

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 540.

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

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of John W. Broomes, of Kansas, to be United States District Judge for the District of Kansas.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 John W. Broomes, of Kansas, to be United States District Judge for the District of Kansas.

Mitch McConnell, John Hoeven, John Kennedy, Johnny Isakson, Cory Gardner, John Cornyn, James E. Risch, Thom Tillis, Pat Roberts, Jerry Moran, David Perdue, Mike Rounds, John Thune, Roy Blunt, Richard Burr, Tom Cotton, Jeff Flake.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

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

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 541.

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

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Rebecca Grady Jennings, of Kentucky, to be United States District Judge for the Western District of Kentucky.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 Rebecca Grady Jennings, of Kentucky, to be United States District Judge for the Western District of Kentucky.

Mitch McConnell, John Hoeven, John Kennedy, Johnny Isakson, Jerry Moran, Cory Gardner, John Cornyn, James E. Risch, Thom Tillis, Pat Roberts, David Perdue, Mike Rounds, John Thune, Roy Blunt, Richard Burr, Tom Cotton, Jeff Flake.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum calls for the cloture motions be waived.

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

The PRESIDING OFFICER. The Senator from Wisconsin.

UNANIMOUS CONSENT REQUEST—H.R. 5247

Mr. JOHNSON. Mr. President, I realize the hour is late. I will move quickly to my unanimous consent request, but I want to quickly state that this is so important that this can't wait, and I am really asking a pretty simple request of my colleagues that we stop playing games with people's lives because it is well past time that we passed the Right to Try. The Trickett Wendler, Frank Mongiello, Jordan McLinn, and Matthew Bellina Right to Try Act of 2018.

We passed this unanimously through the Senate in August. The House has acted now. I am just asking my colleagues, please, these desperate patients are terminally ill, and they have waited far too long.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5247, which was received from the House. I ask unanimous consent that the bill 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 Democratic leader.

Mr. SCHUMER. Mr. President, reserving the right to object, and I will object.

I just want to make clear that I am sympathetic to the goals my friends from Wisconsin and Indiana are trying to accomplish. In fact, the Senate has already passed a version of this bill once and dedicated time to work on the outstanding issues to get a good compromise and pass it into law and pass it into law quickly.

I believe we all support the goals of safety and increasing access of investigational drugs for terminally ill people, but the key is we need to ensure there are safety mechanisms in place when we do this. A significant part of that is making sure the FDA is part of the process. They already have an expanded access program. We need to ensure that we are not increasing the risk of patient harm or endangering clinical trials so lifesaving drugs can continue to be developed and people have access to them.

So I assure my colleagues that we will work together to get something done, and done quickly, because this is

an important issue. People who have terminal illnesses deserve every opportunity and chance at survival, and I look forward to working with my colleagues and moving forward on the Senate bill.

With that, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I do want to point out the fact that the Right to Try bill only allows access to drugs that have already passed phase 1 safety approval from the FDA. There has been an awful lot of misunderstanding from that standpoint.

All we are asking is, what this bill would do is allow terminal patients who have no other options—they have exhausted all treatment options, they do not qualify for a clinical trial, they are near death or, according to the House bill, subject to severely premature death. It just gives those individuals the right to choose for themselves, not have a faceless bureaucrat at the FDA make that decision.

We passed this unanimously from the good efforts of my colleague, the Senator from Indiana, who will speak shortly, but also Senators Alexander and Murray. We spent many hours in discussion crafting a bill that passed unanimously.

By the way, that didn't surprise me because out of the 39 States that passed Right to Try through their legislature, 38 have passed it and signed it into law. Of the legislators who voted for Right to Try, 98 percent have voted yes. That is a vote tally of 5,604 to 126 because it makes so much sense to give those terminally ill patients the freedom to make those decisions themselves.

The good news is, the House passed the Right to Try bill—not unanimously—with bipartisan support. The vote was 267 to 149, and 35 Democrats joined, most Republicans voting yes. A lot of that was due to the good efforts from my Democratic colleague, the Senator from Indiana.

I want to give a brief history on Right to Try in terms of my involvement. I first went to the Goldwater Institute in 2014. They, through their efforts, decided to go through the strategy of having States pass it, and Colorado was the first State to pass Right to Try in 2014.

Shortly after that meeting, I met a young mom, Trickett Wendler, a mother of three children. She had ALS. I just mentioned the fact that I had met with the Goldwater Institute, and I was fully in support of Right to Try, and tears started streaming down the face of Trickett Wendler. That is when I decided to become the champion and lead sponsor of Right to Try in this body. Unfortunately, Trickett Wendler lost her battle with ALS in March of 2015.

I want to briefly mention the other individuals for whom this bill is named. Matt Bellina, a former lieutenant commander, Navy pilot, married to

his wife Caitlyn Bellina, and he has three boys.

This is what Matt Bellina said in testimony:

Please let them know that I have had ALS too long to meet the exclusion criteria for any promising trials. No drug company will offer me treatments under the current expanded access guidelines. Two reputable companies have already indicated that they would try to treat me under the rules of this bill. A vote against this is essentially a vote to kill me. It is a vote to make my wife a widow and leave my boys fatherless. I can't stop anyone from voting that way, but please ask them to have respect to look my family in the eye when they cast their vote.

Frank Mongiello is another victim of ALS. I just met with him a few hours ago. I first met with him when he could speak—he can no longer speak—but he spoke at our press conference, and here is his quote. He paraphrased Abraham Lincoln and he said:

President Lincoln said, “If I am killed, I die only once; but if I dread it, I die over and over again.”

Frank went on to say:

I have an 80-percent chance to be dead in 2 years, and, for me, seeing these potential drugs out on the market and not being able to take them is like dying over and over again.

The final namesake of this bill is little Jordan McLinn. We met him when he was 6 years old, and now he is 8. His mother Laura is a tireless advocate. I know the Senator from Indiana knows the McLinns well.

The FDA advisory committee on April 25 heard from, I think, 55 witnesses about a drug called eteplirsen to treat Duchenne's muscular dystrophy. The advisory committee, having heard from people like Laura and Jordan McLinn wanting access to that drug, voted no. Fortunately, the FDA—and this is pretty rare—overruled the advisory committee, and Jordan now is at least being treated. They are tireless advocates for Right to Try.

These are the people we need to help. These are the people whom Right to Try was meant for.

I don't know why it took the House 7 months to craft a bill and finally vote on it. I can't tell you how many people during that 7 months sought treatment in other countries. I can't tell you if anyone during that time period possibly lost their life because they didn't have access to treatment. I don't know why the House felt compelled to change the bill that we carefully crafted that passed unanimously. I don't know why they simply didn't take up the Senate bill and pass it, but I do know Right to Try saves lives.

I will quote one example, Dr. Delpassand, a courageous oncologist from Houston. He was engaged in an FDA trial treating an aggressive form of endocrine cancer. It was working. So he petitioned the FDA to allow additional patients to be added to the trial. The FDA said no, but Dr. Delpassand had a Right to Try bill in Texas. It didn't have liability protection. He risked his career and all of his posses-

sions and he signed up additional people under the Texas Right to Try laws.

In the end, he signed up 176 people. We just checked with Dr. Delpassand, and 148 of those individuals are still alive today because of his courage. That is why we need to pass a Federal Right to Try law, so individuals with that level of courage don't risk their careers, and those patients have a chance to live.

I would like to yield to the Senator from Indiana for his remarks.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. DONNELLY. Thank you, Mr. President, and thank you to the Senator from Wisconsin.

I echo my support for this legislation. We worked together nonstop to get this accomplished, as has been mentioned.

This passed the Senate 100 to nothing already. We are hopeful to wrap this up. The House just sent us a vote back, and we will continue to work nonstop to get this done because it is the right thing to do.

I think of the McLinn family in my home State, and they are a representation of families all over the country struggling with the same challenges. Our job is to try to make their lives a little bit easier, a little bit better, so that all of the people who are struggling with Right to Try challenges can get a chance to live their life to the fullest and for a long time.

So, the hour is late. I just want to second the efforts of my friend and colleague from Wisconsin, and we will continue to move forward.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I thank the Senator from Indiana who has been a real champion and a real partner. I know he tried to get as many House Members to vote for the House bill as he could.

By the way, that was the good news. I am calling on the House now, since we have an objection in the Senate on their bill, to please take up the Senate bill. It is a nonpartisan bill that passed unanimously through the Senate. Don't wait another hour. I know they are in recess for a couple weeks, but I am calling on them, as soon as they come back from recess, take up the Senate bill, pass it, and get it on the President's desk. It is well past time to give these patients, these terminally ill patients and their families, the Right to Try and the right to hope. So I want to again thank the Senator from Indiana.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. JOHNSON. Mr. President, I ask unanimous consent that the Senate resume legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

MEASURE READ THE FIRST TIME—H.R. 5247

Mr. JOHNSON. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 5247) to authorize the use of eligible investigational drugs by eligible patients who have been diagnosed with a stage of a disease or condition in which there is reasonable likelihood that death will occur within a matter of months, or with another eligible illness, and for other purposes.

Mr. JOHNSON. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

STRENGTHENING PROTECTIONS FOR SOCIAL SECURITY BENEFICIARIES ACT OF 2018

Mr. JOHNSON. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 4547 and the Senate proceed to its immediate consideration.

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. 4547) to amend titles II, VIII, and XVI of the Social Security Act to improve and strengthen the representative payment program.

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

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

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

The bill (H.R. 4547) was ordered to a third reading, was read the third time, and passed.

SIGNING AUTHORITY

Mr. JOHNSON. Mr. President, I ask unanimous consent that the junior Senator from Oklahoma be authorized to sign duly enrolled bills or joint resolutions from Friday, March 23, through Monday, March 26, 2018.

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

APPOINTMENTS AUTHORITY

Mr. JOHNSON. Mr. President, I ask unanimous consent that notwithstanding the upcoming adjournment of