

Mr. KENNEDY. Mr. President, I want to talk briefly about boil water advisories. They are more than just frustrating. They are more than just inconvenient. They can be dangerous.

I don't know about the Presiding Officer's community or my colleagues' communities, but they have been happening more and more frequently in Louisiana. Since 2005, we have had 9,661 boil water advisories. We had 1,600 of them last year alone.

I thank the EPW Committee for working with me and all of my colleagues. My amendment would require the EPA to provide us an annual study on the prevalence of these boil water advisories and the reasons therefor so we can decide whether to take action, if any.

I would appreciate my colleagues' support.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I rise in support of Senator KENNEDY's amendment because we need to know more about boil orders, something that I, frankly, hadn't heard a lot about. I thank the Senator for bringing it to our attention.

We are in support of this amendment. These are frequently used, and transparency is needed on them.

I yield to the gentlewoman from West Virginia.

Mrs. CAPITO. Mr. President, I thank Senator KENNEDY for this. I pull up my local newspaper, and the first thing that comes up is listing the boil water advisories. This is absolutely needed. I think it is a great idea. I am very much in support of this.

VOTE ON AMENDMENT NO. 1469

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

The amendment (No. 1469) was agreed to.

AMENDMENT NO. 1472 TO AMENDMENT NO. 1460

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 1472.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I rise in opposition to this amendment by Senator LEE. His amendment would amend the Antiquities Act to prohibit the President from reserving water when designating a national monument.

The amendment states that any water rights associated with a national monument may only be acquired under State law. The Lee amendment overturns decades of Supreme Court precedent that when a President designates a national monument under the Antiquities Act, the designation reserves the right to use enough water to fulfill the purpose of the monument.

But the water infrastructure bill is not the appropriate place for this amendment. I urge my colleagues to oppose this amendment.

Mrs. CAPITO. Mr. President, we yield back our time.

VOTE ON AMENDMENT NO. 1472

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

Mrs. CAPITO. 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 senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Dakota (Mr. CRAMER), the Senator from Kentucky (Mr. PAUL), the Senator from South Dakota (Mr. ROUNDS), and the Senator from Alabama (Mr. SHELBY).

The result was announced—yeas 41, nays 54, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—41

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

NAYS—54

Baldwin	Hassan	Peters
Bennet	Heinrich	Reed
Blumenthal	Hickenlooper	Rosen
Blunt	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Capito	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Lujan	Stabenow
Collins	Manchin	Tester
Coons	Markey	Tuberville
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warnock
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wyden

NOT VOTING—5

Cantwell	Paul	Shelby
Cramer	Rounds	

The amendment (No. 1472) was rejected.

The PRESIDING OFFICER (Mr. KING). On this vote, the yeas are 41, the nays are 54.

Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is not agreed to.

The amendment (No. 1472) was rejected.

The PRESIDING OFFICER. Under the previous order, amendment No. 1460, as amended, is agreed to.

The amendment (No. 1460), as amended, was agreed to.

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

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, I am going to raise an issue at this point that is not relevant to the water bill. I ask unanimous consent to be given that opportunity.

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

EXTENDING TEMPORARY EMERGENCY SCHEDULING OF FENTANYL ANALOGUES ACT

Mr. DURBIN. Mr. President, we are in the midst of the worst opioid epidemic in a generation, and one tragic aspect of this is the widespread use of fentanyl, a deadly opioid that has killed thousands of people in America.

In 2018, the Drug Enforcement Administration took the unprecedented step of placing all fentanyl-related substances, also known as fentanyl analogs, on schedule I under the Controlled Substances Act. That makes it easier to prosecute any individual who sells or even simply possesses fentanyl analogs, and it subjects those individuals to stiff mandatory minimum penalties regardless of individual circumstances. Typically, a drug is only added to schedule I after the Department of Health and Human Services conducts a scientific study to determine if it has a high potential for abuse and no accepted medical use.

The DEA has had the temporary authority to bypass this process for 2 years. The authority was scheduled to expire on February 6 of last year, 2020. The DEA warned us of the dire consequences if it expired. In response, I worked with Senator LINDSEY GRAHAM and Senator FEINSTEIN and authored legislation extending the authority for 15 months, until May 6, 2021.

So what did the Trump administration do for the 12 months that it was in office with this issue still looming? Nothing and neither did Congress.

Now the Biden administration has asked Congress for an additional extension of the DEA's temporary authority in order to evaluate this issue. Just last week, the Senate confirmed Lisa Monaco as Deputy Attorney General. She will oversee the Drug Enforcement Administration. President Biden's nominee to head the DEA, Anne Milgram, is still to be considered by the Senate, so this request now for a temporary extension seems reasonable.

Let me add, though, at the same time as we grapple with the opioid epidemic, we are also in the midst of a national reckoning about racism and massive incarceration in America. We hold more prisoners, by far, than any country in the world. This is largely due to our failed War on Drugs, which has disproportionately targeted people of color. While the majority of illegal drug users and drug dealers in our country is White, the vast majority of

people incarcerated for drug offenses is African American or Latino. That is a fact.

More than three decades ago—and I remember this well as I served in the House at the time—Congress responded to the dramatic rise in the use of crack cocaine by dramatically increasing sentences for nonviolent drug offenders; for example, with a sentencing guideline for crack cocaine as compared to powder cocaine of 100 to 1. Well, that was it. We were going to get tough. We were going to send a message. It didn't work. The overall use of illegal drugs actually increased after we increased these penalties between 1990 and 2014, and the availability of drugs like heroin and methamphetamine, instead of going down, increased.

Senator CORY BOOKER is the chair of the Criminal Justice and Counterterrorism Subcommittee of the Senate Judiciary. He has brought these concerns to the floor of the Senate time and again. I was proud to join him as well as Senator GRASSLEY and Senator LEE. We authored the FIRST STEP Act to begin reforming our criminal justice system from the previous effort with our War on Drugs.

Senator BOOKER has raised serious concerns about extending the DEA's order when it comes to these fentanyl analogs. For example, he notes the significant racial disparity in fentanyl analog prosecutions. People of color comprise 68 percent of those being sentenced. He also notes that addiction is, in fact, a public health crisis and that we cannot prosecute ourselves out of the opioid epidemic, a lesson we should have learned with the War on Drugs.

So there is an important debate to be had about how to effectively combat the abuse of fentanyl, but we cannot resolve it today on the floor of the Senate. The DEA's authority is scheduled to expire next week, and we will be gone. Last week, the House passed a bill extending the scheduling order until October 22. Senator BOOKER has agreed not to object to the House bill so that the Senate will have an opportunity to debate the future of this DEA authority and consider other important reforms to our criminal justice system.

Mr. President, at this point, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2630, which was received from the House and is at the desk.

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

The senior assistant legislative clerk read as follows:

A bill (H.R. 2630) to amend the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act to extend until October 2021, a temporary order for fentanyl-related substances.

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

Mr. DURBIN. I ask unanimous consent that the bill be considered read a third time.

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

The bill was ordered to a third reading and was read the third time.

Mr. DURBIN. I know of no further debate on the bill.

The PRESIDING OFFICER. Is there further debate?

If not, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 2630) was passed.

Mr. DURBIN. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

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

#### DRINKING WATER AND WASTEWATER INFRASTRUCTURE ACT OF 2021—Continued

Ms. LUMMIS. Mr. President, I rise today to speak in strong support of the Drinking Water and Wastewater Infrastructure Act of 2021. I want to thank Environment and Public Works Ranking Member CAPITO, full committee Chairman CARPER, Chairman DUCKWORTH, and their staffs for their hard work and cooperation on this bill.

While many issues divide this Senate, clean water is not one of them. As ranking member of the Fisheries, Water, and Wildlife Subcommittee under which drinking water and wastewater jurisdiction lies, I am proud to see the work our committee has done to bring this bill to the floor today, and I especially want to thank Senator DUCKWORTH for all of her efforts to serve our communities by shepherding this bill through the Senate.

On May 17th, our committee and subcommittee held a hearing to examine the challenges facing drinking water and wastewater infrastructure throughout the Nation. We heard from witnesses that many obstacles remain in America's water quality. High among those obstacles is the lagging funding related to an aging infrastructure. The primary mechanism for financing water infrastructure is from State and local sources, including the collection of user fees, but funding has not kept pace with the growing need to address an aging system. Only 20 percent of very large utilities and 10 percent of small utilities report that they will be able to provide full-cost service in 5 years. I am proud to be a part of the team that has come together to find a solution to these problems.

While working on this issue, I learned something that might surprise a lot of Americans: The majority of our Nation's drinking water and wastewater utilities are small. Over 90 percent of the country's roughly 50,000 community water systems serve populations fewer than 10,000 people. Roughly 80 percent of America's 17,000 wastewater utilities serve populations fewer than 10,000 people. Rural and small communities like many found in my

State of Wyoming have greater difficulty affording public wastewater service due to low population density and lack of economies of scale. Rural communities also have lower median household incomes and often have higher rates of poverty, only compounding the challenge. The mandates and requirements given under the Clean Water Act and Safe Drinking Water Act can be burdensome on these small and rural communities. This bill reauthorizes a number of programs that will provide technical assistance, funding, research, and expertise for these small communities. The Circuit Rider Program, for example, has long been among our Nation's most successful public-private partnerships. The Wyoming Association of Rural Water Systems and organizations like it across the country are doing yeomen's work in delivering for our rural communities.

The Drinking Water and Wastewater Infrastructure Act unanimously passed our committee by a vote of 21 to 0. Similar legislation worked on by then-Chairman BARRASSO and Ranking Member CARPER likewise passed without any opposition last Congress.

Mr. President, I have the unique privilege of being the only Senator to sit on all three committees of jurisdiction over transportation and infrastructure. All three committees are hard at work considering the recent infrastructure plan put forward by President Biden. Let me give a brief history of the bipartisan nature of this topic.

In 2019, the EPW Committee under my fellow Senator from Wyoming JOHN BARRASSO, passed a 5-year highway funding bill unanimously out of committee. In 2018, President Trump signed the bipartisan America's Water Infrastructure Act into law. In 2016, President Obama signed the bipartisan Water Infrastructure Improvements for the Nation Act into law. In 2015 we had two bipartisan transportation bills pass into law, and in 2014 we had another bipartisan water resources bill become law.

President Biden mentioned last night that infrastructure is historically a bipartisan issue. He applauded my Republican colleagues for putting forward a good infrastructure plan of our own just last week. Our Republican bill is based on ideas that have garnered bipartisan support in the past, which makes it a perfect foundation upon which to build an infrastructure plan that could pass into law. I urge President Biden and my colleagues on the other side of the aisle to remember this as we move to an infrastructure bill.

I am proud of the work that my colleagues and I did on today's Drinking Water and Wastewater Infrastructure Act. I would like to thank my colleagues on the EPW Committee for their work, and I urge all Senators to support it.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Drinking Water and Wastewater Infrastructure