

Senate will proceed to executive session to resume consideration of the following nominations en bloc, which the clerk will report.

The legislative clerk read the nominations of Rachel Leland Levine, of Pennsylvania, to be an Assistant Secretary of Health and Human Services; and David Turk, of Maryland, to be Deputy Secretary of Energy.

The ACTING PRESIDENT pro tempore. The Republican whip.

FILIBUSTER

Mr. THUNE. Mr. President, I have come down to the floor multiple times in the past week to talk about the filibuster. I have talked a lot about the dangers of eliminating the filibuster, from the loss of bipartisanship to the loss of meaningful representation for Senate minorities and the constituents they serve.

One thing I haven't mentioned yet, though, is the fact that Democrats are increasingly calling for eliminating the filibuster despite the fact that Republicans haven't actually filibustered any legislation yet this Congress.

In fact, the Democratic leader was just down here talking about attacking the Republicans for opposing H.R. 1, S. 1, or whatever it is that is the election bill that Democrats have put forward, but there hasn't been any effort that I am aware of to reach out to Republicans to talk about things that they might want to be involved with in terms of election reforms or reforming our election system in this country. In fact, this last election, we saw record turnout. Millions of people more than the previous election came out and voted. It was run by the States across the country.

The proposal that is before us, the H.R. 1 proposal—now, I guess, S. 1—would attempt to federalize that election process, to nationalize the elections, to take the power away from the States that currently administer and run elections and have that run out of Washington, DC.

It seems to me that a lot of people across this country would rather deal with State leaders, State Governments, when it comes to administering our elections than having them run out of Washington, DC.

There are lots of other provisions in that bill that many of us would object to. I think, frankly, it is a good thing to have a photo ID to vote. That is something that my State of South Dakota has. I think it makes sense, when people come in to vote, to be able to prove who they are. Obviously, it is a voter fraud prevention measure that has been adopted by many States across the country and upheld by the courts.

It just strikes me that there are a lot of provisions in that bill that would need to be fixed, honestly. And, frankly, just the very premise to have the Federal Government running elections in this country, essentially taking over something that has been historically handled by the States, strikes me that

that would be something the American people would have a lot of issues with.

Now, I am not sure exactly what, given the fact that we had millions more voting in the 2020 election than the previous Presidential election, would suggest that we need to make changes to election laws across this country.

The States, in my view, when they certified the election, like they typically do, in the 2020 election, did it on time, in accordance with the law, and the system, I believe, worked pretty well. But the Democrats seem to believe that there need to be changes in our elections.

But my point, simply, with respect to their arguments about that and about the need to eliminate the filibuster in order to do it is that we haven't filibustered anything yet.

Now, Democrats, when they were in the minority the last 6 years, filibustered most things that we brought up that were of major consequence, legislation that they objected to. They have used the filibuster prolifically—prolifically, you could say—in the last 6 years. But it seems a little bit odd to have them getting up and talking about eliminating something that has been a part of Senate history, Senate rules, Senate traditions for a really long time and arguing that the reason they need to do that is that Republicans have been abusing it when we have been in the majority.

We have been in the majority for the last 6 years. The filibuster is a tool employed by the minority and was employed, I would say, very freely by the minority in the past 6 years. We haven't filibustered—Republicans haven't filibustered anything yet, legislation, in this Congress. Yet Democrats are talking about eliminating the filibuster and, frankly, without attempting to reach across the aisle and engage in talks with Republicans about areas where we might find common ground. So that is what I want to talk just a little bit about today because I think Republicans have shown a genuine commitment to bipartisanship and unity, something that has not been on display from the President or the Democrat leadership.

The Senate confirmed President Biden's Cabinet nominees faster than those of both President Trump and President Obama, thanks in no small part to Republicans' willingness to move the process along, and many, if not most, of those confirmations were bipartisan.

I voted for a number of President Biden's Cabinet nominees not because they were the individuals I would have picked but because I believe that, absent serious red flags, a President deserves to have his team around him.

So I have a suggestion for Democrats: Why not try bipartisanship? And by that I don't mean holding Republicans hostage the way the Democratic leader has threatened, quote, "Support our legislation or we will talk about eliminating the filibuster."

I don't mean passing a few pieces of bipartisan legislation for show and then showing through the rest of your agenda or trying to—I should say showing through the rest of your agenda through reconciliation or abolishment of the filibuster; I mean genuine bipartisanship: sitting down at the table, identifying big issues that we need to address, and then looking at proposals from both parties—both parties—and negotiating until we can find agreement. There is a lot of room for that.

While the focus often tends to be on the areas where we disagree, there are plenty of areas where Democrats and Republicans either already agree or could easily reach middle ground.

I am a conservative, but I have introduced 14 bills so far this year, and 11 of them have had Democrat cosponsors.

There is a lot of room for us to work together, so why don't Democrats try that? We could start with American economic competitiveness and global leadership legislation or infrastructure legislation—issues that both Democrats and Republicans see a pressing need to address.

The Democratic leader has mentioned his desire to bring up legislation regarding America's competitiveness vis-a-vis China, and the Republican leader has agreed that it is an issue ripe for a bipartisan, regular-order process.

There are a lot of areas where we could find bipartisan agreement on these issues: investing in our domestic manufacturing capacity so we don't have to rely as heavily on China or other countries for essential products and technologies, promoting the development of 5G technology here at home to ensure the United States wins the race to 5G, supply chain security, protecting our taxpayer-funded research and intellectual property from theft, and more.

I recently introduced the bipartisan Network Security Trade Act with Senator FISCHER and Democratic Senators STABENOW and WARNER. Currently, one of the biggest suppliers of 5G equipment worldwide is a Chinese company, Huawei, which is supported by the Chinese Communist Party. American security officials have raised concerns that much of Huawei's equipment is built with "backdoors," giving the Chinese Communist Party access to global communications networks. Our bill would address this potential security risk by making telecommunications security a key objective when negotiating future trade deals.

It is important that we encourage our trading partners and allies to keep suspect technology like Huawei out of their networks. The bipartisan Network Security Trade Act would be a strong candidate for inclusion in a thoughtful, bipartisan measure meant to enhance our competitiveness with China if Democrats are willing to engage in truly bipartisan legislating.

I believe a strong China policy is a national priority, and I hope we will

consider a bill that addresses the many threats China poses in the near future, as long as Democrats don't simply turn it into a means to promote their partisan priorities under the guise of competing with China.

There is also a lot of bipartisan agreement to be found on infrastructure. In fact, there is a history of bipartisan collaboration on infrastructure legislation.

Our last major infrastructure bill, the FAST Act, was supported by both Democrats and Republicans and was a remarkably successful bill.

Last Congress, the Environment and Public Works Committee here in the Senate developed bipartisan infrastructure legislation. And there is no reason—no reason at all—that we shouldn't reach bipartisan agreement on a substantial infrastructure bill.

I know a lot of us Senators from rural States, both Democrats and Republicans, share a number of the same priorities for infrastructure legislation, like expanding broadband access in rural communities and ensuring that farmers and ranchers have a transportation system they can depend on to get their goods to market. Investments in rural infrastructure benefit our entire economy.

The vast majority of agricultural and industrial commodities originate in rural areas, and speeding the passage of those goods to market benefits everyone—those who produce those commodities and those who rely on being able to sell them or purchase them.

I have introduced two pieces of legislation with Democratic colleagues that I would hope to see included in potential bipartisan infrastructure legislation.

I recently introduced the Railroad Rehabilitation and Financing Innovation Act with my Democratic colleagues Senator HASSAN. Our bill takes important steps to improve the accessibility of the Railroad Rehabilitation and Improvement Financing Loan Program for smaller railroads, like those farmers and ranchers rely on to get their goods to market.

I also recently introduced the Tribal Transportation Equity and Transparency Improvement Act with my Democratic colleague Senator SINEMA. Tribes across the Nation have struggled to build and maintain roads and bridges within their reservations, which connect Tribal members to critical services. This is especially true for large, land-based Tribes who must maintain vast road networks in sparsely populated areas. Our bill would help Tribes address these challenges by taking steps to make the allocation of funding through the Tribal Transportation Program more equitable and transparent.

If one thing is for sure, it is that a 50-50 Senate is not a mandate for one side to force through its agenda unchecked. It is absurd for Senate Democrats or House Democrats to pretend they have a mandate for a partisan revolution.

I am not sure that the Democratic leadership realizes this, but I think there are a good number of rank-and-file Democrats who do. And I hope those rank-and-file Democrats will encourage their leaders to move away from their liberal fantasies and try for real bipartisan cooperation.

There is a lot we can do together on a lot of issues if Democrats will come to the table. I hope they will.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority whip.

Mr. DURBIN. Mr. President, first, let me salute my colleague and friend from South Dakota. I hope we can achieve what he has asked for: bipartisanship in the U.S. Senate.

He made a point that I would like to amplify: that they have not even used the filibuster; Republicans have not invoked the filibuster so far during this Senate session. Well, there is a reason—because the three things that we have done in this session are not, under the rules of the Senate, subject to filibuster.

Let me note as well—I ask unanimous consent that I be given 10 minutes to speak before the rollcall begins.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, there are three things that are not subject to a filibuster: an impeachment trial, which we have accomplished so far this year; the nominations, which the Senator from South Dakota alluded to; and the reconciliation bill. It is true, Republicans did not apply the filibuster to that. But it wasn't their good will that motivated it; the Senate rules demanded it.

The question is, Can we reach a point where we do things on a bipartisan basis, or will it be stopped by a filibuster? So let me pause at this moment and say to those following the debate what a filibuster is all about. It is a time-honored tradition in the Senate, going back to Aaron Burr serving as Vice President, that people can speak in an unlimited fashion on the floor—there is nothing to stop them—until there came a cloture vote, which didn't appear until the early 20th century. Before that, the Senator could hold the floor indefinitely and slow things down to a crawl, to a stop if necessary. The filibuster allowed them to continue that, but then came the cloture motion, which stopped the filibustering. It initially took a two-thirds vote, 67, and eventually 60 votes. But that is what it boils down to.

If you want to get anything done on the floor and you don't want one Senator to stand up and say "I refuse to accept the vote," then you have to have 60 votes. So in a majority Senate, 51 would clearly be sufficient. Under a filibuster, 60 is required. There are 50 Democrats, 50 Republicans. Vice President KAMALA HARRIS can be the tie-breaking vote, the 51st vote. So the Republicans, by applying the filibuster

rule, could require 60 votes, which, of course, the Democrats by themselves, even with the Vice President, couldn't come up with.

There was a statement made by Senator MCCONNELL, the Republican leader, yesterday which was nothing short of amazing. At a press conference, he said of the filibuster: "It has no racial history at all—none." Amazing that he would say that.

If you go back and study the history of this body, John Caldwell Calhoun, a Senator from South Carolina, started in the early parts of the 19th century using this unlimited debate to protect slave States, to protect the interests of the Southern States. That progressed in history to the point where, in modern times, at least in the 20th century, the filibuster was used consistently to stop federalization of the crime of lynching. I don't know who would argue in Kentucky or anywhere else that the crime of lynching has nothing to do with race, but the filibuster was used to prevent the federalization of that crime.

It was used in an effort to stop the bills that were trying to outlaw a poll tax. Poll tax? That meant you had to pay to be able to vote. It was used in the South to try to discourage African Americans from voting. It clearly was racial, and the filibuster was used over and over again to protect a vote on the Senate floor, this Senate floor, from taking place on the poll tax.

Then fast-forward several decades to the 1960s. Richard Russell of Georgia engineered—he was the architect, the legislative architect of the filibuster that stopped the civil rights bills in the 1960s. Certainly Senator MCCONNELL, who was working in the Senate at that time as an intern, if I am not mistaken, must remember the filibuster being used against the civil rights bill. And to say that the filibuster "has no racial history at all—none" is to ignore the obvious.

Here is the point we are getting to. Senator SCHUMER has said it on the floor, and others have said it as well. We have to be productive in this session of the Senate. After the last 4 years, we have seen the Senate really break down to the point where they weren't productive at all. We weren't productive at all.

There were 29 amendment votes in the last year of Senator MCCONNELL's reign as Republican leader. Twenty-nine amendment votes in 1 year? The previous year under Senator MCCONNELL: 22 amendment votes; no activity on the floor of the Senate. We can't let that happen. There are things that need to be done.

Let me mention, too, that one of them that certainly needs to be done is to protect America's right to vote. The Senator from South Dakota comes and says: Well, we had this big turnout on November 3, 2020, and now the Democrats are meeting and talking about changing the voting laws. Why would we want to change if we had such a big turnout?

He ignores what happened in between. After the election returns of November 3, 2020, Republicans across the Nation, in 40 different States, introduced hundreds of bills to limit people's right to vote. That is why we are responding with this Federal response that is now being considered in the Senate Rules Committee.

He missed part of the equation. It went from November 3rd's big turnout to efforts in State legislatures to restrict turnout, to limit the rights of people to vote across America, especially African Americans and Latinos and those who are not wealthy—to limit their right to vote. And then came this response on the Federal basis. That is an important point. If we believed that the filibuster would not be used against it, if there was some promise that it wouldn't be, we certainly could bring that bill to the floor for debate, and we should, if we are given that kind of assurance.

GUN VIOLENCE

Mr. President, the final point I want to make is regarding the hearing we held yesterday. It was a hearing before the Senate Judiciary Committee on guns and gun violence. I scheduled it last week, and I didn't know as I scheduled it the tragedy that was occurring in Atlanta, GA, with eight people who were murdered. We heard about that. It was an outrage, these poor, innocent people killed—coincidentally, the majority of them Asian Americans—at a time when we know hate crimes against Asian Americans are on the rise.

That was the day that I announced the hearing that occurred yesterday, but little did I know, as we prepared 2 days ago for that hearing, what would happen in Boulder, CO, just 2 days ago when 10 innocent people were killed at a supermarket.

We had a hearing yesterday. It was an important hearing. Members all attended. Sadly, one of the members on the other side came in, the junior Senator from Texas, and characterized our hearing on gun violence, in light of what is happening in America, as "ridiculous theater." Those were his words, "ridiculous theater." There was nothing ridiculous about the hearing that we held yesterday. It was a matter of life and death.

The grief that is being felt in Boulder, CO; Atlanta, GA; and all over America is a grief that is shared on a daily basis. Forty thousand Americans each year lose their lives to gun violence—40,000—a recordbreaking number and nothing we should be proud of as a nation.

When we address gun violence and the measures that should be taken to reduce it, it is not ridiculous; it is as serious as it gets. Furthermore, it is not theater. Theater is a depiction of reality; the Senate Judiciary Committee is reality.

We are imparted, as Senators, to change the laws of America and make it safer. That is not a theatrical per-

formance; that is just discharging our duties as U.S. Senators.

So I would say to that Senator and others, I agree completely with Senator SCHUMER. We need to bring bills to the floor that will reduce gun violence in America, keep firearms out of the hands of people who should not have them. Convicted felons and mentally unstable people should not be having guns and buying them and be able to kill innocent people who are just stopping by the supermarket to pick up something to take home. That is what happened in Boulder, CO.

As the stories are printed in newspapers across America about those lives lost, it is a grim reminder that this is not ridiculous. It is not theater. It is a life-and-death issue which we have the power to change.

I hope we can bring this measure to the floor, the one that passed the House of Representatives—and others—to bring sanity to our Second Amendment, to make sure that we have constitutional, commonsense gun safety that is consistent with any constitutional right.

I yield the floor.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 Executive Calendar No. 40, Rachel Leland Levine, of Pennsylvania, to be an Assistant Secretary of Health and Human Services.

Charles E. Schumer, Patty Murray, Benjamin L. Cardin, Jon Tester, Richard Blumenthal, Michael F. Bennet, Sheldon Whitehouse, Sherrod Brown, Jeanne Shaheen, Debbie Stabenow, Thomas R. Carper, Margaret Wood Hassan, Elizabeth Warren, Alex Padilla, Tina Smith, Tim Kaine, Christopher A. Coons.

VOTE ON THE LEVINE NOMINATION

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Rachel Leland Levine, of Pennsylvania, to be an Assistant Secretary of Health and Human Services, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 52, nays 48, as follows:

[Rollcall Vote No. 132 Ex.]

YEAS—52

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

Kelly	Murray	Smith
King	Ossoff	Stabenow
Klobuchar	Padilla	Tester
Leahy	Peters	Van Hollen
Lujan	Reed	Warner
Manchin	Rosen	Warnock
Markey	Sanders	Warren
Menendez	Schatz	Whitehouse
Merkley	Schumer	Wyden
Murkowski	Shaheen	
Murphy	Sinema	

NAYS—48

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

The PRESIDING OFFICER (Mr. HICKENLOOPER). On this vote, the yeas are 52, the nays are 48.

The motion is agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 Executive Calendar No. 38, David Turk, of Maryland, to be Deputy Secretary of Energy.

Charles E. Schumer, Patrick J. Leahy, Richard J. Durbin, Christopher A. Coons, Robert Menendez, Chris Van Hollen, Tammy Baldwin, Thomas R. Carper, Tina Smith, Richard Blumenthal, Ben Ray Lujan, Debbie Stabenow, Ron Wyden, Cory A. Booker, Alex Padilla, Jack Reed, Mark R. Warner, Chris Van Hollen, Robert P. Casey, Jr.

VOTE ON THE TURK NOMINATION

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of David Turk, of Maryland, to be Deputy Secretary of Energy, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 98, nays 2, as follows:

[Rollcall Vote No. 133 Ex.]

YEAS—98

Baldwin	Cardin	Duckworth
Barrasso	Carper	Durbin
Bennet	Casey	Ernst
Blackburn	Cassidy	Feinstein
Blumenthal	Collins	Fischer
Blunt	Coons	Gillibrand
Booker	Cornyn	Graham
Boozman	Cortez Masto	Grassley
Braun	Cotton	Hagerty
Brown	Cramer	Hassan
Burr	Crapo	Heinrich
Cantwell	Cruz	Hickenlooper
Capito	Daines	Hirono