

I am particularly pleased the legislation includes \$238 million for the Chesapeake Bay Program. The bill also includes my bipartisan legislation to make permanent and expand the Minority Business Development Agency, which is the only Federal Agency dedicated to supporting minority-owned businesses.

The American Rescue Plan provides tens of billions of dollars to support vaccination and COVID-19 testing, driving down the death rate from the virus by 90 percent. The bill also invested in hard-hit communities and brought concrete relief to the Nation at a time of great need. I was especially proud of the investments we made to help save so many small businesses throughout Maryland and the Nation.

From the American Rescue Plan to the Inflation Reduction Act, and everything in between, these and other legislative accomplishments have helped address important needs across Maryland and our Nation.

At the peak of the COVID-19 pandemic, over 20 million Americans had lost their jobs. And the unemployment rate rose to 14.7 percent in April of 2020. The number of employed Americans now exceeds the prepandemic high—the second fastest job market recovery since 1981. The number of Americans working is at an alltime high. And the unemployment rate has dropped a half-century low of 3.5 percent.

Since President Biden assumed office, the economy added nearly 700,000 new manufacturing jobs. This represents the strongest manufacturing job growth since the 1950s. Manufacturing job growth in 2021 alone exceeded any other single year going back nearly 30 years.

Over the past year, the construction and new manufacturing facilities in the United States has grown by an estimated 116 percent. In recent surveys, the CEOs, 80 percent were either in the process of moving manufacturing operations back to the United States from China or were considering doing just that.

While unemployment continues at historic lows and gas prices are declining rapidly, we are still facing challenges. Food prices, rent, and other costs are still too high. The Federal Reserve has had to raise interest rates, which is painful for families and businesses alike. Most mainstream economists believe that we can avoid a recession and the economy will have a soft landing despite the supply chain challenges we continue to face because of COVID and Russia's war in Ukraine. This would be a truly historic accomplishment.

President Kennedy said:

Our responsibility is one of decision, for to govern is to choose.

Our legislative achievements over the last 20 months demonstrate that Congress can be productive and the Federal Government is a powerful force for good.

I hope we choose to remain on that path—Democrats and Republicans alike—because there is still so much we can do and need to do to help the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

ENERGY INDEPENDENCE AND SECURITY ACT

Mr. KAINE. Madam President, I rise to talk about a piece of legislation that was announced last night by a very close friend of mine, Senator MANCHIN of West Virginia—the Energy Independence and Security Act of 2022. Senator MANCHIN and I were Governors together, and we sit next to each other on the Senate floor. And we are often in agreement. And on this particular bill—it is 91 pages long, and there are 24 sections—we are in agreement on 23 of the 24 sections and 86 of the 91 pages.

I want to talk about the permitting reform provisions in the bill that I support, but then I want to point out significant concerns with section 24 of the bill that is sort of an anti-permitting reform bill. It would take one project that is in my State, the Mountain Valley Pipeline, out of permitting processes, out of judicial review, and have Congress put our thumb on the scale, advancing the project immune from the normal permitting process and judicial review.

I would like to start by saying I am a strong supporter of American energy independence, and I applaud the efforts of my colleague Senator MANCHIN to do the same.

I voted with a number of Senators a few years ago to end the ban on export of crude oil from the United States. And I have strongly supported liquefied natural gas exports to help nations around the world wean themselves off of energy dependence on dictators like Vladimir Putin.

I also firmly believe in the need for permitting reform. The heart of the Energy Independence and Security Act is a recognition that permitting for energy transmission and other projects in this country is essentially broken; that it takes too long. It is too inconsistent.

I filed my first permitting reform bill in 2017 as a recognition of the fact that natural gas pipelines proposed in Virginia were running into very significant challenges, in particular. These pipeline programs require the use of eminent domain. So you are taking people's property to build these pipeline projects. And if the government is going to take people's property, we ought to have a process that is fair.

But what I heard from my constituents in Virginia is that they were being ignored; that there was inadequate public hearing. The hearings were scheduled hundreds of miles apart, far away from the landowners themselves. They would get to the public hearings and people had presigned up, often encouraged by the pipeline proponent so

that the actual landowners never got a chance to speak. And when they did get to speak, their input wasn't being taken seriously.

So, in 2017, I introduced my first permitting reform bill to deal exactly with some of the same kinds of issues that Senator MANCHIN has included in the Energy Independence and Security Act.

So I am here to say, I am all for permitting reform. I am all for permitting reform. And I believe that there is a bipartisan majority—indeed, a supermajority in this body—that were we to undertake this in regular order, we could come up with a permitting reform bill that, together with the infrastructure bill that we did and the Inflation Reduction Act that we did, will help us power forward American innovation, especially in leading the world in clean energy.

So that is 86 pages of the bill. And I strongly approve of the bill. The legislation that I introduced in 2017 isn't in it. I would like to get it added in. But even if it weren't added in, there is enough good in this bill for me to support it.

But what I want to talk about with an equal degree of passion is my strong opposition to section 24 of the bill, dealing with the Mountain Valley Pipeline.

The Mountain Valley Pipeline is a 304-mile natural gas pipeline in West Virginia and Virginia. About two-thirds of it is in West Virginia and one-third is in Virginia. The pipeline is proposed to withdraw natural gas from the Marcellus shale—one of the great American reserves of natural gas—and then transmit that gas first through West Virginia and then Virginia where it could hook up with other pipelines to be distributed around the country or to ports where it could be liquefied and potentially sold overseas.

The Mountain Valley Pipeline has had a star-crossed history in recent years. It has had multiple Federal authorizations vacated. It has accrued over 350 violations of water quality-related protections, both in Virginia and in West Virginia. And it currently lacks several necessary Federal authorizations to continue construction.

My constituents in Virginia have complained significantly about workmanship problems in the Mountain Valley Pipeline. And work on the pipeline has been stopped by State agencies because of slipshod quality that damages water and that damages people's property.

I am not opposed to the Mountain Valley Pipeline. I don't think Congress should be in the business of approving pipelines or rejecting them.

Madam President, you were an attorney general dealing with eminent domain. We generally don't let legislative bodies decide whose property is going to get taken.

Eminent domain matters are usually for courts and administrative agencies. So as the Mountain Valley Pipeline has

proceeded in recent years, I have had opponents of the pipeline come to say: Look, there have been water quality violations. You should stop the pipeline.

I have had proponents of the pipeline come and say: We need this for America's energy security. You should put your thumb on the scale and make sure it gets approved.

What I have told both the opponents and proponents of the Mountain Valley Pipeline is: You tell me how to fix the process—the permitting process—to make it fair, and I will do that. But then you should have to put your project through a fair permitting process and, if you can earn approval on the merits, then you can build the pipeline. But if you do poor work and can't, then you are not going to be able to build it.

I deeply believe this is not Congress's job to make this determination. It is our job to make sure that permitting is fair.

Section 24 of the Energy Independence and Security Act of 2022 would basically say that after 86 pages of improving permitting in this country, we will take one project in two States and take it completely out of all permitting. We will order the Biden administration to grant four permits that are currently in midstream. The company hasn't yet demonstrated that it should get these four permits.

There is a Clean Water Act permit. There is a permit to cross the Jefferson National Forest. There is a permit to certify that this project will not harm endangered species. And, finally, there is a permit from FERC, the Federal Energy Regulatory Commission. The company is attempting to get these permits, but they haven't yet demonstrated that they are able to do it.

But what section 24 of the bill would do, after doing this great work to establish this great permitting process, is that it would say: Forget all of that. The Biden administration must give these four permits to the Mountain Valley Pipeline owners right now, and, further, no one can seek any judicial review of these permits—highly unusual.

These administrative permits are issued by administrative agencies with a capacity for judicial review under the Administrative Procedure Act. But in this case, we would be forced to issue the permit, and then we would also immunize the permit from any person, landowner, effective party, or environmental group being able to challenge it in judicial review. In my view, that is highly inappropriate and virtually unprecedented.

But to make matters worse, section 24 of the bill also does something that I believe is unprecedented and that would create a very, very dangerous precedent in this body. It would strip jurisdiction of any litigation in the future in this project from the U.S. Court of Appeals for the Fourth Circuit, headquartered in Richmond, my hometown.

Why? The owners of the Mountain Valley Pipeline have lost a case or two in the Fourth Circuit.

I used to try cases, as did the Presiding Officer. I lost some cases, and I lost cases in the Fourth Circuit. If I represented a civil rights litigant and we lost a case in the Fourth Circuit, I had remedies. The first remedy was to try to get an en banc court to possibly reconsider the ruling of the panel. It is difficult to do, but that is a remedy you have.

The second remedy you have is to appeal to the U.S. Supreme Court. I tried that too. Once, I got a case that I had lost in the Fourth Circuit taken by the U.S. Supreme Court, and I was able to be successful there in getting it reversed.

But if you are a party that is unhappy, that is what your remedy is, to appeal. Whether you are rich or you are poor, whether you are a corporation or an individual, whether it is a criminal case or a civil case, if you don't like the ruling of a district court, you appeal to an appellate court. If you don't like the ruling of an appellate court, you try to take it en banc or go to the Supreme Court. And that is a rule that should apply to all litigants.

In this case, what the Mountain Valley Pipeline is asking is, in my view, an egregious and dramatic overreach. They don't like the rulings of the Fourth Circuit. They haven't been able to get the Fourth Circuit to take the case en banc. They haven't been able to convince the U.S. Supreme Court that the Fourth Circuit was wrong.

So what the Mountain Valley Pipeline owners are asking the Senate to do and what this bill proposes is that we would take jurisdiction away from the Fourth Circuit and mandate that any future case not go to the Fourth Circuit but instead come to the DC Court of Appeals.

What ground would there be for such a historic rebuke of my hometown Federal circuit court, to say that just because they ruled against a powerful energy corporation, we will, in an unprecedented way, strip jurisdiction away from them in a pending case that is midstream and not allow them to hear it?

The Fourth Circuit is my hometown circuit court. I tried cases in the district courts there. I had appeals in that court. I won some; I lost some. I was often unhappy with the ruling, but never would I have believed, if a ruling went against me, that the resolution was to punish the court by stripping jurisdiction away from them. Yet that is what the Energy Independence and Security Act of 2022 would do. It would force the issuance of permits that have not yet been justified, deny the possibility of judicial review of those permits and, in particular, in an unprecedented way, strip jurisdiction away from one circuit court in the middle of a case by taking it away from them. Why? Because the big energy company that wants these permits is unhappy that they have lost a case there.

As I conclude, I just want to point out, if we go down this path, in my view, it could open the door to serious abuse and even corruption. Imagine if the Senate of the United States starts stripping jurisdiction away from courts because we don't like their ruling. So midstream, we will take it away.

A corporation is unhappy that they are getting sued in shareholder derivative suits in the Second Circuit, for example, and somebody comes to the Senate and says: Let's just take jurisdiction away from the Second Circuit dealing with this particular company.

Somebody in a complicated criminal case doesn't like the rulings of a circuit court on procedural matters and tries to get this body, the Senate of the United States, to strip jurisdiction away from the court.

I am proud of the Fourth Circuit—the U.S. Court of Appeals for the Fourth Circuit. I have been involved with my colleague Senator WARNER in recommending to Presidents and then advocating for people to be nominated and eventually confirmed in this court. The Fourth Circuit is no more perfect than any court is.

I can tell you, as somebody who has practiced in this court for my entire professional career, they do not deserve to be rebuked in a historic way and have jurisdiction stripped away from them in a case like this just because they have had the temerity to rule against an energy company on a pipeline project.

We can do a permitting reform bill that will advance the goals of the first 86 pages of the Energy Independence and Security Act. We can do a bill that will include 23 of the 24 sections of the Energy Independence and Security Act and have a much better permitting process that the Mountain Valley Pipeline and anyone else wanting to do a project can then go through.

If they demonstrate on the merits that they should be entitled to build a pipeline or an electricity transmission, then build it, by all means. But don't embrace the need for permitting reform and then choose one project in the entire United States, affecting my State, and pull it out of permitting reform, insulating it from the normal processes of administrative permitting issuance and insulating it from judicial review.

I yield the floor.

The PRESIDING OFFICER (Ms. SMITH). The Senator from Kansas.

INFLATION

Mr. MARSHALL. Madam President, last week, we received what might have been the worst economic news I have ever seen in 1 day in my lifetime.

In Joe Biden's America, it costs more to feed your family. In Joe Biden's America, your commute to work is more expensive. In Joe Biden's America, it is a struggle to pay the bills that power your home. In Joe Biden's America, farmers and ranchers are facing