

(1) in subsection (i)—

(A) in paragraph (1)(A), by striking “pre-clinical tests (including tests on animals)” and inserting “nonclinical tests”; and

(B) in paragraph (2)(B), by striking “animal” and inserting “nonclinical tests”; and

(2) after subsection (y), by inserting the following:

“(z) NONCLINICAL TEST DEFINED.—For purposes of this section, the term ‘nonclinical test’ means a test conducted in vitro, in silico, or in chemico, or a non-human in vivo test that occurs before or during the clinical trial phase of the investigation of the safety and effectiveness of a drug, and may include animal tests, or non-animal or human biology-based test methods, such as cell-based assays, microphysiological systems, or bio-printed or computer models.”

(b) BIOSIMILAR BIOLOGICAL PRODUCT APPLICATIONS.—Item (bb) of section 351(k)(2)(A)(i)(I) of the Public Health Service Act (42 U.S.C. 262(k)(2)(A)(i)(I)) is amended to read as follows:

“(bb) an assessment of toxicity (which may rely on, or consist of, a study or studies described in item (aa) or (cc)); and”.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I move to proceed to the motion to reconsider the vote on the confirmation by which Executive Calendar No. 1043, the nomination of Arianna J. Freeman, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, was not confirmed.

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

The motion was agreed to.

The PRESIDING OFFICER. The motion having been agreed to, the Senate proceeds to executive session and the clerk will report the nomination.

The legislative clerk read the nomination of Arianna J. Freeman, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

NOMINATION OF ARIANNA J. FREEMAN

Mr. DURBIN. Mr. President, the Senate will soon vote to confirm another outstanding nominee to the Federal bench: Arianna Freeman, nominated to the Third Circuit Court of Appeals.

Ms. Freeman is an accomplished appellate attorney and a ground-breaking pick for the Third Circuit. Her perspective, experience, and legal acumen will greatly benefit the court. And once confirmed, she will be the first Black woman to serve on the Third Circuit.

After earning her B.A. with honors from Swarthmore College and her J.D. from Yale Law School, Ms. Freeman clerked for three judges on the Eastern District of Pennsylvania, based in Philadelphia.

In 2009, following her clerkships, Ms. Freeman joined the Federal Community Defender's Office for the Eastern District of Pennsylvania, an office she has served with distinction. As a Federal public defender, Ms. Freeman has dedicated her career to representing indigent criminal defendants seeking to vindicate their constitutional rights—

to due process, effective assistance of counsel, and other constitutional guarantees.

Unfortunately, some of my Republican colleagues have suggested that Ms. Freeman's public defense work disqualifies her from judicial service.

In reality, Ms. Freeman has undertaken this work in support of the Constitution and the rule of law. Her zealous advocacy has helped to ensure that the protections of the Fifth and Sixth Amendments are made real for criminal defendants. Throughout her career, she has advanced the cause of equal justice under law.

Ms. Freeman received a unanimous rating of “well qualified” from the American Bar Association.

She has the strong support of Senator CASEY, as well as many leaders in the Pennsylvania legal community. This includes four former Federal prosecutors who sent a letter to the Judiciary Committee writing, “We are impressed by Arianna's diligence, intelligence, dedication, and integrity. It is because of her ethics and compassion, grounded in sensibility, that we are confident she will provide sound and measured opinions, while approaching each case without bias and with respect for the rule of law.”

I will support Ms. Freeman's confirmation, and I urge my colleagues to do the same.

MOTION TO RECONSIDER

Mr. SCHUMER. Mr. President, I move to reconsider the vote by which Executive Calendar No. 1043 was not confirmed.

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

The motion was agreed to.

VOTE ON FREEMAN NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Freeman nomination, upon reconsideration?

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Utah (Mr. LEE), the Senator from Ohio (Mr. PORTMAN), and the Senator from Florida (Mr. RUBIO).

Further, if present and voting the Senator from Utah (Mr. LEE) would have voted “nay.”

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 350 Ex.]

YEAS—50

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

Lujan	Peters
Manchin	Reed
Markey	Rosen
Menendez	Sanders
Merkley	Schatz
Murphy	Schumer
Murray	Shahen
Ossoff	Sinema
Padilla	Smith

Stabenow
Tester
Van Hollen
Warner
Warnock
Warren
Whitehouse
Wyden

NAYS—47

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

NOT VOTING—3

Lee	Portman	Rubio
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(Mr. HEINRICH assumed the Chair.)

(Mr. REED assumed the Chair.)

The PRESIDING OFFICER (Mr. SCHATZ). On this vote, the yeas are 50, the nays are 47.

Upon reconsideration, the nomination is confirmed.

The majority leader.

Mr. SCHUMER. Mr. President, I ask unanimous consent that for any nominations confirmed during today's session of the Senate, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

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

LEGISLATIVE SESSION

AFFORDABLE INSULIN NOW ACT—Continued

UNANIMOUS CONSENT AGREEMENT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate resume legislative session; that it be in order for Senator BRAUN to offer amendment No. 5765; that at 1:45 p.m., all motions and amendments other than the substitute be withdrawn; that no further amendments be in order to the bill; that substitute amendment No. 5745 be agreed to; that the bill, as amended, be considered read a third time; and that the Senate vote on the passage of the bill, as amended, with 60 affirmative votes required for passage, without further intervening action or debate.

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

ORDER OF PROCEDURE

Mr. SCHUMER. Mr. President, for the information of the Senate, there will be two rollcall votes at 1:45 p.m. The first vote will be on the passage of the continuing resolution to fund the government through December 16. The second vote will be on the confirmation of the Gomez nomination upon reconsideration.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KING). Without objection, it is so ordered.

NOMINATION OF REBECCA E. JONES GASTON

Mr. WYDEN. Mr. President, I am on the floor this afternoon with a request to confirm a highly qualified nominee with bipartisan support, whose nomination has stalled for 210 days since it was approved by the Finance Committee.

My understanding is there may be an objection to a unanimous consent request that I would like to offer, and, hopefully, any Senate Republican who seeks to object will come to me. And I hope, whatever concern they have—if, in fact, it is the case—that we can work it out and this very, very qualified individual can serve as Commissioner on Children, Youth, and Families within the Department of Health and Human Services.

I am talking about Rebecca Jones Gaston. And my view is that this Agency is a hugely underappreciated part of our government. Its whole mission is to help vulnerable kids and families stay safe and get ahead in life. It is challenging work, and that means you have got to have strong leadership in place.

One of the big recent jobs for this Agency has been implementation of the Family First Prevention Services Act. Our colleague, the late Orrin Hatch, and I worked on this for years because we wanted to transform the child welfare system, and that is an undertaking now underway because Chairman Hatch went to members on the other side of the aisle and reached out. And we built a coalition for this hugely consequential bill.

Before the bill, there was essentially a set of two choices, neither perfect, for kids looking at the prospects of families and foster homes. You could keep a child with a family in a situation that was not exactly ideal. You would have problems with alcohol. You would have problems with drugs. There were just problems at home. If you didn't keep the child there, you would send them off to a foster care facility. Well, there are some good foster care homes, but we know that there are some that are not exactly up to par.

What Chairman Hatch and I did, with bipartisan support in the Finance Committee, is devise a third path, and that is what Ms. Gaston would be working on at this Agency that does so much good for kids. We essentially said this third path meant that there could be support at home for the parents who were dealing with alcohol challenges or drug dependency or something of that nature. You could also have an older

individual, a grandparent, come in and assist.

But the point was, we came up with a third, far healthier path. It was a landmark. Marian Wright Edelman, who has done so much work for young people, so much effort, said that it was a monumental achievement. And, in fact, it was, and that is why we want Rebecca Jones Gaston there to implement it.

And what the status quo was before that legislation was families, essentially, breaking apart. And so the bill is called Families First because it keeps families together—keep them together whenever you can come up with a strategy to make it safe for the child. It could be with mental health care for Mom and Dad. As I said, maybe a grandparent steps in to take care of the grandkids. Lots more flexibility.

Mr. President, as former Governor, you and I have talked about that flexibility in human services. That is what Chairman Hatch and I worked on, and it is how we got it passed into law.

Now, obviously, you then have to go forward to implement it. That means you have to work with State and local agencies, the administration, the Congress. Everybody wants to get this right.

Rebecca Jones Gaston is an ideal nominee to lead the effort. She has experience in Oregon. She has also been a highly successful advocate for young people as Oregon's child welfare director within the State's Department of Human Services.

She had a similar post—I hope everybody hears this who is watching it—under a Republican Governor in the State of Maryland. So this is a person who can work well with both sides.

She brings 25 years of experience in dealing with families and kids. Her qualifications for this job are undeniable. And I think it is fair to say members on the Finance Committee are looking forward to working with her.

I previously sought to pass this nomination by unanimous consent earlier in the summer. There was one Senate objection. I believe that issue has been resolved.

This nomination has waited long enough. We have a very good person, bipartisan support. There is lots of work to do.

And I would just close by way of saying, I heard one Senator might be objecting. That Senator has lifted their objection. And now I hear some kind of report that someone else is objecting. And my hope is the Senator with the objection will contact me so we can address the concern, clear the nomination before we leave, which, I think, we are all very hopeful will be the case.

At this point, I want it understood that I am going to ask unanimous consent later in this session, and I hope there will be no objection.

With that, I yield the floor.

And I have additional business here in a few minutes.

The PRESIDING OFFICER. The Senator from Oregon.

TRIBUTE TO MIKE EVANS

Mr. WYDEN. Mr. President, I have come to the floor this afternoon to speak about Mike Evans, the Finance Committee's chief counsel, who is retiring at the end of this week. This is going to bring to a close 27 years of extraordinary Senate service and almost 9 years on the Finance Committee staff.

It is not an atomic secret that I am very, very much involved in basketball with my children and still dreaming about how it didn't work out to play in the NBA. But to just paraphrase one thought with respect to the way this place works in terms of actually getting results the way Mike Evans did on the IRA—a hugely important bill, where the major pieces came from the Finance Committee, where we had extraordinary work done by the president of the Senate—if you speak in the parlance of basketball, Mike Evans will long be remembered as one of the all-stars—the NBA all-stars, so to speak—in Senate service.

He has, without any doubt, for millions of people in Oregon and across the country, caused them to have a better life because of his work in the Senate. And to just tick off a few of the reasons why I feel that way, let me just give a bit of history.

In early 2014, I had a brief tenure as chairman of the Finance Committee. And to the Senate's great fortune, Mike agreed to return to be the Senate Finance Committee's chief counsel. His experience goes back to days when he did good work for Chairman Baucus.

And the reality is, since then, you name a big legislative accomplishment in the areas of healthcare, tax policy, support for working families, Mike has been right at the heart of it. A few examples: Not long after Mike's return, the Senate passed the largest set of tax cuts for working families in many years.

There was the 2015 trade debate that was all about what I call getting trade done right: strong enforcement, serious protections for workers in the environment, more sunlight in our trade policy than ever before.

Many members had said we had never approached trade in that way. With Mike's good work, there were colleagues on our side of the aisle who said this is the first trade bill we are voting for.

Starting in 2017, there was a shift in our work as Finance Committee Democrats focused on protecting vulnerable Americans from the Trump administration's policies that singled out the vulnerable. We stopped the effort to repeal the Affordable Care Act and destroy Medicaid in its tracks. We showed the American people that the Trump tax law was not a middle-class tax cut. Above all, it disproportionately favored billionaires and corporations. And we saw that all through the Trump years.

Mike was absolutely crucial developing a strong, innovative, progressive

agenda for the next time Democrats led the committee. When the pandemic hit, the committee stepped up and sprung into action. We came up with historic legislation to support workers and small businesses to prevent an economic collapse.

More recently, with the good work, particularly done by Senator BROWN and Senator BENNET, Senator CASEY, Senator BOOKER—my colleagues—the Finance Committee led the effort to pass the largest reduction in child poverty ever to come from one bill.

The President of the Senate knows we worked for a full decade—a full decade—to pass the largest clean energy bill in U.S. history, a major step in the fight against climate change.

It does not happen, it simply does not happen without the gentleman sitting next to me, Mike Evans.

Medicare is going to start delivering a big dose of price relief for prescription drugs. So seniors are going to benefit. In fact, Mike Evans always told me: Let's make sure you can get help to people soon. That means in literally a couple of days, on October 1, because of Mike's good work, we are going to start seeing penalties for price gouging by big pharmaceutical companies. They are going to have to write out checks to Medicare for the amount over inflation. Mike Evans led the fight on those issues, right at the center of our major accomplishments.

In the column of ongoing priorities, we said: Something is not right. If nurses and firefighters in Maine or Mississippi or any other State pay taxes with every paycheck, billionaires can pay what they want, when they want to. And we have been saying we want everybody to be successful. My goodness, that is what America is about. But we also want everybody to pay their fair share.

And I am really pleased that the President has been talking about a billionaire minimum income tax. We have been coming together all in the name of fairness. And Mike looks specifically at how to do that and address the parliamentary and legal concerns.

I would be on the floor until break-fast time tomorrow—and I see our friend from Mississippi has something that is important to him—and I just want to close with one last point.

You know, I think if you walked into a coffee shop in Maine or Oregon or Mississippi and you said: "Well, let me talk to you a little bit about reconciliation," people would be a little baffled with you, but maybe they would say, I hope the couples can work it out, or something; and haven't thought of this reconciliation too much.

Well, we know here in the Senate reconciliation is a briar patch of tricky rules and procedures; get something wrong, and all the work you have done to come up with a good policy goes by the boards.

So you have to comply with the Byrd rule, which is something resembling English, and Mike, of course, speaks

this unique tongue of the whole Byrd rule world. It means scrubbing your legislation for Byrd rule violations, writing tomes of legal memoranda. Then you have to go before the Senate Parliamentarian to make sure your bill stands up to scrutiny.

I see the Parliamentarian right there, and as she knows, we are very appreciative of her professionalism. Mike and I, I think, would be the first to say you don't win all the calls. That is kind of the way it works, but the Parliamentarian has always been professional. And somehow I think Mike Evans and the Parliamentarian, wherever they are going to be in the years ahead, they are going to be battling around the ideas of what it takes to move legislation forward in the Senate.

This is as much a compliment to Mike and the Parliamentarian as to say this is, for all its flaws, part of what you have to do to get issues addressed and do it fairly. Nobody in this country is more experienced on this floor than Mike Evans.

If you want to think about remembering Mike as I will, opposing counsels sort of weep when Mike Evans walks through the door because they know that with that full stack of binders and materials, he is ready. If I can go back to my basketball roots, when you are dealing with Mike Evans, you better come to play because he is ready every single time out.

Typically, these arguments are handled by brilliant staff before the Parliamentarian. On one occasion, I gathered, a Senator kind of strutted into the room and challenged Mike to a debate. I am not sure how it ended, but Mike is pretty much undefeated against colleagues on the other side who actually have election certificates.

In all seriousness, the many hours of work he has put into these Byrd rule arguments—work that I know feels like a real slog—it is part of making life better for people, and we appreciate Mike doing it.

Last point I want to make is about Mike's character. He has a great sense of humor. He is wonderful to be around. He is kind. He is a mentor to younger staff. He is the only person I know who can pepper Shakespeare quotes and Springsteen lyrics into the same discussion of dense economic policy.

Some people get lost around here in the jargon of what happens up here. Mike is about helping the real people get ahead in life, particularly somebody who doesn't have power and clout and somebody who just deserves a fair shake. He has never lost sight of that. It is his loadstar. We are so thankful for his years of service.

Last announcement, just to wrap up. I think Mike feels, and I do, too, if you are going to step into big shoes—and these are NBA-style shoes, they are big—we are really thrilled that Tiffany Smith will be the new Finance Committee chief counsel starting next week. She is a 15-year veteran of the Finance Committee. She has been our

chief tax counsel since 2016. She leads the best and most effective tax team there is. She has been in the trenches with Mike for years, and I think she is going to reflect very well on the Finance Committee and the Senate. She has a huge record of accomplishments as well. You will see those talents in action soon. She is going to hit the ground running.

I just say, as I see my friend from Mississippi here, if any colleagues on the other side of the aisle think they are going to get a break in reconciliation debates when Mike retires, they have another thing coming with Tiffany Smith. She is somebody who is going to be able to fill his shoes very well.

Mike can now get on to the season passes that apparently he wants to the Folger; he can go tour with the Boss; and he can catch all the Red Sox and Celtics games he wants. But I have said this before, staff can leave our office, but they don't get to leave our special family.

With enduring thanks to Mike Evans, enduring thanks to the good work he has done that has made lives better in this country, Mike, big thanks. Godspeed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

MISSISSIPPI NATIONAL GUARD RECOGNITION DAY

Mr. WICKER. Mr. President, I rise this afternoon to call attention to the Mississippi National Guard on the eve of the 60th anniversary of their largest ever deployment.

We have been fortunate since before Mississippi actually became a State to have a strong National Guard dating back actually to 1798. The Mississippi National Guardsmen have served honorably in armed conflicts, including the War of 1812, both World Wars, the Korean war, and the Global War on Terror. They have also been the backbone of disaster relief, responding to hurricane, floods, and tornadoes.

But what I want to talk about today is what they did to keep the peace at a time of civil unrest 60 years ago tomorrow, September 30, 1962. Many of us remember this. No doubt, the Presiding Officer remembers this. On September 30, 1962, a riot erupted at the University of Mississippi, my alma mater, as James Meredith arrived on campus. James Meredith would become the first African-American student to gain admission at Ole Miss.

James Meredith is being recognized in Mississippi this week, as he rightly should be. My wife Gayle attended a very impressive event last night on the campus of the University of Mississippi at our beautiful Gertrude Ford Center with Mr. Meredith present. We are glad he is still with us, and he was rightly recognized.

Today, for the first time, we have an opportunity to finally recognize those