses aren't saddled with burdensome and costly regulation. The Chamber of Commerce has endorsed the measure. This is too important to not continue the good work.

I want to acknowledge not only the work of Senator MERKLEY on this, but to Senators MURRAY, BURR, CANTWELL, and WICKER. They worked with us and they negotiated in good faith to get the text to a good place and to really help to develop the support for this bill.

But I do think that the work that has come to this point, the very important sections that have gone forward, the agreements that have been made, have put us in a good place.

Senator MERKLEY, I truly appreciate your willingness to negotiate and to get us to a point where we can legislate to improve the lives of millions of women across the Nation.

So I would urge those who continue to oppose this measure to reconsider that, and I would yield at this moment to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am here today to urge all my colleagues to let us make life just a little bit easier for working moms by passing this bipartisan PUMP Act.

This is really straightforward. When new moms return to work, they should have the time and space they need to pump and breastfeed their baby. It is not new. It is not controversial. It is actually commonsense and basic human decency.

Right now there is this loophole that leaves nearly 9 million working moms who are not covered by Federal protections. Nine million working moms do not have the simple right to a reasonable break time and a private place to pump when they are breastfeeding.

That is plain wrong. Right now, we have a chance to change that. Right now, we can pass the PUMP Act. We can help close this loophole to make sure moms are covered so they can keep their jobs and keep breastfeeding their babies. It should not be controversial.

This is a bipartisan bill, and I am really thankful for my colleagues, Senators MERKLEY and MURKOWSKI, for their relentless work on this. They have worked nonstop to get this done. And we have, by the way, made great progress. The bill passed the House in a bipartisan vote with huge margins. The vote was 276 to 149. And it passed in our HELP Committee by voice vote. So let's get it to the President's desk.

It is so simple: Moms deserve to be able to return to work and still breastfeed. They deserve a reasonable break and a private space to pump, and they actually are watching us right now to see if we can deliver on this really straightforward bill. So I urge my colleagues, don't stand in the way. Stand with moms. Let us pass this bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Much appreciation for the minority and majority side of the Commerce and HELP Committees for doing so much work on this. Senator BURR, Senator WICKER, Senator LUMMIS, all added a lot for getting us to this point.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 65, S. 1658; further, that the committee-reported substitute be withdrawn, and the Merkley-Murkowski substitute amendment at the desk be agreed to; that the bill, as amended, be considered read a third time and passed, and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Reserving the right to object. This bill is a perfect example of the government taking a one-size-fits-all approach on every workplace in America. It is the approach of those who think that the only way to get people to do the right thing is to pass a law and mandate it.

Let's just look at one industry: the motor coaches. Unlike other commercial modes of transportation, motor coaches function with only one employee on board, the driver, who is responsible for picking up the passengers on time, getting them to their destinations safely. Almost by definition, bus routes depend on schedules and sticking to those schedules for customers in a safe and consistent way.

If you think the hammer of government is the only way to get people to do the right thing, you probably would assume that the motor coach operators just exploit their nursing employees and don't give them any accommodations—but you would be wrong. Under the laws that exist today, employers routinely offer alternative temporary duties to their drivers who are nursing. This is what happens with the motor coaches. They are accommodating and doing the right thing as most people in the workplace are.

This bill would prohibit solutions like that. It would actually make it more difficult for motor coaches to accommodate their workers by allowing them to have alternative duties, even when they are mutually agreed upon between employer and employee. There is already a national driver shortage, so operators have a built-in incentive to keep the drivers that they have making mutually beneficial arrangements.

There is also already a Federal law on the books that requires most employers to offer reasonable break times and a private non-bathroom area for their nonexempt nursing employees to use for a full year after the birth of a child.

In addition, some 32 States, including my State of Kentucky, have passed their own laws on this issue, and some have even extended how long nursing mothers are covered by the law.

Since all of these accommodations already exist at the Federal and the State levels, before we impose any new mandates on the whole country, we ought to study whether there is actually a need for more legislation in this area.

I have an amendment to strike these new mandates and instead ask the Government Accountability Office to study this issue and report back within a year. I would ask my colleagues to agree to this amendment so we can determine if more laws are needed before we rush to put new burdens on American businesses.

Mr. President, I would ask that the Senator modify his request so that the Paul amendment, which would require a study to explore the severity of the problem, at the desk be considered and agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, in reserving the right to object, our bill does address the motor coach situation. It clarifies, in terms of conversations we have had with that industry, that, in fact, no additional expense will be required and no additional drivers. We know already, under the accommodations of the Disabilities Act, that there are rights that exist to drivers as well.

We have here a very limited provision because we make it clear that it does not require the employer to incur any significant expense, such as the removal or retrofitting of seats, or for any driver to drive in unsafe conditions or make unscheduled stops. That is from a long conversation that I would have been happy to have filled my colleague in about if he had explored this issue.

It has now been 8 years that this topic has been before us. It has not just been studied in some academic sense; it has been studied in real life, and we still have thousands and thousands of women who have great difficulty getting permission to pump breast milk when they return to work. Those who have been accommodated say it has made a big difference in their lives with their bonding with their child, with their health, as well as the child's, which is the point that Senator Coburn made. We have this in place for 49 million American women. Why have we left 9 million out?

By the way, in my State, we have a hardship waiver that says any company that finds that this is too difficult to implement can seek an accommodation. Do you know what? Nobody applied because they could all figure it out.

It is time to embrace the fact that we need to do right by our children. Senator PAUL's amendment, which guts this bill and says let's study it, is not an answer for the millions of women who are seeking to do the best by their children.

Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Is there any objection to the original request?

Mr. PAUL. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, my colleague doesn't share the view that many of us have reached on both sides of the aisle, which is actually what the legislative process embraces—that people come to this floor and share their different views and then we hold a vote. He has really been a champion for holding votes on amendments. He probably has had more amendments before this body than any other Senator.

Therefore, I would say to my colleague that I will provide an additional unanimous consent request that will enable us to have a vote on this bill. He can weigh in as he likes, and his side may carry the day. But I think it is important that a question of such magnitude—there are so many million new moms across this country—be considered and not be simply tossed in the waste bin. So I will ask consent for a vote on the PUMP Act.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 65, S. 1658; further, that the committee-reported substitute be withdrawn and that the Merkley-Murkowski substitute amendment at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the Senate vote on the passage of the bill.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MERKLEY. Mr. President, I will simply conclude by noting that we are all better off when issues can be debated and voted on on this floor. There is tremendous frustration in the Chamber right now. We have a very thick bill awaiting action. Why is it so thick? Because so few bills can get debated and voted on on this floor.

I would ask that my colleague from Kentucky, whom I have worked with on many issues, think about this a little bit and maybe come back and say: Yes, you are right. We should have a debate and a vote. This should not be something that any one individual suppresses.

The PRESIDING OFFICER (Mr. PADILLA). The Senator from Pennsylvania.

TARIFFS

Mr. TOOMEY. Mr. President, you know, it brings me no joy to rise and say I told you so, but for nearly 5 years now, Americans have been paying the price quite literally for the Trump-Biden tariffs on imported steel and aluminum. Let me just remind my colleagues that a tariff is just a word that we use sometimes to obfuscate the fact that these tariffs are just taxes on American consumers—a tax they pay when they purchase something that has the tariff material in it. So I want to make three points about this today. The first is that taxes generally and these taxes in particular do tremendous economic harm. Second, these taxes have been imposed by Presidents from both parties and imposed unilaterally, increasingly, and without so much as a vote by the Congress. Third, this is all about to get much worse. This is what happens when Congress willfully abrogates its constitutional responsibilities over trade and tax policy to the executive branch.

Let me start with the economic cost. The fact is that there is no serious dispute in the economic world that these

tariffs, these taxes, do much more harm than good.

Now, I know that supporters of these tariffs, including now the Biden administration, will argue that this is necessary to protect American jobs. That is what they will say. Well, there are roughly 140,000 workers directly employed in the steel industry in the United States. That is a big number—140,000—but there are literally millions of American workers in industries that use steel or inputs made of steel, and their jobs are jeopardized by the higher cost that is created when we tax these products.

By the way, these millions of Americans who work in the industries that use steel outnumber steelworkers by a ratio of roughly 80 to 1. That is what we are talking about here.

The Peterson Institute estimated that for every job saved by the Trump-Biden taxes on steel, the cost to American consumers was $650,000—obviously many times more than the average steelworker's salary—and these costs are all paid by price increases for consumers. They also cost people their livelihoods. By one estimate, the job losses from these tariffs alone have been as high as 75,000 jobs. This has included a lot of jobs—thousands of jobs—in my Commonwealth of Pennsylvania.

So I ask my colleagues a simple question: Is it ever really fair for the government to intervene in the economy in a way that ranks one person's right to earn a living higher than another person's? Is that really what this government should do—decide who gets to have a job and who doesn't? It is not a close call. It is flat-out morally wrong for the government to be deciding which Americans get to work and which ones don't, and that is what is happening here.

It is also the case that the unilateral imposition of these taxes by Presidents is being done with a completely dishonest justification. These tariffs have been increasingly imposed unilaterally, as I said, by Presidents who have hidden behind the national security rationale. That is what they say. In other words, to add insult to injury, these taxes have been imposed not through an act of Congress but by executive fiat and an executive fiat that is based on a completely false premise.

Why is this the case? Well, because there is a deep flaw in a Cold War-era law. The law is called the 1962 Trade Expansion Act. It has this section called section No. 232, and that section permits the President to impose these tariffs, or taxes, on a product if his Commerce Secretary decides that the product is a threat to the national security interest of the United States.

Now, that sounds like a reasonable idea, but it has been applied in ridiculous ways. I would suggest it is ludicrous to assert that our national security is harmed because we import mostly small quantities of steel and aluminum from allies like Canada, Mexico, Brazil, South Korea, the EU, Australia, Japan, and many others.

But you don't have to take my word for it; you can take the word of someone who is absolutely an expert on national security—former Defense Secretary Mattis. He agrees with me. In a memo to President Trump's Commerce Secretary, he urged against imposing these tariffs on steel and aluminum. He noted that the U.S. military's needs for steel and aluminum are met with a mere 3 percent of America's domestic production of those mills.

Let me put this a different way. It means what we manufacture domestically—the steel and aluminum that we make in America—is more than 30 times what our military needs, what our defense needs. How could you possibly argue that these small quantities that we import, on top of all that we make, are a national security risk? It is ridiculous.

By the way, over the past decade, we have consistently produced anywhere from 70 to 90 percent of the steel we consume. Let me say that again. If you look at all of the steel that we consume in the entire United States of America, for all purposes—and it is a very long list—we make 70 to 90 percent of that steel. And there is a national security threat by importing these small other quantities to supplement what we produce? Of course, it is not. It is completely disingenuous.

Frankly, invoking national security as a justification to impose these taxes on Americans is a slap in the face. It is a slap in the face to small businesses that are struggling to stay afloat, those small businesses that have to buy this steel with these taxes on it, which they sometimes can't afford; to the manufacturing workers who are laid off as the input cost rises and their products are no longer competitive; and to the exporters who see their markets shut off because foreign countries retaliate against these tariffs. It is a terrible policy.

There is another problem with this. It is reasonable to ask the question: If the President can falsely invoke national security for the sake of imposing these taxes on steel and aluminum, is there anything that he can't put a tariff on in using this justification? I mean, if he can use a false justification, you could falsely allege that almost anything is related to national security, I suppose. Recent court decisions have implied that if there is a limiting factor, the administration certainly hasn't found it.

In fact, the previous President seemed to think that, after imposing tariffs, he could go back and double them or maybe triple them for any reason or for no reason at all. This is what is happening. That is exactly what the former President did when he doubled the tariffs he had earlier imposed on Turkish steel and aluminum. When this was challenged in a court, a majority gave him a pass, but one judge had a very insightful dissent. He disagreed in writing and said:

> I fear that the majority's decision in that particular case effectively accomplishes what not even Congress can legitimately do—to reassign to the President its constitutionally vested power over the tariff. I dissent.

That judge is exactly right. He is exactly right.

There is a separate instance wherein a judge, in wanting to underscore the lack of any limiting principle on a President's ability to misuse this section 232, asked during an oral argument if the President could invoke national security under section 232 in order to put tariffs on peanut butter. The lawyer defending the tariffs for the administration either couldn't or wouldn't directly answer that question.

I know why he wouldn't answer the question. The reason is, they didn't want to acknowledge even the possibility that there could be any limits on a President's ability to misuse the national security clause from section 232, even if it is on peanut butter.

So where does that leave us today? Well, I regret to inform my colleagues that this complete abandonment of any pretense that national security actually has to matter for the purposes of imposing these tariffs—the pretense is gone with the hypothetical case of peanut butter, but now it has arrived in reality, and it is a lot worse than peanut butter.

This is a whole lot like the administration is pursuing section 232 tariffs on carbon dioxide emissions. It is under the auspices of the Trump's 232 tariffs on steel and aluminum.

The U.S. Trade Rep has just proposed a preliminary agreement with the European Union for a ''carbon intensity regime'' for steel and aluminum trade. Here is how this would work: The new regime would use the threat of ultra-high tariffs on the steel and aluminum from other countries as a way to coerce them into implementing the administration's preferred climate policies. It is beginning to look a lot like Christmas for climate activists.

In short, the administration's proposal creates a new trade club for countries with so-called green steel and aluminum, and even though they won't admit it yet, they are using section 232 to justify this. For countries to join this exclusive club, countries need to do three things: They need to prove that their carbon emissions for steel and aluminum fall below some level that the administration will conjure up; second, they need to implement low and zero emission requirements for steel and aluminum in government procurement; and thirdly, they need to demonstrate that they are taking a hard line on trade remedies.

If a country qualifies for this club, congratulations—your steel and aluminum will be subject to taxes on American consumers of between 0 and 25 percent, depending on your emissions. If you don't join the club either because you can't qualify or you don't want to be saddled with these costs,

why then, Americans will be taxed much more severely. For countries outside the club that want to sell steel and aluminum, Americans will have to pay 25 to 70 percent taxes on those purchases.

This idea has all kinds of very serious problems. First and foremost, it is a completely unbridled overreach of authority by the executive branch.

The Office of the U.S. Trade Rep is clearly asserting that that Office has power to establish carbon emissions policy for the United States and our trading partners. The last time I checked, even the EPA doesn't have that authority. Where does the USTR come off with this? They are also abusing the conditionally delegated national security powers to enact this sweeping tariff policy, which is the responsibility of Congress.

Second is that the economic harm from this proposal is going to significantly compound the harm inflicted by the current 232 tariffs that are already in place. First, it will result in a regime of increasingly managed trade in steel and aluminum that will probably benefit a handful of select producers and be a huge loss to everyone else. It will hit many of our allies with increased tariffs, and that will result in retaliation against American exports. It will devastate American manufacturers and downstream users who rely on steel and aluminum inputs for their business. Most importantly, it is going to dramatically raise prices for consumers at a time when inflation is still out of control.

What makes this whole scenario really particularly egregious is that Congress never once voted on it—not once. Not one of my colleagues in this body or the other had the opportunity to go on record either for or against these or, in fact, had any meaningful say on this. Now, I suspect some of my colleagues are perfectly OK with that.

As I warned my colleagues on both sides of the aisle years ago, this abuse of section 232 will haunt us like a protectionist Frankenstein unless Congress reins in executive abuse of this law.

Let me be clear. It is never appropriate for a President of either party to use national security authorities to achieve unrelated policy goals. To be dishonest about what is really going on here is not acceptable.

Past Presidents used to understand this. Prior to President Trump, the last time a U.S. President used section 232 to restrict trade was back in 1986. Since the Trump administration, we have seen these national security investigations, which is the precursor they need to check their box so that they can impose these tariffs. We have seen these investigations on uranium, titanium sponge, power transformer components, vanadium, magnets, and then perhaps most absurdly, automobiles and car parts, because I suppose if you drive a Toyota in suburban Philadelphia, that makes you a threat to American national security.

As George Will asked in a 2019 column lamenting executive overreach under this very section of our trade law—he said:

What's next, a tariff on peanut butter?

Well, it turns out we already have pretty high tariffs on peanut butter, but now we are going to raise tariffs—taxes—even higher on steel and aluminum and use trade law to enact climate policy while we are at it.

It is well past time for Congress to reassert and to accept its constitutional responsibility over trade and tariffs. We can do that by requiring that the new section 232 tariffs, including the Biden administration's carbon plan—that before they go into effect, they have to be approved by Congress. What is wrong with that? The Constitution says it is our responsibility. Why not require an up-or-down vote in Congress before these taxes can go into force?

I have introduced bipartisan legislation that will do exactly that. But if we fail to act, our constituents are going to keep on paying ever more expensive prices.

I yield the floor.

The PRESIDING OFFICER (Mr. SCHATZ). The Senator from California.

MARTHA WRIGHT-REED JUST AND REASONABLE COMMUNICATIONS ACT OF 2022

Mr. PADILLA. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 657, S. 1541.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1541) to amend the Communications Act of 1934 to require the Federal Communications Commission to ensure just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Martha Wright-Reed Just and Reasonable Communications Act of 2022''.

SEC. 2. TECHNICAL AMENDMENTS.

(a) IN GENERAL.—Section 276 of the Communications Act of 1934 (47 U.S.C. 276) is amended—

(1) in subsection (b)(1)(A)—

(A) by striking ''per call'';

(B) by inserting '', and all rates and charges are just and reasonable,'' after ''fairly compensated'';

(C) by striking ''each and every'';

(D) by striking ''call using'' and inserting ''communications using''; and

(E) by inserting ''or other calling device'' after ''payphone''; and

(2) in subsection (d), by inserting ''and advanced communications services described in subparagraphs (A), (B), (D), and (E) of section 3(1)'' after ''inmate telephone service''.

(b) DEFINITION OF ADVANCED COMMUNICATIONS SERVICES.—Section 3(1) of the Communications Act of 1934 (47 U.S.C. 153(1)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) any audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used.''.

(c) APPLICATION OF THE ACT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by inserting ''section 276,'' after ''sections 223 through 227, inclusive,''.

SEC. 3. IMPLEMENTATION.

(a) RULEMAKING.—Not earlier than 18 months and not later than 24 months after the date of enactment of this Act, the Federal Communications Commission shall promulgate any regulations necessary to implement this Act and the amendments made by this Act.

(b) USE OF DATA.—In implementing this Act and the amendments made by this Act, including by promulgating regulations under subsection (a) and determining just and reasonable rates, the Federal Communications Commission—

(1) may use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider; and

(2) shall consider costs associated with any safety and security measures necessary to provide a service described in paragraph (1) and differences in the costs described in paragraph (1) by small, medium, or large facilities or other characteristics.

SEC. 4. EFFECT ON OTHER LAWS.

Nothing in this Act shall be construed to modify or affect any Federal, State, or local law to require telephone service or advanced communications services at a State or local prison, jail, or detention facility or prohibit the implementation of any safety and security measures related to such services at such facilities.

Mr. PADILLA. I ask unanimous consent that the committee-reported substitute amendment be agreed to; that the bill, as amended, 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. Is there objection?

Without objection, it is so ordered.

The committee-reported amendment in the nature of a substitute was agreed to.

The bill (S. 1541), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

LOW POWER PROTECTION ACT

Mr. PADILLA. Mr. President, I also ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 659, S. 3405.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3405) to require the Federal Communications Commission to issue a rule providing that certain low power television stations may be accorded primary status as Class A television licensees, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee