

Relief for mobile workers is a bipartisan idea. A version of my original mobile workforce bill has passed the House of Representatives multiple times, and the only reason it hasn't advanced so far in the U.S. Senate is because of the opposition of a handful of States, like New York, that aggressively tax temporary workers.

New York, of course, was the epicenter of the pandemic in the United States early on, and medical professionals from across the country came to New York to work and to help out. Now, one would think that their presence would be an occasion for profound gratitude, but New York Governor Andrew Cuomo apparently also regards them as an opportunity for a tax windfall. That is right. Despite the fact that these workers provided indispensable help to New York in the worst period during the pandemic, in May Governor Cuomo announced that these workers would nevertheless be subject to New York's substantial income tax for the time that they spent working in the State.

It is unconscionable that we would allow healthcare professionals who risked their lives—risked their own lives—to care for individuals in coronavirus-stricken States to be punished with unexpected tax bills. And we need to make sure that Americans who work from home to help slow the spread of the virus don't face a complicated tax situation or an unexpectedly high tax bill as a result.

It would be wonderful to see the Democratic leader who, of course, hails from New York, speak up to endorse remote and mobile worker relief. He should make it clear whether he agrees with Governor Cuomo's decision to cash in on COVID relief workers' assistance or whether he thinks these vital medical professionals should be spared unexpected tax bills.

I really hope that he is not actively standing in the way of my bill in order to protect Governor Cuomo's efforts to boost New York's coffers at healthcare workers' expense. I encourage him to make it clear where he stands on this issue.

I intend to do everything I can to ensure that my bill receives a vote in the Senate before Christmas. Passing this legislation would spare a lot of workers a lot of misery when April comes around.

Americans have been through enough this year. Let's not add unexpected tax bills to the equation.

---

#### FOOD ALLERGY SAFETY, TREATMENT, EDUCATION, AND RESEARCH ACT OF 2020

Mr. THUNE. Mr. President, as if in legislative session, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 3451 and the Senate proceed to its immediate consideration.

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

The senior assistant legislative clerk read as follows:

A bill (S. 3451) to improve the health and safety of Americans living with food allergies and related disorders, including potentially life-threatening anaphylaxis, food protein-induced enterocolitis syndrome, and eosinophilic gastrointestinal diseases, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. THUNE. I ask unanimous consent that the Scott of South Carolina substitute amendment at the desk 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. Without objection, it is so ordered.

The amendment (No. 2695), in the nature of a substitute, was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Allergy Safety, Treatment, Education, and Research Act of 2020" or the "FASTER Act of 2020".

#### SEC. 2. FOOD ALLERGY SAFETY.

(a) IN GENERAL.—Section 201(qq)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(qq)(1)) is amended by striking "and soybeans" and inserting "soybeans, and sesame".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any food that is introduced or delivered for introduction into interstate commerce on or after January 1, 2023.

#### SEC. 3. REPORT TO CONGRESS.

(a) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

(1) descriptions of ongoing Federal activities related to—

(A) the surveillance and collection of data on the prevalence of food allergies and severity of allergic reactions for specific food or food ingredients, including the identification of any gaps in such activities;

(B) the development of effective food allergy diagnostics;

(C) the prevention of the onset of food allergies;

(D) the reduction of risks related to living with food allergies; and

(E) the development of new therapeutics to prevent, treat, cure, and manage food allergies; and

(2) specific recommendations and strategies to expand, enhance, or improve activities described in paragraph (1), including—

(A) strategies to improve the accuracy of food allergy prevalence data by expanding and intensifying current collection methods, including support for research that includes the identification of biomarkers and tests to validate survey data and the investigation of the use of identified biomarkers and tests in national surveys;

(B) strategies to overcome gaps in surveillance and data collection activities related to food allergies and specific food allergens; and

(C) recommendations for the development and implementation of a regulatory process and framework that would allow for the timely, transparent, and evidence-based modification of the definition of "major food allergen" included in section 201(qq) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(qq)), including with respect to—

(i) the scientific criteria for defining a food or food ingredient as a "major food allergen" pursuant to such process, including recommendations pertaining to evidence of the prevalence and severity of allergic reactions to a food or food ingredient that would be required in order to establish that such food or food ingredient is an allergen of public health concern appropriate for such process; and

(ii) opportunities for stakeholder engagement and comment, as appropriate, in considering any such modification to such definition.

(b) PUBLICATION.—The Secretary shall make the report under subsection (a) available on the internet website of the Department of Health and Human Services.

The bill (S. 3451), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3451

*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 "Food Allergy Safety, Treatment, Education, and Research Act of 2020" or the "FASTER Act of 2020".

#### SEC. 2. FOOD ALLERGY SAFETY.

(a) IN GENERAL.—Section 201(qq)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(qq)(1)) is amended by striking "and soybeans" and inserting "soybeans, and sesame".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any food that is introduced or delivered for introduction into interstate commerce on or after January 1, 2023.

#### SEC. 3. REPORT TO CONGRESS.

(a) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

(1) descriptions of ongoing Federal activities related to—

(A) the surveillance and collection of data on the prevalence of food allergies and severity of allergic reactions for specific food or food ingredients, including the identification of any gaps in such activities;

(B) the development of effective food allergy diagnostics;

(C) the prevention of the onset of food allergies;

(D) the reduction of risks related to living with food allergies; and

(E) the development of new therapeutics to prevent, treat, cure, and manage food allergies; and

(2) specific recommendations and strategies to expand, enhance, or improve activities described in paragraph (1), including—

(A) strategies to improve the accuracy of food allergy prevalence data by expanding and intensifying current collection methods, including support for research that includes the identification of biomarkers and tests to validate survey data and the investigation of the use of identified biomarkers and tests in national surveys;

(B) strategies to overcome gaps in surveillance and data collection activities related to food allergies and specific food allergens; and

(C) recommendations for the development and implementation of a regulatory process and framework that would allow for the timely, transparent, and evidence-based modification of the definition of “major food allergen” included in section 201(qq) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(qq)), including with respect to—

(i) the scientific criteria for defining a food or food ingredient as a “major food allergen” pursuant to such process, including recommendations pertaining to evidence of the prevalence and severity of allergic reactions to a food or food ingredient that would be required in order to establish that such food or food ingredient is an allergen of public health concern appropriate for such process; and

(ii) opportunities for stakeholder engagement and comment, as appropriate, in considering any such modification to such definition.

(b) PUBLICATION.—The Secretary shall make the report under subsection (a) available on the internet website of the Department of Health and Human Services.

#### EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Illinois.

##### CORONAVIRUS

Mr. DURBIN. Mr. President, March 23—March 23 has been a long time from this date, and a lot of things have happened in America since March 23. Over 200,000 American lives have been lost. Millions of Americans have been infected with the COVID virus. Our families have changed. Our lives have changed. We have tried to adjust to the worst pandemic America has seen.

We know that we have fallen short many times in providing the resources that were needed in a timely way. I can remember in the early stages of this pandemic when in my State of Illinois there were desperate phone calls from the Governor asking if I could find some way to help, in Washington or any other place, to provide protective equipment for the people in the healthcare field.

We know as well that many people have seen businesses close in their communities. In my hometown of Springfield, IL, our favorite restaurant is clinging to its business life, and we are finding excuses to order food out as often as possible to keep them open. Others haven't been so lucky. Their businesses are closed, and their jobs have disappeared.

Millions of Americans are drawing unemployment. Many are waiting in long lines for food. Desperate decisions are being made because people are in desperate circumstances.

A lot has happened since March 23. The reason I mention that date is that was the day we passed the CARES Act. It was a momentous, historic effort—\$3 trillion to try to rescue this economy, to help the American people through this crisis, to provide resources that were needed—and it was overwhelmingly bipartisan. It passed the Senate by 96 to 0.

Since then, many things have happened. We have also learned that the CARES Act was not enough. We thought this crisis would end long ago, and it didn't. Perhaps now with vaccines coming online, we will see some dramatic changes in the few months ahead, but what are we going to do in the meantime? Are we going to continue to help those drawing unemployment? Are we going to continue to help the businesses that are struggling to survive and to help their employees make it through another week or another month? Are we going to do what is necessary to help State and local governments that have seen losses in their revenues in historic terms? Are we going to take care to provide the logistical support for the actual vaccinations that are necessary across America? That question is unanswered because we have done nothing—virtually nothing—since March 23.

A group of Senators several weeks ago met for a socially distanced, safe dinner at one of the homes of my colleagues and talked about another approach—a new approach, a bipartisan approach—to try to deal with COVID relief. If the leaders were unable to act, perhaps we could start the conversation.

I signed up for that effort with a number of Republican Senators and Democratic Senators, and we set out to write a COVID relief bill—with our staff's help, of course. I didn't realize what I was getting into in terms of time commitment. We have spent literally hour after hour after hour, day after day after day—multiple times in a day sometimes—dealing with the difficult issues of what America needs now in emergency relief because of this COVID-19 crisis.

We have come to a general conclusion on all but one issue as to what we would propose, and we believe it should be done quickly. You see, on December 26, 12 million Americans will lose their unemployment insurance. Businesses struggling now will close between now and then if we don't do something.

Unfortunately, the speech given by the Republican leader on the floor this morning suggests that whatever we came up with and proposed is not going to be taken seriously. That is unfortunate. I think there is real wisdom, bipartisan compromise in our proposal.

It is within the power of the Republican leader to call this matter to the floor, and that is all we ask. Make it subject to amendments, if you wish, but let's get this debate underway. This silent, empty Chamber is no answer to the cries of American people who are desperate for help in the midst of this pandemic. Political posturing and press releases from one side or the other won't put food on the table, won't give a father peace of mind, won't give a mother the help she needs with childcare, won't give a student the broadband service they need to continue their education.

There is an issue that still is unresolved, and it is the issue of liability.

We don't know what to do with that, but we ought to look at the evidence. So far in this calendar year, with 15 million people infected with COVID-19, fewer than 3 lawsuits per State—3 per State—have been filed in medical malpractice or consumer personal injury claims. There are a lot of other lawsuits between businesses and with insurance companies—by prisoners in jail saying that their confinement is dangerous to their health, people filing lawsuits against Governors for issuing orders to stay at home and close down businesses—but when it comes to the personal injury claims, there are very few. Very few.

We know why—those of us who have been involved in the practice of law. One of the things that you have to prove to recover in a case is causation. That is rare in a case dealing with coronavirus, to be able to pinpoint exactly when you became infected and what the circumstances are. That is why so few lawsuits have been filed.

The Senator from Kentucky is insisting that there be immunity to liability as part of any agreement. It is a thorny topic, a difficult topic, a controversial topic, but I plead with him to hold to another day the overall issue of liability. Accept this emergency bill that we have put together as a bipartisan group of Senators to address this issue in the reality of the world we live in. To hold it back because of some other major issue that has not been resolved is unfair to American families and workers and students and health workers. We owe it to them to do everything in our power to help them now.

How can we in good conscience go home for Christmas knowing that the day after Christmas, 12 million Americans will see their unemployment insurance disappear because of our inability to act? What kind of spirit is that of any holiday season? I think we need to be mindful of the fact that there are a lot of helpless people counting on us to do something.

I hope we realize that this bipartisan effort put together by a group of Senators, which I have been honored to be part of, is a good-faith effort to answer the basic questions of what is needed now in America and what is needed on an emergency basis. It is a good bill—far from perfect. It deserves a vote on the floor of the U.S. Senate.

If Senator MCCONNELL has another proposal that he wants to put on the floor as well, he certainly has that right as the majority leader, but to close the door on this bipartisan effort is to reject a good-faith undertaking by Senators from both sides of the aisle, Democrats and Republicans.

I plead with the majority leader, let's not claim some political victory when this is all over at the expense of a lot of helpless people across America who are battling this pandemic.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.