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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable JIM DEMINT, a Senator from the State of South Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who is slow to anger, You are loving and patient beyond our ability to measure or understand.

Today, bless the Members of this body. Give them direction for their work, motivation for their deeds, and forgiveness for their mistakes. Help them to develop a sense of dependence on You. Temper their talents with wisdom, and give them the ability to see the power of cooperation and unity. Discipline their compassion and channel their zeal that they may do Your will.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM DEMINT led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 25, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM DEMINT, a Senator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. DEMINT assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will return to executive session for the consideration of the nomination of Jerome Holmes to be U.S. circuit judge for the Tenth Circuit. There are 2 hours remaining for debate on this judicial nomination, and therefore, if all that time is necessary, we will vote just before 12 noon today. We will be recessing from 12:30 to 2:15 today to allow for our weekly policy meetings. When we resume business at 2:15, we will begin consideration of the child custody protection bill under an agreement that we reached last Friday. There are up to four amendments that can be considered before we proceed to passage of that bill. We will stay in session this afternoon and evening in order to finish the child custody protection bill, and I hope some of that debate time will be yielded so we can finish that bill at an earlier hour.

I remind everyone again that there will be a cloture vote on the motion to proceed to the consideration of the Gulf of Mexico Energy Security Act tomorrow morning. That vote will occur sometime around 10 a.m. so that we can conclude that vote before we go to the scheduled joint meeting. We will proceed to the House of Representatives in order to hear the 11 a.m. address by Prime Minister Nuri al-Maliki of Iraq.

The vote will be sometime around 10 a.m. tomorrow, and a little after that we will convene here in preparation for going to the House of Representatives.

We have had a very productive few weeks since the Fourth of July, addressing the issues surrounding the alternative stem cell technology bill, the fetal farming prohibition bill, the child protection bill, Homeland Security appropriations, the Voting Rights Act reauthorization, the Water Resources Development Act, and confirmed four judges.

We have made great progress over the last few weeks, but we have a lot to do—most immediately the Child Custody Protection Act—today, and then we will move to the deep sea energy exploration issue. Pensions is currently on the way to conference, and I am very hopeful that the conference will be completed at some point in the near future. And we need to address the DOD appropriations bill. So these are very busy times.

The House of Representatives will be going out this week, and we will be here through next week before the recess.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF JEROME A. HOLMES TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 764, which the clerk will report.

The legislative clerk read the nomination of Jerome A. Holmes, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit.

The ACTING PRESIDENT pro tempore. There will be 2 hours of debate equally divided between the Senator from Pennsylvania, Mr. SPECTER, and

the Senator from Vermont, Mr. LEAHY, or their designees.

The Senator from Illinois.

Mr. DURBIN. Mr. President, before the Senate this moment is the nomination of Mr. Holmes to be a judge in the Federal court system. I see the Senator from Oklahoma is here. I am sure he will speak to this nomination. I am not going to address the nomination but put a statement in the RECORD relative to my vote, which will be in opposition to Mr. Holmes.

I have reviewed his record, as many members of the Senate Judiciary Committee have, and there are many positive things to be said, as the Senator from Oklahoma has mentioned in our committee deliberations. I am concerned, though, about some of the statements that have been made by Mr. Holmes in relation to his nomination on the issue of affirmative action. I am concerned about whether he will truly come to this important lifetime appointment with the type of objectivity and open mind that we hope for when we give people this opportunity to serve their Nation.

I am also concerned that the Leadership Conference on Civil Rights yesterday made it clear that they oppose his nomination. It is an important factor, in my judgment, in my decision, and I am sorry that I will not be able to support this nomination as a result of that.

I also want to make it clear that the job of a Federal judge is a very important one. It relates to issues that affect us every single day. Just last week we had an extensive debate on the floor of the Senate about stem cell research—those issues relative to life and death in medical research that come before the courts. Judges have to make decisions. I have no idea what Mr. Holmes's position is on this issue. I don't know what statements he has made relative to it. What I am about to say does not reflect on him at all.

But I do want to say I am very concerned about what I read in this morning's newspaper about stem cell research. We know what happened last week. President Bush used his first Presidential veto to stop medical research—the first time in the history of the United States that a President has made a decision that we will stop Federal funding of medical research. He made that decision 5 years ago and said that no Federal funds would go to the use of these embryonic stem cells.

We know how these stem cells are created. They are created in a perfectly legal medical process where a man and a woman having difficulty in conceiving a child expend great sums of money, effort, and anguish to try to create this new baby in a petri dish, a glass dish, in vitro in glass. It is the fertilization process in the laboratory that usually takes place between a man and a woman in their married life. It is a miracle that it works, that this process leads to human life and people who have been praying for a baby finally have that moment when they are told, yes, it worked, in vitro fertilization worked, and you are going to have that baby you dreamed of and love the rest of your life.

But in the process, there are created other embryos which are not used. One is used to impregnate the woman. The others are left open, extra, surplus. What happens to them? They can be preserved at extreme cold temperatures for long periods of time. But, ultimately, if they are never used by the couple, they are thrown away. They are discarded.

The question we had before us was, Is it better to take those embryonic stem cells that would be cast away and discarded and use them for medical research to find cures for diabetes, Parkinson's, Alzheimer's and Lou Gehrig's Disease? Is it better to use them for that purpose?

That was the vote. And it was a bipartisan vote, 44 Democrats and 19 Republican Senators. Sixty-three voted in favor of stem cell research, reflecting America's feelings. Seventy percent of American people say we should go forward with this research; that these embryonic stem cells that will be thrown away, it is far better to use them to find cures to relieve human suffering.

That is what most Americans believe. That is what a bipartisan majority of the Senate believed. The magic number in the Senate is not 63 when it comes to this issue. The important number is 67. Why? That is the number of Senators it would take to override a Presidential veto, a veto of the stem cell research bill. We fell four votes short.

It became an operative issue when the President of the United States decided to use his first Presidential veto to stop this medical research.

On Saturday, I went back to Chicago. I met with a group of people. I wish the President could have been there. I wish he could have been standing with me out there in Federal Plaza by the Federal Building. I wish he could have walked over to the wheelchair of Danny Pedroza, who is suffering from a terrible neurological anomaly which has created a burden I can hardly describe on his parents to keep him alive. I wish the President could have heard his mother say: Every morning when I walk into his bedroom, before I approach him, I look to see if he is breathing. That is the struggle which she will face every single day. All she wants the President to consider is the fact that this research may give her little boy or other little boys and girls who face that a chance.

I wish the President could have been there to see the victims of Parkinson's, slightly embarrassed by the tremors which come, and stand before the microphones and talk about their lives today.

I wish he could have been there to meet the mother of this beautiful little girl who suffers from juvenile diabetes. Her mother—I know her well by now, and I will not use her name on the Senate floor; I have used it before—gets up every night twice in the middle of the night to go over and take a blood sample from her daughter to make sure there is no imbalance. Every night, twice a night. Think about that for a moment.

I wish the President could have been there to see the Lou Gehrig's disease victim that I saw at a round-table meeting in Chicago a few months ago. He looked like a picture of health and strength. Here was a man who was sitting in a wheelchair, immobile. He couldn't move any of his limbs. He couldn't speak. His wife spoke for him and talked about how stem cell research was their last prayer; that maybe, just maybe, it could help him but certainly help others. As she spoke, he sat in the wheelchair with tears coming down his cheeks.

You think to yourself: Mr. President, these are real life stories. These are people who get up every single day and night in their battle. These are mothers and fathers whose lives have changed dramatically and will never be the same because of their love for their child or that husband or that wife. These are people who counted on you to sign this bill, to give them a chance.

What do we learn this morning? We learn that there was a little apology from the White House about the language that was used about the stem cell veto. I would like to read some of this into the RECORD because I think it really reflects on what we were considering on the floor of the Senate last week.

This article in this morning's Washington Post says:

> President Bush does not consider stem cell research using human embryos to be murder, the White House said yesterday. Reversing its description of its position just days after he vetoed legislation to lift Federal funding restrictions on the hotly disputed area of study, White House Press Secretary Tony Snow said yesterday that he ''overstated the President's position.''

It went on to say the President rejected the stem cell research bill ''because he does have objections with spending Federal money on something that is morally objectionable to many Americans.''

So the standard now is not that the President vetoed the bill because using these embryonic stem cells is somehow taking human life or murder. No. The standard is, according to Mr. Snow speaking for the President, that this is an issue that is ''morally objectionable to many Americans.''

We know that 70 percent of Americans support stem cell research. We know that on any given issue, whether it is the war in Iraq, or virtually any expenditure of Federal funds on a controversial issue, there will be many Americans who object to it and oppose it. The President is now saying he is not going to the heart of the issue as to whether this process is immoral; rather, he is saying it was politically unpopular and objectionable to many Americans.

It wasn't objectionable to the families of the victims I met with on Saturday. What was objectionable was the President's veto. What was objectionable is the fact that he would turn his back on this opportunity for medical research.

When the President vetoed this bill, he had with him what are known as snowflake babies. I met some of them, the most beautiful kids you can imagine. These so-called snowflake babies are beautiful little children. They were outside in the lobby. These were children who were once these frozen embryos we talked about, and now are babies, smiling, gurgling, jumping up and down. The President had many of them with him at his veto of the stem cell research bill.

I think the total number of these babies in America is about 200. It is an amazing act of love and courage for these families who want a baby so badly they will go to the expense of this process. I am sure these children will be loved the rest of their lives. They are lucky kids. We are lucky to have them on this Earth. There are 400,000 frozen embryos. It is not likely there will be so many families coming forward to adopt or to create the life through a frozen embryo.

The answer to the President is this: There is room for both. We can use embryos to create life for the couple who comes to the laboratory, for those who want to adopt the embryo. There is ample opportunity for that. But there is also an opportunity to use these embryonic stem cells to save lives and to spare people from suffering. That is the point the President missed. That is what this election is all about.

Last week, the House and the Senate voted on embryonic stem cell research. The next vote on the issue will be on November 7. That is when the American people will vote on stem cell research. That is when they will have a chance to decide whether they want different leadership in this Congress. That is when they will have a chance to decide whether they want to give the Senate the four more votes we need to override President Bush's veto. That is when they have to decide whether we can bring this issue up after the 1st of next year, pass it in the House and Senate and, if the President persists in his veto position, override that veto in the House and the Senate.

That is what elections are all about. That is what this Government is about. That is why it is important, for those who follow the stem cell research debate, to understand it is not over. It has just begun. We will continue the battle to fight for stem cell research. We will do it on a bipartisan basis. We will try to find the Senators on both sides of the aisle who support it. We beg those across America who think it is important to move forward on stem cell research to understand now it is in their hands. On November 7, across America, in congressional elections for the House and the Senate, voters have a chance to ask the candidates: Where do you stand on this? How will you vote? Will you vote to override another veto by President Bush if it is forthcoming? That is what the process is all about.

Today we debate a Federal judge. As I said, my remarks are not meant to reflect on him personally at all because I don't know his position on this issue nor would I even presume it at this moment in time. But it is to put into context the decisions we make in the Senate, not just on judges but on issues that affect real lives in America. Sadly, this Senate has been derailed and diverted from the important issues people care about. Do you know what issue we are going to next? After this judicial nominee, we are going to be embroiled, at least for hours—and I hope that is all we take of the time of the Senate on an issue that is so peripheral it has never ever been raised to me by anyone in the State of Illinois—on a question about people who would transport their children or young people across a State line for an abortion situation, a tragic decision to be made, for sure, but we are going to take up the time of the Senate to deal with that when, in fact, there is no controversy or issue that has been brought to my attention by anyone in my State about this matter.

What else could we be doing in the Senate? How about something on gasoline prices for Americans who are now facing $3 a gallon, gasoline that might go to $4 a gallon if we are not careful? How about a national energy policy? Wouldn't that be a good debate in the Senate? Wouldn't it be worth our time to spend a few moments changing the Tax Code to help ordinary families pay for college education expenses for their kids? Think about students making it into good schools and graduating with a mountain of debt. Wouldn't it be interesting if the Senate found time to debate ways to help those families with tax deductions? Wouldn't that be time well spent? Or perhaps a little time talking about health insurance? Forty-six million Americans have no health insurance and this Senate does not want to take up an issue to offer American businesses the same kind of health insurance that is available for Members of Congress. Why aren't we considering that? Shouldn't we be considering the minimum wage across America? It has been 9 years since we have increased the minimum wage—it is $5.15 an hour—and during that same period of time, Members of Congress have voted themselves an increase in salaries of $31,000. For 9 years we have said to the hardest working, lowest paid Americans, you get no pay raise. That has been our position. Shouldn't we change it? Shouldn't we take the position the Democrats have taken, if we can't raise the minimum wage, we are not going to increase congressional pay, period? Shouldn't we also be considering legislation that deals with some of the serious problems facing people with pensions across America who work for a lifetime with the promise that they will be taken care of, yet when they finally reach their golden years they find out that through some corporate sleight of hand or a merger or bankruptcy, they are left holding the bag? Why don't we do something to help those families? Or change the Tax Code that rewards companies that send jobs overseas? Why would we reward an American company with a tax break for exporting jobs? Why don't we consider any of those issues I have just listed as a priority?

No, what we are doing is dwelling on this debate relative to those extreme narrow issues that appeal to the base of the Republican Party vote. We went through Constitutional Amendment Month—that was June—where we said we are going to address a major problem across America, that is flag burning, but it turns out there have only been a handful of instances in America in the last year. Has anyone even reported to have burned a flag in this country? And we decided we are going to change the Bill of Rights because of our concern over this major, dominant issue?

Then, of course, the issue of gay marriage, a divisive issue. To think we want to amend the Constitution—thank goodness they could not even rally a majority of 100 Senators to vote for that constitutional amendment which was clearly a political experiment, a political project by the Republican side.

We cannot seem to find the time to get to the real issues of an energy policy, a health care policy, doing something about paying for college expenses for families. We cannot find the time for that. No, we have to go after these divisive issues relative to abortion and other matters such as that. That is the agenda and those are the priorities of the Republican leadership in the Senate.

It is the reason why an overwhelming majority of Americans have said, it is time for a change in Washington. They have taken a look at this Republican Congress and they say it is time for a significant change, to move us back toward an agenda that truly will make a difference and move this country in a new direction.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tem. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COBURN. Mr. President, I don't know quite where to begin. If you are sitting out in America today and you heard what you just heard, what you heard was, I am going to point out how bad you are. Here is what is wrong, here is the choice. What you heard was

a partisan rant about the situation we find ourselves in today rather than a constructive hand that says, let's work together to get things done.

We heard a debate about stem cells so it could be used politically. We heard a lot of words that were interchanged, stem cells versus embryonic stem cells. We heard words that President Bush does not care about people with illnesses, Republicans do not care about people with illnesses. We heard words that 70 percent of Americans support stem cell research. The fact is when you as Americans are asked, do you think your taxpayer dollars ought to be used to destroy embryos for embryonic research, that number changes to 38 percent.

Half truths are just that. The time we are supposed to be using is on the nomination of a great American by the name of Jerome Holmes. What we saw is, Members are going to vote against him because they have a litmus test. That is what is going to drive our country farther apart rather than bring us together. If you don't match up and you don't pass the litmus test, then you can't be voted for.

The problem is, that works both ways. If the Senate is going to change its approach to judicial nominees, and you have to match either a liberal or conservative dogma, what will happen to our courts? What will happen to our country?

The fact is Jerome Holmes is a man of absolute character, impeccable credentials, and has integrity that nobody questions. Except by a sleight of hand and backhanded inference that he doesn't care about minorities, even though he is African American, he does not care about minorities because he happens to have published a difference of opinion on the legal basis for affirmative action, that is the litmus test. That is why he is not going to be voted on.

Here is a man who grew up in less than ideal circumstances, graduated cum laude, went to Georgetown University, has advanced degrees from Harvard, has been a prosecutor, has been a defender, has been an advocate for those who are less fortunate, and will be the first African American ever to be on the Tenth Circuit Court of Appeals.

Yet as we heard, he measures up in everything except one thing: He doesn't buy into what some want him to buy into on one issue. Who better to question his own opinion—not his legal opinion but his own personal opinion? Is it the fact that you can't have a personal opinion about anything and become a judge in this country? How would we know anything about them?

It takes great courage for an African American, a lawyer, to say, I think there are some things that are wrong with the affirmative action plan.

He did not say: I don't think we should have equality. He did not say: I don't think we should make up for past deeds that have not been rectified. What he said was: Here is what the Supreme Court did. I think they should have gone a little further. And on that basis alone he does not meet the absolute litmus test that is going to be required.

Well, think what happens if every judge who is conservative has to be pro-life. Do they have to be pro-life? No. We have to get away from this idea that you have to fit a certain mold politically before you can be a judge in this country. And, if we do not, we are going to destroy this country.

What we want is people of integrity who understand the limited role of a judge; and that is not to put your personal opinions in but to, in fact, take the Constitution, take the statutes, and take the treaties, follow Supreme Court precedent, and make sure everybody who comes into your courtroom gets a fair chance, given what those rules are. They are not to make new law. They are not to put their opinions in. They are not to change based on what they feel rather than what the law says.

The only way we can have blind justice is to make sure those litmus tests are not a part of the selection. And what we heard today was the opposition—wouldn't go into details—come and aggressively tell us why you do not want Jerome Holmes to be an appellate judge on the Tenth Circuit. We are not going to hear that. We are not going to hear that at all. Instead, we are going to hear a political debate about the politics of division in our country rather than the healing hand of reconciliation that should be about the leadership in this body and Congress. How do we reconcile our differences to move the country forward instead of divide? How do we gain advantage in the next election by making somebody look bad.

That is what we just heard. How do we make somebody look bad? It is easy to make somebody look bad. It is a lot harder to build them up and say, in spite of our differences, we can walk down the road together to build a better America for everybody. We did not hear that this morning. What we heard was the politics of division. First of all, I think it is improper to do that when we are considering the nomination of such a great American as Jerome Holmes.

I want to comment a minute on the stem cell debate. I am a physician. I think it is so unfortunate that we are gaming this. All of us, as families and members of this society, have members in our families who have diseases for which future research is going to unlock wonderful and magnificent cures. There is no question about that. But there is a question about an embryo. I personally believe to destroy an embryo is to take a life. That is my personal belief. You can have a different position than that, and it does not make you a bad person. It just means we have different positions. It does not make you incapable of making good decisions in the future if you have a different position than I do.

But there are some facts that are not out, and I would hope the American public would listen to them. Embryonic stem cells have tremendous potential. There is no question about it. But they also have potential tremendous danger. And there will be no cure that will come from embryonic stem cells that does not come along with potential danger, and that is called rejection because it will not be your tissue, it will be the tissue of a clone, which will still have foreign DNA in it that is foreign to you. So any cure that comes out of embryonic stem cell research will be faced with a lifelong utilization of medicines to keep you from rejecting that treatment.

Now, the difference between an embryonic stem cell and a cord blood or adult stem cell or an amniotic membrane stem cell or chorionic stem cell is that it is your tissue, there is no rejection. There is no potential for rejection if you use your own stem cells to treat yourself so you do not have to have a lifelong utilization of medicines. And the complication of those medicines is tremendous.

The other thing we did not hear today, which is the most promising for everything that we have in terms of research, is called germ cell stem cells, that have absolutely all the potential of embryonic stem cells with none of the downside and none of the rejection and none of the carcinogenesis or teratogenesis, which means the forming of tumors—has none of the downside—so, in fact, we now have in front of us, in the last 9 months, in this country an ethical alternative that solves all the problems associated with embryonic stem cells and gives us all the potential. But we did not hear a thing about that today.

We did not hear it because we were creating a wedge issue for the elections rather than solving the problems of health care in this country. We did not hear about the fact that you can take a stem cell from the duct of the pancreas and recreate beta islet cells to have people—children and adults—who are insulin dependent today have reproduction of their insulin on their own from their own cells. We did not hear that. What we heard was division rather than reconciliation.

I think it is highly unfortunate that we take time when we should be talking about the merits of what do we want in our judges. I do not care if a judge is liberal or conservative. I do not care if a judge is a Republican or a Democrat. What I do care about is do they buy the fact that they have a limited role? Do they understand what that role is, that they are there to follow stare decisis, precedent set by the Supreme Court, and the only books they get to look at is what the law, the Constitution, and the treaties say? That is what they get to decide it on, and the facts of the case.

It should not matter what their political affiliation is. It should not matter what their philosophy is of life.

What should matter is, how do they see their role? Jerome Holmes is a man who understands the role of a judge. He will make a fine judge. There is not anybody who knows this man who has come forward, in any of the testimony or any of the history, who has raised an issue about his integrity, his competence, or his character. But we have one issue. He has written his real opinion.

If we say judges cannot have an opinion outside of their job, then we are going to have terrible judges—terrible judges. And if we use only political marks—you have to line up on all the politically correct stuff from my viewpoint or somebody else's viewpoint to be a judge—we are going to have terrible judges. But, more importantly, we are going to have a divided country.

What we need in our country today is leadership that brings us together, not leadership that divides us. We need leadership that looks at a vision of America as to what we need 30 years from now, and what do we do today to get there, rather than to concentrate on our differences today so we can have a political advantage in the next election. The American people understand that. They can be manipulated. We saw that today.

But America is great when America embraces its heritage. And that heritage is self-sacrifice and service for the next generations. It is not about, how do I make myself better today; how do I create an advantage for me politically today. It is about putting me second and our country first. It is about putting my party second and our country first. It is about creating a future for the very lives we are saying we want to cure with stem cells so they have something to look forward to.

Those who vote against Jerome Holmes do not have that vision for America. They have a vision of alienation, of division, of failure for our country.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The Holmes nomination is pending.

Mr. LEAHY. Is there a time agreement?

The ACTING PRESIDENT pro tempore. Yes, there is.

Mr. LEAHY. How much time is available to the Senator from Vermont?

The ACTING PRESIDENT pro tempore. Forty minutes thirty seconds.

Mr. LEAHY. I thank the Chair. Mr. President, today, the Senate considers the nomination of Jerome A. Holmes for a lifetime appointment to the Court of Appeals for the Tenth Circuit. Just last week we confirmed another nominee to the Tenth Circuit, the fifth to be appointed by this President. This progress comes in stark contrast to the seven years in which a Republican-led Senate failed to confirm a single new judge for that court. Indeed, when I moved forward with the nominations of Harris Hartz of New Mexico, Terrence O'Brien of Wyoming, and Michael McConnell of Utah, it broke a long-standing partisan barricade that had been maintained by Republicans. Among the victims of the Republican obstruction were outstanding lawyers President Clinton nominated such as James Lyons and Christine Arguello, who were never even granted hearings by the Republican majority. Judge Lyons was among the many Clinton nominees voted unanimously ''Well Qualified'' by the American Bar Association who were never granted hearings, and Ms. Arguello is a talented Hispanic attorney whose nomination had significant, widespread and bipartisan support from her community and State. They were among the more than 60 qualified, moderate judicial nominees of President Clinton that Republicans ''pocket filibustered'' and defeated without hearings or votes of any kind.

Just last Thursday, Democratic Senators joined in the confirmation of Judge Gorsuch, an extremely conservative nominee, and three others. Working together we confirmed two circuit court nominees and two Federal trial court nominees in a matter of minutes. We brought the total number of judicial nominees confirmed during this President's term to 255, which exceeds the total for the last 5½ years of the Clinton administration. It brought the total number of judges confirmed over the last 18 months to 50. Of course, during the 17 months I chaired the Judiciary Committee the Senate confirmed 100 lifetime judges, twice as many in less time. Last week's success demonstrates again how we can make progress in filling vacancies by working together. Senator SALAZAR's support for Judge Gorsuch was a critical factor in our ability to act swiftly. Senator LINCOLN's and Senator PRYOR's support for confirming Judge Shepherd to the Eighth Circuit likewise made a real difference.

Regrettably, this nomination we consider today is not without controversy and concern. Mr. Holmes initially was nominated to fill a district court seat in Oklahoma. The White House withdrew that nomination and renominated him to the circuit court after Judge James H. Payne asked the President to withdraw his nomination. That withdrawal came after public reports that Judge Payne had ruled on a number of cases in which he had a conflict of interest. While the committee never had a chance to hear directly from Judge Payne about the reported conflicts, these types of conflicts are a violation of Federal law as well as canons of judicial ethics and have no place on the Federal bench. Certainly, they should not be rewarded with a promotion.

Before Mr. Holmes' hearing, I raised concerns about the many controversial letters and columns he has written on such topics as juror racial bias, affirmative action, discrimination, and school vouchers. In these writings, Mr. Holmes derided opposing points of view and those who held them. I asked Mr. Holmes to address my concerns about how he might rule on civil rights issues and how he would treat litigants as a judge. Regrettably, Mr. Holmes' stock answers to my questions that he would follow Supreme Court precedent have not reassured me that he would be the kind of judge who understands the critical role of the courts as a protection of individual rights and civil rights.

In one column, Mr. Holmes described certain allegations of racial prejudice at criminal trials as ''harmful'' because it ''bolster[s] the cynical view that jurors vote along racial lines,'' which ''undermines public confidence in the fairness of the criminal justice system.'' In fact, Mr. Holmes suggested that it is the focus on the problem of racial bias in jury selection—as opposed to the racial bias itself that—harms the criminal justice system. He wrote that focusing on racial bias ''may actually give the green light to jurors to exercise arbitrary power in the jury box when their racial number allow it.''

The Supreme Court has long recognized that racial bias in jury selection undermines constitutional guarantees to a fair trial, establishing in the landmark 1986 decision Batson v. Kentucky that striking jurors on the basis of race is unconstitutional. In contrast to Mr. Holmes' statement that accusations of racial bias are merely ''cynical,'' Batson was based on evidence showing patterns of race discrimination in jury selection. It has been reaffirmed repeatedly during the last 20 years in sharp contrast to the views of Mr. Holmes. I gave Mr. Holmes every opportunity to admit error and indicate not only that he had learned of the Supreme Court's precedent but that he had adopted that view of the law and accepted the prohibitions against racial discrimination as just, but received no such reassurance. Instead, the nominee begrudgingly acknowledged that he would have to follow Supreme Court precedent when expressly bound by it.

In another column Mr. Holmes wrote after the Supreme Court's landmark affirmative action decision, Grutter v. Bollinger, he criticized the High Court for missing an ''important opportunity to drive the final nail in the coffin of affirmative action'' and said that the ''court did not go far enough: Affirmative action is still alive.'' In addition, he described affirmative action scholarship programs as involving classifications that are ''constitutionally dubious and morally offensive.''

This was a landmark case and in it Justice Sandra Day O'Connor spoke for the Supreme Court and the Nation. Justice O'Connor, a conservative appointed by President Reagan, considered the facts and the law carefully. She took into account the brief from 65 leading U.S. corporations that noted

the importance of a diverse workforce and the brief of a highly respected group of former military officers that the military needed a racially diverse and highly qualified corps of officers. She built upon the Supreme Court's Bakke decision when she upheld the University of Michigan Law School's use of race as a factor in law school admissions and affirmed the important interest in diversity. She proclaimed: ''Effective participation by members of all racial and ethnic groups in the civic life of our nation is essential if the dream of one nation, indivisible, is to be realized.'' She went on to note that she hoped and expected that consideration of race might no longer be necessary in another 25 years. Even after the decision, Mr. Holmes chose to criticize Justice O'Connor's pragmatic, principled and practical resolution of what had become an ideological dispute. Sadly, Mr. Holmes seems to continue to want to take sides, and in my view, he is on the wrong side.

Just last week, the Senate unanimously extended the expiring provisions of the Voting Rights Act of 1965 for another 25 years. We all hope that such special provisions will no longer be necessary after another 25 years of growth and progress. But they are needed now.

Last week, we also heard the President, who has nominated Mr. Holmes, acknowledge that slavery and racial discrimination ''placed a stain on America's founding, a stain that we have not yet wiped clean.'' In his first-ever address to the NAACP national convention during his time in office, the President said racial discrimination remains a ''wound'' that ''is not fully healed.'' I will not soon forget President Bush speaking to the nation from Jackson Square in New Orleans and acknowledging that ''poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America.''

Such powerful words inspire hope for change. But that change only occurs when those words are followed by action. During his address to the NAACP, the President lamented the Republican Party's loss of support among many African Americans in our country today. He called it a ''tragedy'' that the party of Abraham Lincoln could disenfranchise the African-American community. It is not difficult to understand why. Despite his eventual support for the reauthorization of the Voting Rights Act, this President's priorities, his polices—and indeed his nominees do not demonstrate any sort of meaningful commitment on the part of this administration to confront the very real racial and economic disparities that continue to persist today.

When considering a nominee to a lifetime appointment on the Federal bench, a chief consideration of mine has always been whether all litigants would get a fair hearing in that nominee's courtroom. That is why I have been, and remain, concerned about the tone and stridency of Mr. Holmes' writings. In answering my questions about the tone of his criticisms of those with whom he disagrees on issues, Mr. Holmes seeks to make a distinction between ''the role of the opinion-article writer'' and the role of a judge. The fact that Mr. Holmes took part in hard-edged debate on public issues should not be disqualifying. It appears, however, that those opinions are what earned him this elevated nomination and what his proponents expect he will deliver from the bench.

Mr. Holmes has been an outspoken critic not only of affirmative action programs and efforts to combat race discrimination, but of African-American civil rights leaders who support them, calling them ''ideologically bankrupt.'' He has called into question the sincerity of civil rights organizations opposed to school vouchers by describing them as having ''longstanding ties to school employee labor unions, which view vouchers as a dangerous threat to the educational status quo, in which teachers bear little or no accountability for their students' educational failures.'' When the convention of the NAACP reacted negatively last week to President Bush's advocacy for vouchers, it was not because they were under the sway of any teachers' union. It was because they know how important public education is to the futures of so many from minority communities.

In a letter to one publication, Mr. Holmes criticized claims of race discrimination based on forced assimilation, characterizing a doctor's complaint that his colleagues had ''negative reactions to his dreadlocks'' as ''naïve.'' In another article, he described a defense attorney's concerns about racial bias in jury selections as ''philosophically offensive.'' Mr. Holmes' comments belittling those concerned with the persistence of race-based barriers in this country leave me with little assurance that he has the ability to maintain objectivity when applying constitutional and statutory remedies for race discrimination and concerned that he will not have an open and fair mind as a judge.

Mr. Holmes membership in the Men's Dinner Club of Oklahoma City, which restricts its membership to men, also concerns me about his ability to have an open mind. He did not resign his membership until February 2, 2006, less than 2 weeks before his initial nomination to be United States District Judge for the District of Oklahoma, presumably only after he had been notified that he would be nominated. When I asked him about why he said in his response to the committee's questionnaire that he did ''not perceive the club as practicing invidious discrimination,'' he did not respond directly. Instead, he declared in a self-serving conclusion that he would ''not knowingly be a member of any organization that harbored or expressed any bias against women, or any other groups on the basis of immutable characteristics.'' I am left to wonder what it is that Mr. Holmes would consider the kind of discrimination with which he would not want to be associated and why he was not troubled by the Men's Dinner Club. It was a place for social and professional advancement for him and he seemed not at all concerned with its restrictive policies. The fact that Mr. Holmes did not resign until the eve of his nomination because ''some might perceive the Men's Dinner Club as being an improper organization'' is troubling.

I worry that even before I announced any opposition to Mr. Holmes' nomination, we had already begun to hear the whispers of criticisms taken from the pages of the playbook of extreme right-wing groups. These groups marked a new low a few years ago by launching a scurrilous campaign to inject religion into the debate over judicial nominations. These smears were fabricated as a calculated weapon to chill proper consideration of candidates nominated for significant judicial positions. Similar, baseless accusations of other forms of discrimination serve only to inflame and distract from the fair and deliberate consideration of judicial nominations.

The Senate has confirmed 255 of this President's nominee including 100 who were approved during the 17 months that Democrats made of the Senate majority. The first confirmation when I became chairman was of an African-American circuit court nominee on whom Republicans had refused to vote. For that matter, it was Republican Senators who defeated the nominations of Justice Ronnie White, Judge Beatty, Judge Wynn, Kathleen McCree Lewis and so many outstanding African-Americans judges and lawyers who they pocket filibustered.

I was surprised when we debated Mr. Holmes' nomination in the Judiciary Committee that those defending Mr. Holmes' nomination criticized any expression of concern about his troubling writings in the area of civil rights. I appreciated when the Senator from Oklahoma apologized to me after that debate. The Senators from Oklahoma are within their rights in supporting this nomination. In fact, I consider their support as a weighty factor in considering this nomination.

That support is not universal. This is a controversial nomination. A number of leading organizations concerned with civil rights, including the NAACP, MALDEF, and many others, raised ''grave concern'' about Mr. Holmes' record. The Leadership Conference on Civil Rights, the country's oldest, largest civil rights coalition has opposed the confirmation of this nomination. Having reviewed the record, I share those concerns.

In the last several months, as we have worked to reauthorize and revitalize the Voting Rights Act, I have been thinking about the civil rights movement, what progress we have

made, and what distance we still have to go. The new law is named for Coretta Scott King among others. Dr. Martin Luther King Jr. knew that our judges and our courts were important to securing civil rights. It was not the Congress but the Supreme Court that moved the Nation forward in its Brown v. Board of Education decision in 1954. It is worth recalling Dr. King's call for the political branches to join the courts in protecting the fundamental rights of all. In his 1957 address, ''Give Us the Ballot,'' Dr. King said, ''[s]o far, only the judicial branch of the government has evinced this quality of leadership. If the executive and legislative branches of the government were as concerned about the protection of our citizenship rights as the Federal courts have been, then the transition from a segregated to an integrated society would be infinitely smoother.'' Dr. King knew how important fairminded judges were to the realization of equality. Dr. King's view and that expressed by Mr. Holmes appear to be in sharp contrast.

I take no pleasure today in doing my duty. I have considered this nomination on its merits and, in good conscience, I cannot support it. Based on Mr. Holmes' own writings and his responses to our questions, I will vote no. I hope that Mr. Holmes will prove my concerns unfounded and be the kind of judge that Dr. King would have admired, a judge in the mold of Thurgood Marshall, William Hastie or A. Leon Higginbotham, Jr.

I ask unanimous consent that a letter raising grave concerns from the Leadership Conference on Civil Rights regarding Mr. Holmes' nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, June 14, 2006.

Hon. ARLEN SPECTER, Chairman,
Hon. PATRICK J. LEAHY, Ranking Member,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SPECTER AND RANKING MEMBER LEAHY: On behalf of the undersigned organizations, we write to express our grave concern regarding the nomination of Jerome Holmes to serve on the Court of Appeals for the Tenth Circuit. Mr. Holmes has been a longstanding and outspoken critic of affirmative action. His criticism of affirmative action raises serious questions about whether litigants could expect him to rule impartially and fairly on claims that turn on legal principles of affirmative action, and about Mr. Holmes' approach to antidiscrimination laws more broadly, if he is confirmed.

Many civil rights organizations, including the Leadership Conference on Civil Rights (LCCR), the Leadership Conference on Civil Rights Education Fund (LCCREF), and the other signatories to this letter, worked to persuade the U.S. Supreme Court to uphold the University of Michigan's affirmative action programs. In the closely watched decision, the Supreme Court reaffirmed that universities may take race into consideration as one factor among many when selecting incoming students. In a 5 to 4 opinion written by Justice O'Connor, the Supreme Court in Grutter v. Bollinger specifically endorsed Justice Lewis Powell's view in 1978's Regents of the University of California v. Bakke that student body diversity is a compelling state interest that can justify using race in university admissions. The Supreme Court thus resolved a split among the lower courts as to Bakke's value as binding precedent.

Both before and after the Court spoke in Grutter, Mr. Holmes has been openly hostile to affirmative action, expressing his deeply held beliefs regarding the matter. To that end, Holmes has penned several articles widely publicizing these views. In one article, Holmes referred to affirmative action as a vehicle to ''[sow] the seeds of racial disharmony.'' As the Court decided the University of Michigan affirmative action cases, Holmes stated that, ''[t]he court did not go far enough . . . the court upheld the affirmative action policy of the university's law school. And in so doing, it missed an important opportunity to drive the final nail in the coffin of affirmative action.'' With regard to minority scholarships, Mr. Holmes has written that, the ''shelving [of] race-based scholarship programs . . . takes us one step closer to a time when constitutionally dubious and morally offensive racial classifications will no longer impede the progress of any citizen toward full achievement of the American dream.''

Affirmative action is a tool to provide qualified individuals with equal access to opportunities. Affirmative action programs, including recruitment, outreach, and training initiatives, have played a critical role in providing African-Americans and other minorities and women with access to educational and professional opportunities they would otherwise have been denied despite their strong qualifications.

Although progress has been made over the last 30 years, ensuring equal opportunity for African-Americans and other minorities and women remains an elusive goal. Continued use of affirmative action is necessary to help break down barriers to opportunity and ensure that all Americans have a fair chance to demonstrate their talents and abilities. Therefore, we have no choice but to express our deepest concerns regarding Mr. Holmes' nomination.

If you have any questions or need further information, please contact Nancy Zirkin, LCCR deputy director or Richard Woodruff at the Alliance for Justice.

Sincerely,

Alliance for Justice; American Federation of State, County and Municipal Employees; Feminist Majority; Lawyers' Committee for Civil Rights Under Law; Leadership Conference on Civil Rights; Legal Momentum; Mexican American Legal Defense and Educational Fund; NAACP Legal Defense & Educational Fund, Inc.; National Association for the Advancement of Colored People (NAACP); National Partnership for Women & Families; National Urban League; National Women's Law Center; People For the American Way; The American Association for Affirmative Action; YWCA USA.

Mr. LEAHY. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, could the Chair advise the time remaining on both sides?

The ACTING PRESIDENT pro tempore. The majority has 46 minutes remaining; the minority has 22½ minutes.

Mr. COBURN. I thank the Chair.

I ask unanimous consent that letters from judges, Democrats, Republicans, businesses, the Governor of Oklahoma, be printed in the RECORD in support of Mr. Holmes.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
TENTH CIRCUIT,
Oklahoma City, OK, June 14, 2006.

Re recommendation of Jerome Holmes nomination for the United States Circuit Judge for the Tenth Circuit Court of Appeals.

Hon. ARLEN SPECTER,
Chairman of Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR: I am pleased to recommend highly my former clerk, Jerome Holmes, as a splendid candidate for service as a United States Circuit Judge of the Tenth Circuit.

Jerome gave extraordinary service to me as my law clerk from August 1990 to August 1991. He is dedicated to the highest standards of intellectual service and performed his work for our court as my clerk with complete impartiality and compassion for the people whose cases were before the court. I am convinced he will give extraordinarily fine service as a fair minded and industrious judge of the Tenth Circuit Court of Appeals if his nomination is confirmed. I heartily commend Jerome for your favorable consideration.

Sincerely,

WILLIAM J. HOLLOWAY, Jr.

CROWE & DUNLEVY,
ATTORNEYS AND COUNSELORS AT LAW,
Oklahoma City, OK, June 13, 2006.

Re Jerome A. Holmes.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I write in support of the nomination of Jerome A. Holmes to the Tenth Circuit Court of Appeals. After a distinguished career in the Office of the United States Attorney for the Western District of Oklahoma, in August, 2005, Jerome joined our firm as a director. Jerome has already assumed firm leadership positions as the chair of both our Diversity and Business Development Committees.

Jerome is thoughtful and principled in all that he does. The other directors of this firm quickly learned to respect and rely upon him. Jerome has been able to represent the clients of the firm and become an integral part of our firm through his outstanding analytical abilities and his excellent temperament.

In fact, Jerome Holmes is a paradigm for the judicial temperament and discretion that we expect of a judicial officer. He is the most articulate and well spoken attorney I have had the opportunity to work with, and is easily able to ponder multiple sides of complex issues and arrive at a thoughtful analysis.

Jerome has long been active in both the Oklahoma Bar Association and the Oklahoma County Bar Association and is now serving our profession as the vice president of the Oklahoma Bar Association. He has earned the respect of the legal community, both bench and bar, in this city and tate.

Jerome Holmes will fill the role as a member of the Tenth Circuit Court of Appeals with distinction and the highest level of professional integrity. I take, great pleasure in

sending my highest recommendation of Jerome Holmes for this important judicial position.

Yours truly,

BROOKE S. MURPHY,
President.

RIGGS, ABNEY, NEAL, TURPEN, ORBISON & LEWIS, ATTORNEYS AND COUNSELORS AT LAW,
Oklahoma City, OK, May 26, 2006.

Re recommendation of Jerome A. Holmes, U.S. Court of Appeals for the Tenth Circuit.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Please accept this letter as an enthusiastic endorsement of Jerome A. Holmes for a position on the U.S. Court of Appeals for the Tenth Circuit. Although I often find myself in disagreement with Senators Inhofe and Coburn on a variety of policy issues, I have a great deal of respect for Jerome and must commend the Senators for endorsing his nomination for this important judicial position. I respectfully request that you move Jerome's name forward for confirmation.

Jerome is an experienced trial lawyer, working on civil and criminal matters. He recently entered private practice at one of the largest law firms in Oklahoma, after a distinguished 11-year career as a federal prosecutor in the U.S. Attorney's Office for the Western District of Oklahoma. During his time in the U.S. Attorney's Office, Jerome primarily prosecuted cases involving white collar and public corruption offenses. He also worked for almost one year on the prosecution team that brought charges against the perpetrators of the Oklahoma City Bombing.

Jerome received his Juris Doctor from Georgetown University Law Center, where he served as Editor-in-Chief of the Georgetown Immigration Law Journal. He received a B.A. degree from Wake Forest University, graduating cum laude. In addition, Jerome earned a Master in Public Administration degree from Harvard University's John F. Kennedy School of Government, where he was a John B. Pickett Fellow in Criminal Justice Policy and Management.

Jerome is licensed to practice law in three jurisdictions, including Oklahoma. He also has been admitted to practice before the Bars of the U.S. Supreme Count and the U.S. Courts of Appeals for the Tenth Circuit and the District of Columbia Circuit.

Jerome is a leader in his profession, currently serving on the Oklahoma Bar Associations's Board of Governors (BOG) as Vice President. He is the first African American in the history of the Oklahoma Bar Association to occupy an officer's position on the BOG.

Jerome's long-standing concern for the economically disadvantaged is evident in his professional and civic activities. Jerome serves on the ABA's Commission of Homelessness & Poverty and is Chair of the Board of one of the largest providers of shelter to Oklahoma's homeless, City Rescue Mission. Jerome also is committed to ensuring that the doors of the legal profession are open to underrepresented racial and ethnic minorities. He is Chair of his law firm's Diversity Committee and has devoted numerous hours to working with minority high school students in a mock trial program.

Jerome enjoys widespread support among Oklahoma Democrats and Republicans alike. In Oklahoma legal circles, Jerome has a very strong reputation. He is a dedicated professional who would be committed as a judge to fairness and justice, rather than ideology. I heartily endorse Jerome's nomination for the Tenth Circuit position without reservation. Please help all Oklahomans by moving Jerome's name forward for confirmation as soon as possible.

Sincerely,

MICHAEL C. TURPEN.

JIM ROTH,
OKLAHOMA COUNTY DISTRICT ONE,
Oklahoma City, Oklahoma.

Re: nomination of Jerome Holmes, 10th Circuit Court of Appeals

Hon. ARLEN SPECTER,
Chairman, U.S. Senate, Judiciary Committee, Washington, DC.
Hon. PATRICK LEAHY,
Ranking Member, U.S. Senate, Judiciary Committee, Washington, DC.

DEAR DISTINGUISHED SENATORS: It is truly an honor to offer this Letter of Recommendation for your consideration on behalf of Jerome Holmes, a nominee for the lOth Circuit Court of Appeals.

I have known Jerome Holmes for several years, both professionally and personally, as I am also a member of the Oklahoma Bar Association. I know him to be a person of Integrity and Character and I have always appreciated Mr. Holmes' fairness in our dealings. What's more, I have witnessed Mr. Holmes' efforts in our local community to improve the lives of those around us; all people regardless of where they live, what they look like or how much money they have. He has an altruistic spirit that makes him a standout in this world.

I serve Oklahoma County as one of three elected County Commissioners, am a proud Democrat and consider Jerome Holmes to be a principled leader who demonstrates mutual respect for all people. In particular, he is respectful of views that differ from his own and he enjoys tremendous bipartisan support and respect.

If I can provide any further information or perspective, please do not hesitate to contact me at your convenience.

Respectfully yours,

JIM ROTH,
County Commissioner.

HOLY TEMPLE BAPTIST CHURCH,
Oklahoma City, June 21, 2006

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. PATRICK J. LEAHY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATORS SPECTER AND LEAHY: I am writing in reference to the nomination of the Honorable Mr. Jerome A. Holmes, Esq.'s judicial appointment. I appreciate the concern that has been expressed about his nomination based upon his writings and positions on affirmative action. In all honesty I stand in a position that is contrary to the interpreted and most likely actual personal stance of Mr. Holmes, yet my relationship with him moved me to write and to express my support for him.

I have known Mr. Holmes for many years and believe that he does have a high regard for the views of those who maybe different from his own. That in and of itself is enough for me to believe that he would ''hear'' fairly. In addition, Mr. Holmes has displayed a level of integrity in all his dealings that I have been aware and has shown in our personal conversation willingness to listen and respect differing views. I trust Mr. Holmes and so in light of our differences I support his nomination.

I do realize the responsibility that is upon me as a Pastor, Community Leader and a concerned citizen. This is no light matter for me, indeed it is with much prayer and struggle that I searched out the right words to convey the right tone to reinforce my message. As a member of the NAACP, Urban League and many other organizations that fight for the rights of minorities, I am moved to ask your continued approval of this nomination.

Sincerely,

GEORGE E. YOUNG, Sr.
Pastor.

JUNE 19, 2006.

Re recommendation of Jerome A. Holmes, U.S. Court of Appeals for the Tenth Circuit.

Hon. ARLEN SPECTER,
U.S. Senator,
Washington, DC.

DEAR SENATOR SPECTER: As Governor of the State of Oklahoma, and as a former Chair of the State Senate Judiciary Committee, I have had a lot of experience in the selection of judges. In our modified Missouri system of appointment of judges, the Governor plays a key role when judicial vacancies occur. Not only does the Governor appoint members to the Judicial Nominating Commission, but he or she also is forwarded the final three names of judicial applicants for gubernatorial selection. I take this responsibility very seriously, and I have personally interviewed every single candidate forwarded to me.

I have come to know and respect Mr. Jerome Holmes, a nominee for the Tenth Circuit vacancy created by the retirement of my friend, Judge Stephanie Seymour. Jerome is a highly qualified candidate, a superb lawyer with a reputation for fairness, ethics and integrity. Indeed, I recently appointed his former supervisor, Judge Arlene Johnson, to our court of last resort on criminal matters, the Oklahoma Court of Criminal Appeals. When Arlene was Chief of the Criminal Division of the U.S. Attorney's office in the Western District of Oklahoma, Jerome was her chief deputy. Their division was considered a model division of the U. S. Attorney's office. Jerome handled this difficult task with competence and honor, and he was part of the prosecution team that brought charges against the perpetrators of the Oklahoma City federal building bombing.

I have also come to know Jerome on a personal basis through the Oklahoma Symposium, a sort of ''think tank'' gathering of top Oklahomans that meets formally once a year, and informally in small groups from time to time. It is an honor to be invited to join the Symposium, and Jerome was among the first to be invited for membership.

Jerome is uniquely qualified for this position. He served as a law clerk for Federal District Judge Wayne Alley and then for the then-Chief Judge of the Tenth Circuit Court of Appeals, the honorable Judge William Holloway. Jerome then practiced for several years in civil litigation before devoting himself for eleven years to the U.S. Attorney's Office in Oklahoma City. For several months, he has been practicing at Crowe & Dunlevy, one of the largest and most respected law firms in Oklahoma. In short, I do not think you could have a candidate more highly qualified and regarded than Jerome Holmes.

I hope you will see fit to appoint this remarkably talented young man to this important position. I know of the Tenth Circuit, as well, because my cousin, Judge Robert Henry, will become the Chief Judge of that Circuit in 2008. I know he shares my high regard for Jerome, as he has told me of Jerome's excellent professional appearances before that court.

I continue, Senator, to appreciate the very important work that you do. Please do not

hesitate to contact me if I can be of service, or, of course, if you should come to Oklahoma.

Sincerely,

BRAD HENRY,
Governor.

RYAN, WHALEY & COLDIRON,
ATTORNEYS AND COUNSELORS AT LAW,
Oklahoma City, OK, June 21, 2006.

Re: nomination of Jerome A. Holmes to the Tenth Circuit.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. PATRICK J. LEAHY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SPECTER AND SENATOR LEAHY: I am writing in support of the nomination of Jerome A. Holmes for the United States Court of Appeals for the Tenth Circuit.

I am a lifelong Democrat. For six years I was fortunate to work on the United States Senate staff of Senator David Boren and the Senate Agriculture Committee. During this time I met Senator Leahy and personally witnessed his leadership as a committee chairman. I was the Democratic nominee for an Oklahoma congressional race in 1994. I later became a federal prosecutor and eventually served as the United States Attorney for the Western District of Oklahoma, first through appointment by Attorney General Janet Reno and then through nomination by President Clinton.

I have known Jerome Holmes for over ten years through our work together in the United States Attorney's Office and now in private practice. I believe his intellect, experience and character make him an excellent choice for a position on the appellate court. I saw these qualities firsthand as Jerome carried out his many responsibilities as a prosecutor. One of the most important duties he performed was that of the office's legal ethics and professional responsibility counselor. Jerome acted ably in this capacity during a time of heightened scrutiny for federal prosecutors following the passage of the Hyde Act and the McDade Amendment. Since both of you are former prosecutors, I trust that you can appreciate the degree of confidence in Jerome's abilities and integrity that were required in order to be given such an assignment by me and other United States Attorneys.

Jerome's nomination has apparently triggered concern from groups that have focused on his writings on affirmative action. In this regard, I can offer three observations. First, I have known Jerome to be open-minded and respectful of different views. More importantly, I know Jerome to be respectful of the role of the courts, as opposed to the role of the advocates, and I believe this understanding to be partly the result of his three years of service as a law clerk for federal appellate and district judges. Finally, as noted above, I know Jerome to be a person of unwavering integrity. Therefore, when Jerome states under oath that he will put his personal views aside and follow the law, I believe he will do just that.

I hope these observations are helpful as you consider Jerome's nomination, which I hope you will act upon favorably. I respectfully request that this letter be made part of the committee record regarding his nomination. If I can be of further assistance or if you or your staff have any questions, please do not hesitate to contact me.

Sincerely,

DANIEL G. WEBBER, Jr.

OKLAHOMA BAR ASSOCIATION,
Oklahoma City, OK, July 21, 2006.

Re: confirmation of Jerome A. Holmes, Nominee for Judicial Appointment to Tenth Circuit Court of Appeals.

Hon. JAMES M. INHOFE,
Russell Center Office Building,
Washington, DC.

DEAR SENATOR INHOFE: As president of the Oklahoma Bar Association, I am writing in support of the nomination of Jerome A. Holmes, Esquire to the United States Court of Appeals for the Tenth Circuit.

I've had the pleasure of serving with Jerome for the last 2½ years, in various official capacities with the Oklahoma Bar Association. I selected Jerome to serve as my Vice President for this year. He has served in that capacity with exceptional skill, talent and knowledge of a vast breadth of issues.

I have enjoyed working with Jerome as I find him to be an intelligent lawyer and an extremely thoughtful leader who excels in everything that he does. I believe that Jerome should be entitled to bipartisan support because he displays the demeanor, work ethic and outstanding capacity to reach an appropriate decision under our constitution. Jerome will be an outstanding jurist who will follow the law and not his personal views or beliefs.

Again, I appreciate your consideration of my support for the confirmation of Jerome Holmes to the United States Court of Appeals for the Tenth Circuit by the full Senate. Please feel free to contact me if you have any questions regarding his qualifications.

Very truly yours,

WILLIAM R. GRIMM,
President, Oklahoma Bar Association.

RESOLUTION TO THE U.S. SENATE

Whereas, Jerome A. Holmes exemplifies the highest standards of the legal profession, has given unselfishly of his time and talents to further the legal profession, has served as Vice President and Govrenor of the Oklahoma Bar Association and has held numerous other high positions within the Association;

Whereas, Jerome A. Holmes has consistently demonstrated that he possesses the demeanor, intelligence and legal skills to serve in the highest office of his profession and the public;

Whereas, Jerome A. Holmes has served his profession, his community, his state, and his nation with courageous, devoted and tireless service to insure that the rule of law prevails and that there be liberty and justice for all;

Whereas, Jerome A, Holmes has received a nomination from President George W. Bush to serve as a judge of the Tenth Circuit Court of Appeals pending confirmation by the United States Senate; .

Be it Resolved, on behalf of the Oklahoma Bar Association, the Board of Governors unqualifiedly and wholeheartedly supports the confirmation of Jerome A. Holmes to the position of judge of the Tenth Circuit Court of Appeals;

Be it Further Resolved, the Board of Governors requests the honorable members of the United States Senate for favorable confirmation of Jerome A. Holmes.

In Witness Whereof, this Resolution is unanimously Adopted by the Oklahoma Bar Association Board of Governors this 21st day of July 2006.

WILLIAM R. GRIMM, PRESIDENT,
Oklahoma Bar Association.

Mr. COBURN. Mr. President, I want to take a few moments to discuss the comments we just heard. I will go back to the litmus test.

My belief is there is no way Jerome Holmes could have given an answer in response to questions that were asked by Senator LEAHY that would have met with Senator LEAHY's approval. We had a hearing on Mr. Holmes. The great concerns we have heard on the floor, nobody came to ask any of those questions. No one showed up other than myself and two other Members to hear Jerome Holmes' response, both in terms of his comments and beliefs about affirmative action, but also about the beliefs he has. This is a man who has experienced racial discrimination. This is a Black man who rose to heights without the assistance of anyone else other than his sheer will and great effort on his part and the character instilled in him by his parents.

There are multiple allegations that have been raised. I will hold back on answering those specifically with Mr. Holmes' responses.

I yield to the senior Senator from Utah 20 minutes. If he needs additional time, I will be more than happy to yield that to him. Would the Chair please notify us when we have 10 minutes remaining?

The ACTING PRESIDENT pro tempore. Yes.

The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague and I appreciate his leadership on the floor. This is an exceptional nominee for the court.

I rise to voice my strong support for the nomination of Jerome A. Holmes of Oklahoma to be a judge on the U.S. Court of Appeals for the Tenth Circuit. With this nomination, we see an all-too-familiar pattern. Mr. Holmes is a highly qualified nominee, a man of integrity and character who knows the proper role of a judge, someone who is praised by those who know him and attacked by some who do not.

Let me review each element of this familiar pattern in turn.

First, Mr. Holmes is a highly qualified nominee. After receiving his law degree from Georgetown University in 1988, where he was editor in chief of the Georgetown Immigration Law Journal, Mr. Holmes returned to Oklahoma and began an impressive legal career. He clerked first for U.S. District Judge Wayne Alley of the Western District of Oklahoma, and then for U.S. Circuit Judge William Holloway of the Tenth Circuit. Both judges have since taken senior status, and I can only imagine how proud they must be to see their former clerk now nominated to the Federal bench himself. And in the case of Judge Holloway, I truly hope that Mr. Holmes will soon have the privilege of calling his former boss a colleague.

After 3 years of private practice with the highly regarded law firm of Steptoe & Johnson, Mr. Holmes entered public service. While an Assistant United States Attorney serving the Western District of Oklahoma, Mr. Holmes prosecuted a wide range of cases and was that office's anti-terrorism coordinator. No doubt among his most vivid

memories from that time was his experience on the prosecution team regarding the Oklahoma City bombing. Somehow, Mr. Holmes also completed a master's degree in public administration from Harvard University's Kennedy School of Government. Currently, after more than a decade as a prosecutor, Mr. Holmes is back in private practice as a director of Crowe & Dunlevy, a prominent law firm in Oklahoma City, where he chairs the firm's diversity. committee. He has also served as Vice President of the Oklahoma Bar Association. This is an exceptional man.

Second, Mr. Holmes is a man of integrity and character. We hear now and then about the need for judges who are well-rounded individuals, who are good people as well a good lawyers. Well, during his years in private practice and public service, Mr. Holmes has also served his community. In addition to chairing the Oklahoma City Rescue Mission, Mr. Holmes has been a director of the Oklahoma Medical Research Foundation and a trustee of the Oklahoma City National Memorial Foundation.

Third, Mr. Holmes understands the proper role of judge in our system of Government. He has testified under oath that he knows judges must separate their personal views from what the law requires. He has repeatedly affirmed his commitment to follow applicable Supreme Court precedent in cases that will come before him. This means, as he put it in answers to questions following his hearing, an evenhanded application of legal principles in all areas.

Fourth, Mr. Holmes is praised and supported by those who know him. This includes Democrats in Oklahoma. Daniel Webber, appointed by President Bill Clinton to be U.S. Attorney in Oklahoma, has written the Judiciary Committee in support of Mr. Holmes' nomination. He has known this nominee for more than a decade and urged confirmation based on Mr. Holmes' intellect, experience, and character. Reaffirming that the nominee before us today knows the proper role of a judge, Mr. Webber wrote us that Mr. Holmes is ''respectful of the role of the courts. . . . When Jerome states under oath that he will put his personal views aside and follow the law, I believe he will do just that.''

Oklahoma Governor Brad Henry, a Democrat, also wrote the Judiciary Committee to support this nomination. Governor Henry said that Mr. Holmes is ''a highly qualified candidate, a superb lawyer, with a reputation for fairness, ethics and integrity. In short, I do not think you could have a candidate more highly qualified and regarded than Jerome Holmes.'' A superb lawyer with a reputation for fairness, ethics, and integrity. It seems to me that is exactly the formula we should consistently be looking for in nominees to the Federal bench.

So far, so good. The fifth element of this familiar pattern, however, is that Mr. Holmes is being attacked and opposed by some who do not know him. Mind you, they have not suggested that Mr. Holmes is not qualified to sit on the Federal appellate bench. They have not disputed his character or integrity. Nor have they offered anything to cast doubt on what seems to be universal acclaim from those who know Mr. Holmes and have worked with him. In yet another familiar element of this pattern, Mr. Holmes' critics find fault not with his experience, his qualifications, his integrity, or his character, but his politics.

In particular, the critics take issue with Mr. Holmes' opposition to Government-imposed racial preference policies. Let me emphasize what I mentioned a few minutes ago, that Mr. Holmes helped create and chairs his law firm's diversity committee. In the private arena, he works to recruit and retain qualified lawyers of various racial and ethnic backgrounds. He also believes that race-based policies were once necessary to address the effects of past discrimination. Mr. Holmes would be the first African-American judge on the Tenth Circuit. At the same time, like two-thirds of Americans, Mr. Holmes opposes current programs that condition admission to public universities on race, not to address past discrimination but to create future diversity.

My liberal friends can, of course, disagree with Mr. Holmes on this issue. But by suggesting that his opinion on this issue somehow disqualifies him from serving on the Federal bench, they are treading on very dangerous ground. Mr. Holmes is hardly the first judicial nominee to have taken a clearly defined stand on a controversial issue. I could chronicle some of the more prominent examples, judges overwhelmingly confirmed by this body. Are my liberal friends saying that we should instead be looking to be judicial nominees individuals who have no opinions on issues of the day, who have done nothing, said nothing, and thought nothing? Or are they suggesting that if nominees have thought about and have opinions on controversial issues, only liberal opinions are acceptable?

The issue is not whether a nominee is liberal or conservative, Democrat or Republican, but whether he is committed to basing his judicial decisions on the law. The evidence from him and those who know him is that Mr. Holmes will do just that, and there is not a shred of evidence to the contrary.

Not only that, but Mr. Holmes' supporters—again, those who know him best—also stress his willingness to listen and to respect those with differing views. Oklahoma County Commissioner Jim Roth, another Democrat, wrote the Judiciary Committee calling Mr. Holmes ''a principled leader who demonstrates mutual respect for all people. In particular, he is respectful of views that differ from his own and he enjoys tremendous bipartisan support and respect.'' That is from a Democrat. How can you ask for a better statement from anybody?

Specifically on the issue that has so captivated Mr. Holmes' critics, Pastor George Young, Sr., who supports affirmative action, writes that ''Mr. Holmes has displayed a level of integrity in all his dealings that I have been aware and has shown in out personal conversation willingness to listen and respect differing views.''

Perhaps my liberal friends are taking out their litmus paper to judge Mr. Holmes' personal views because they believe that is precisely what should drive judicial decisions. Mr. President, I reject that notion out of hand and I invite those who take such an ideological, politicized view of what judges do to try and sell that to the American people.

Mr. President, personal views or political positions are the wrong standard for evaluating judicial nominees. It distorts the fundamental difference between advocates and judges, between opinion and law. And it misleads the American people about what judges do and the important place they occupy in our system of Government. I am convinced that Mr. Holmes understands far better than his critics that judges must be neutral arbiters, that they must follow the law, that they must set aside personal views or opinions. I am convinced that Mr. Holmes will do just that on the Tenth Circuit.

Mr. President, we have been here before. Nominees of obvious qualification and experience, unquestioned integrity and character, and solid bipartisan support, are nonetheless attacked and maligned because of their personal views or political opinions. It has happened before and, sadly, I expect it will happen in the future. The proper standard, however, looks at qualifications, integrity, and commitment to the proper role of judges in our system of Government. Judged by this proper standard, Mr. Holmes will be a fine member of the court he once served as a law clerk.

Let me close with the words of one of the judges Mr. Holmes served as a law clerk. Judge William Holloway was appointed to the Tenth Circuit in 1968 by President Lyndon Johnson. He wrote the Judiciary Committee that Mr. Holmes ''performed his work for our court as my clerk with complete impartiality and compassion for the people whose cases were before the court. I am convinced he will give extraordinarily fine service as a fair minded and industrious judge.''

Excellence, fairness, integrity, impartiality, compassion, and a willingness to listen. That is what the evidence shows, Mr. President. Jerome Holmes is a fine lawyer and a good man. He will make a great judge.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I believe under the agreement I have 15 minutes; am I correct?

The PRESIDING OFFICER. There is no time agreement. The Senator is recognized and may proceed.

Mr. COBURN addressed the Chair.

Mr. KENNEDY. Mr. President, I think I have the floor.

Mr. COBURN. Will the Senator yield for an inquiry of the Chair?

Mr. KENNEDY. Yes.

Mr. COBURN. Mr. President, it is my understanding that we are under a unanimous consent agreement. There is a time agreement, and it is limited on both sides.

The PRESIDING OFFICER. The Senator from Oklahoma is correct. There is 2 hours equally divided. We are operating under a time agreement, but there is no specific consent to limit the Senator from Massachusetts to 15 minutes.

Mr. COBURN. Will the Chair advise the amount of time left on either side? I thank the Senator for yielding.

The PRESIDING OFFICER. The majority has 32 minutes remaining and the minority has 22 minutes remaining.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair.

Mr. President, the Senate's exercise of its advice and consent power when it considers nominees to the Federal bench is one of our most important constitutional responsibilities. We are conferring on men and women the power to interpret and apply our laws for the rest of their lives. It is the last opportunity any of us have to sit in judgment of them.

Our task is not to evaluate a nominee based on politics but, rather, to consider other important criteria. We start with the essential elements of professional excellence and personal integrity, but we must also evaluate the likelihood that nominees will be fair and openminded judges who bring compassion and understanding of the history and fundamental values of America to the bench.

In considering a nomination to our Federal courts of appeals, we must exercise special care. The Supreme Court accepts few cases out of the thousands of cases it is asked to hear every year. The Federal appellate courts are almost always litigants' last hope for justice from our legal system. For those who seek relief from race and sex discrimination at work or at school, for criminal defendants who have been wrongfully deprived of their liberty or sentenced to death, or for those who seek to protect our liberties, the circuit courts of appeals are almost always their last hope for justice.

The record of Jerome Holmes demonstrates that he is not a nominee we can afford to entrust with the judicial power of the United States. His professional qualifications are not in dispute, but he has taken extreme public stances on issues that regularly come before our courts. These stances suggest that he will not approach these issues with an open mind or fairly apply the law in these areas.

Perhaps most troubling are Mr. Holmes' strong and repeated statements denouncing affirmative action. Just last week, this body reauthorized the Voting Rights Act, one of America's greatest achievements in the effort to overcome centuries of racial oppression. During that debate, numerous Senators had the occasion to revisit the legacy of racially motivated violence, discrimination, and disenfranchisement that oppressed so many in this country. We had the occasion to reflect on the need for strong and complete remedies for those centuries of discrimination that would eliminate it root and branch.

Affirmative action is an effective and necessary remedy that must be available if we are to provide opportunity for all, by breaking down persisting barriers and making it possible for all Americans to demonstrate their abilities and fulfill their potential. Yet Mr. Holmes has repeatedly denounced affirmative action as both immoral and unlawful.

Shortly after the Supreme Court struck down the University of Michigan's affirmative action program for undergraduates but upheld the law school's program, Mr. Holmes wrote:

The court did not go far enough: Affirmative action is still alive.

He lamented that the Court ''missed an opportunity to drive the final nail in the coffin of affirmative action.'' He called affirmative action a ''quota system'' and accused it of perpetuating a society in which ''race unfortunately still matters.'' He referred to scholarships for minority students as ''constitutionally dubious and morally offensive.''

We know that race does still matter in our society, which is the very reason lawful affirmative action programs are needed. They guarantee opportunity for minority students who, because of discrimination and its legacy, might otherwise never be able to excel. We all hope for the day that individuals will not be denied opportunity because of race, but until we reach that day, affirmative action programs are part of the solution, not the problem.

Mr. Holmes' extreme statements make it impossible to believe that he will approach affirmative action cases with an open mind. He says he will fairly apply our Nation's affirmative action laws, which have helped—and continue to help—women and racial minorities overcome centuries of discrimination, but his bland assurances are far from sufficient to overcome his record.

His views on our criminal justice system are also disturbing. He has put on a set of ideological blinders to ignore the invidious racial discrimination that persists in criminal trials and sentencing. When a defense lawyer in Oklahoma had the courage to suggest that African Americans accused of committing crimes against Whites in Oklahoma City could not receive a fair trial, Mr. Holmes delivered a swift rebuke. Not only did he dismiss the effect of racial bias, he also chastised the defense lawyer for even raising the issue, contending that he had undermined the public's confidence in the judicial system. The problem of racial bias in juries is an important issue in the criminal justice system that merits discussion and recognition that we should be seeking effective remedies, not blaming the messenger.

By approving this nominee, the Senate would send a message that we don't care about the racial disparities in our criminal justice system. If we confirm an appellate judge who ignores the realities of such disparities, we cannot expect the public—especially minorities—to believe that they will get a fair day in court. The fact that Mr. Holmes stated these views while serving as deputy criminal chief of a U.S. attorney's office only reinforces my concern about his ability to separate his extreme personal ideologies from his actions as a judge if we confirm his nomination.

Mr. Holmes' aggressive support for the death penalty raises special concern. He said that the statement society sends through the death penalty ''is not materially diminished by the fact that . . . mistakes are made'' in imposing the death penalty. Unlike Mr. Holmes, most death penalty supporters appreciate the severity of a death sentence. It is irreversible punishment, which means that we must do everything in our power to reduce the possibility of mistakes. Many death penalty advocates have supported expanded use of DNA testing and other tools to avoid mistakes in capital punishment cases.

Taking an extreme position yet again, Mr. Holmes has no respect for these concerns. He is more interested in the symbolism of the death penalty than the fact that an individual life will end. Because the Supreme Court hears so few death penalty cases, appellate courts often have the final word on the life and death of criminal defendants. We should not support the confirmation of a Federal judge who has so little respect for this grave responsibility.

The Senate has supported the overwhelming majority of President Bush's judicial nominees. I have voted for the confirmation of dozens of judges with whom I have ideological differences. However, the nomination of Jerome Holmes is different. I do not believe that he will serve on the Federal bench with a fair and open mind. I, therefore, cannot support the confirmation of Jerome Holmes to the Tenth Circuit, and I urge the Senate to oppose his nomination.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, it is amazing the way things get twisted. I want to read exactly what Jerome Holmes said in his comments about racial bias. The Senator from Massachusetts just stated that he would ignore

reality. Here is what he said in his article.

One need not doubt the lingering effects of racism in our society to reject the above claims. Harvard law professor Randall Kennedy and other scholars remind us that racial prejudice still exists in the jury box.

He didn't deny it. He said it did. You just heard the opposite of that. What he said is: As an African American, I am among the first to condemn it.

We did not hear any of that. And what was just said about what Jerome Holmes wrote, he condemns it. He can't be trusted. That was what we just heard. What you just heard was a litmus test that if he doesn't agree down the line with those who have a completely different political philosophy, he is unqualified. Here is a Black man who has been discriminated against tons in his life. It makes no intuitive sense that he would oppose a jury system that ferreted out racial discrimination. So that is unfounded.

His comments on the death penalty, Judge Holmes said we should use DNA but that should come through the legislature as direction, as a directive of the legislative bodies in terms of creating parameters, also, which you would say is to his credit because what he said is: I recognize the limited role of the judiciary in how we make decisions. We should be dependent in certain areas on directions from the legislative body. In other words, what we rule on is the laws of this country which the legislative body and the executive branch determine. So all he is doing is deferring. It has nothing to do with whether DNA should be used to protect the life of somebody wrongly convicted and under threat of the death penalty.

The other quote we heard is it is impossible for him to have an open mind because he disagrees with the Senator from Massachusetts on an issue. Well, if we use that standard in this body, nothing would ever happen. If we disagree, then we can't have an open mind, we can't listen, we can't learn.

He won't come unbiased to the court. There is not one judge anywhere in this country who does not have biases. The question is can they separate their biases through the commitment of their oath of office to say: Here is our function. Here is how we function. Here is how we carry out our obligations.

Nobody meets the standard that the Senator from Massachusetts just set up. There would be nobody with whom I might have a philosophical difference that I could not raise that same example.

I am hopeful that the Members of this body will overwhelmingly endorse Jerome Holmes, the first African American to be appointed to the Tenth Circuit Court of Appeals. For the very reasons that Senator KENNEDY raised, Jerome Holmes disproves every one of those arguments.

It gives me great pleasure to yield to the senior Senator from Oklahoma at this time and to thank him in the process and to also recognize and thank the President for the nomination of Jerome Holmes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first, let me thank the junior Senator from Oklahoma for the time he spent on the floor and the time he spent defending this man, not that he should ever need any type of defense against some of the accusations. I didn't realize that there is an article referred to where he stated: There are other ways to get minority students on college campuses besides handing out benefits based solely on skin color.

I am proud of it. I am also proud of the fact that I have known Jerome Holmes for some 5 years. Frankly, prior to this nomination, I made recommendations to the President that he consider this man because he is so incredibly qualified. We all agree he is a man of great character and undeniably fit for the bench. He has connections with both Oklahoma City and throughout Oklahoma, as well as the District of Columbia, a family history that goes back.

He was one of the prominent figures in the Oklahoma City bombing that took place 11 years ago. He was on the Oklahoma City bomb prosecution team, and I believe it was his distinguished service as assistant U.S. attorney that really began to set him apart in the legal field.

When asked about Mr. Holmes, most lawyers in Oklahoma begin their compliments with his work as U.S. assistant attorney in some public corruption cases in our State. He is someone who is willing to get in there and criticize and open up things other people aren't, a great characteristic and I think very important. But if I were to single out another one, I would say his chairmanship of City Rescue Mission in Oklahoma. This is their mission statement:

Serving the homeless both with help, hope, and healing in the spirit of excellence, under the call of Christ.

I have certainly made my position known for quite some time concerning him and how he limits his opinions to the facts, the litigants, and law before him in any case. At a time when our Nation is faced with the onslaught of judicial activism, he is a breath of fresh air and I believe he is a man of character and principle; that he will rule justly within the parameters of the law.

We have a resolution from the Oklahoma Bar Association. I have the former president of the American Bar Association, the president-elect of the local Federal bar association, I have the deans of all three of the Oklahoma law schools praising him in the highest of terms.

Judge Holloway, currently sitting on the Tenth Circuit, noted Mr. Holmes's compassion for people whose cases were before the court. John Richter, the U.S. attorney for the Western District of Oklahoma, who worked with Mr. Holmes, can speak from the prosecutor's perspective and has said that Mr. Holmes is a man of integrity and character and possesses a rock-solid work ethic.

Mike Turpen is someone with whom Senator COBURN is very familiar. I don't believe in the years I have known Mike—and we have one of these very honest relationships. He is a very partisan Democrat. I don't think he has ever said anything nice about a Republican in his life except Jerome Holmes. Dan Webber—we have all these Democrats who are lined up without anyone dissenting from the idea that this guy is the perfect nominee to be confirmed to the Tenth Circuit.

Judge Ralph Thompson—I was elected to the State legislature with Judge Thompson. I considered him not just one of my closest personal friends, but he is certainly a judge of distinction in Oklahoma and has been for over 30 years. He ought to know a thing or two about judges. He said:

Mr. Holmes is dedicated completely to the rule of law, the proper role of the judiciary and to applying and interpreting the law without regard to personal views on given issues.

I don't think there is any judge, any Federal judge in the history of Oklahoma, who is more highly regarded than Judge Thompson. He also went on to affirm Mr. Holmes's honesty and compassion.

I have a letter from Pastor George Young, a member of the NAACP and the Urban League, who showed great character in voicing his support for Mr. Holmes. He said: I trust Mr. Holmes, and so in light of our differences I support his nomination. Now, he is one who doesn't agree with everything, every statement that Jerome Holmes has made, and yet he supports his nomination. He is for him. He is supporting him, head of the NAACP and the Urban League.

I talked with various attorneys in the State, and they all have good things to say about him. What I want to do, Mr. President, is submit for the RECORD a list of letters, if this has not been done by my colleague from Oklahoma.

It has been done, so it is already in the RECORD.

I thank my colleague for the time he spent in the Chamber. It happens I am on the Armed Services Committee, and we have a critical meeting that is going on even right now, so I haven't been able to be here, but my absence from the floor is no indication that I don't hold this person in the highest regard.

I worked hard in getting his name to the President, made that recommendation early on, and I believe he will be confirmed and history will reflect later on that he would be one of the greatest circuit judges, and I certainly encourage my colleagues to support his nomination to the Tenth Circuit.

I thank the Chair.

Mr. GRAHAM. Mr. President, I am very pleased to support the nomination

of Jerome Holmes to be a judge on the Tenth Circuit Court of Appeals. Due to a scheduling conflict, I am unable to be here to vote for Mr. Holmes, though I would have cast my vote to confirm him. In any event, with his stellar qualifications, I doubt my vote will be needed. President Bush made a great choice in nominating Mr. Holmes, and I look forward to great things from him during his tenure on the Tenth Circuit.

Mr. FEINGOLD. Mr. President, I will vote ''no'' on the nomination of Jerome M. Holmes to be a judge on the U.S. Court of Appeals for the Tenth Circuit, and I would like to take a minute to explain why I reached this decision.

This is an important nomination and should receive close scrutiny. Judges on the court of appeals have enormous influence on the law. Whereas decisions of district courts—a position Mr. Holmes has never held—are subject to appellate review, the decisions of the courts of appeals are in almost all cases final, as the Supreme Court agrees to hear only a very small percentage of the cases on which its views are sought.

I believe in certain longstanding touchstones of the qualifications needed for judicial nominees: legal competence, fairness, and the ability to approach issues with an open mind. We sometimes short-hand these qualities into a single phrase—a judicial temperament. In evaluating a nominee's judicial temperament, our goal is to have an evenhanded judiciary that hears the case before it and applies the law fairly and uniformly, rather than letting strong personal convictions override the facts or the law. We do this for a simple but fundamental reason, namely, that we want a highly qualified and independent judiciary that can command the respect and admiration of the American people.

In the nomination of Mr. Holmes, we have a nominee to one of our highest courts who has never served as a judge before. President Bush originally nominated Mr. Holmes to be a Federal district judge in Oklahoma earlier this year. Prior to this nomination, Mr. Holmes had been an assistant U.S. attorney in Oklahoma and in private practice. The Judiciary Committee was ready to consider that initial nomination—to determine the merits of Mr. Holmes serving in his first judicial position as a Federal district judge, a position with substantial responsibility.

But for some reason Mr. Holmes' nomination was upgraded to the U.S. Court of Appeals for the Tenth Circuit. Placing a nominee with no judicial experience on an appellate court makes it hard to evaluate the nominee's judicial temperament—his capacity to be fair and impartial.

With no judicial record to illuminate his views, we are left only with Mr. Holmes' words as a window into his judicial temperament. Those words are troubling and could lead a reasonable person to question his objectivity and temperament. After the Supreme Court's nuanced affirmative action ruling, Grutter v. Bollinger, Mr. Holmes derided the Court for missing the ''opportunity to drive the final nail in the coffin of affirmative action,'' and complained that ''[t]he court did not go far enough: Affirmative action is still alive.'' He has referred to scholarship programs targeted at minority children as ''morally offensive.'' He has called African-Americans leaders, on various occasions, ''ideologically bankrupt'' and suggested that their opposition to school vouchers is insincere. In a letter to a publication, Mr. Holmes flippantly dismissed a doctor's complaint that his colleagues had ''negative reactions to his dreadlocks'' as ''naïve.'' He has even gone so far as to claim that efforts to address racial bias in jury selection actually harm the criminal justice system.

Mr. Holmes has even dismissed problems with the administration of the death penalty. In a 2004 speech, he said: ''The statement society is sending—that certain conduct and the perpetrators of it deserve to die is not materially diminished by the fact that in the implementation of the death penalty mistakes are made.'' In response to my written questions regarding whether executing an innocent person was an acceptable mistake, Mr. Holmes responded by saying that ''the criminal justice system should be administered in a manner that eliminates mistakes—to the extent it is humanly possible—and yields accurate outcomes.'' I do not think this is an acceptable answer to a fairly simple question. His statements suggest a rather cavalier approach to a very significant issue in contemporary criminal law.

Mr. Holmes' dismissive comments about affirmative action, school vouchers, and the death penalty were not offhand remarks, or impassioned advocacy on behalf of a client. Nonetheless, Mr. Holmes, of course, urges us to set his earlier statements aside, and look to his assurances of his future impartiality as a judge. But Mr. Holmes did little to actually address the concerns of many members of the Judiciary Committee. Rather than discuss his previous comments openly and candidly—and take the opportunity to show why those comments might not reflect his actual thinking—he provided stock and unconvincing answers that he considers racism to be a ''negative influence'' in society and that he would follow Supreme Court precedent.

Mr. Holmes' actions in connection with his membership in the Men's Dinner Club of Oklahoma also suggest, rather than candor, a strategy of simple image control. Mr. Holmes, having been a member of this club that excludes women from membership, resigned from its membership on February 2, 2006 just 2 weeks prior to his initial nomination to be a district court judge. Mr. Holmes has defended this institution as, to his knowledge, not ''practicing invidious discrimination.'' So what accounts for his resignation? His explanation—that ''some might perceive the Men's Dinner Club as an improper organization''—suggests not a principled decision but a pure political and image calculation. Clearly, Mr. Holmes wishes to make this nomination as palatable as possible—and we should therefore take his assurances and stock answers with a grain of salt.

Mr. President, I am saddened that President Bush has once again proposed a judicial nomination that I cannot support, especially because Mr. Holmes would be the first African American to serve on the Tenth Circuit. But he has never served as a judge either on the Federal or State level—and his statements on a broad range of topics suggest concerns about his ability to provide impartial justice. And, by failing to explain his statements and views with candor, he missed a chance to show the Judiciary Committee that he has the deliberative and impartial reasoning needed to serve on an appellate court. We want a judiciary that the American people respect and admire as impartial. With no judicial record to examine and a history of troubling statements, Mr. Holmes has not shown that he will apply the law fairly. I will therefore vote ''no.''

Mr. LEVIN. Mr. President, I will oppose the nomination of Jerome Holmes to the Tenth Circuit Court of Appeals. Although I do not question the integrity or qualifications of Mr. Holmes to be a Federal circuit court judge, I do have serious questions about his ability to be an impartial jurist.

While all judges have and are entitled to their personal views and philosophies, a judge's decisions should not be controlled by an inflexible ideology. When a nominee's personal views will determine or dominate their judgements, such a nominee should not be put in a lifetime position on the Federal bench.

I am concerned by statements that he has made indicating insufficient sensitivity about the irreversible errors in the implementation of the death penalty. For example, in a presentation given by Mr. Holmes, he said that:

> Like any human endeavor, there is a possibility of error . . . But the statement society is sending—that certain conduct and the perpetrators of it deserve to die—is not materially diminished by the fact that in the implementation of the death penalty mistakes are made.

Mr. Holmes' statement demonstrates a lack of understanding and concern about the death penalty and the way that erroneous convictions undermine a legal system.

Mr. Holmes has also sharply criticized affirmative action programs both before and after the Supreme Court rulings and those hardline views exhibited a lack of adequate respect for Supreme Court precedent. Although he told members of the Judiciary Committee that he would follow precedent,

he was vocal in his opposition to the Supreme Court's decision in Grutter v. Bollinger, criticizing the Court for missing an ''important opportunity to drive the final nail in the coffin of affirmative action''.

Because Mr. Holmes' statements do not reflect the objectivity necessary to serve in a lifetime appointment on the Federal bench, I cannot vote to confirm his nomination.

Mr. DURBIN. Mr. President, Jerome Holmes has made some troubling statements about affirmative action and the use of race in our society. He has said:

[Affirmative action] policies necessarily divide us along racial lines, and establish a spoils system based upon skin color. . . .

[t]he [Supreme] court upheld the affirmative action policy of the university's law school [in the 2003 Michigan case]. And in so doing, it missed an important opportunity to drive the final nail in the coffin of affirmative action. . . .

[r]ace-based scholarship programs . . . [are] constitutionally dubious and morally offensive racial classifications. . . .

Al Sharpton, Jesse Jackson and their ilk have little to offer me or other African-Americans in the 21st century. They continue to peddle a misguided and dangerous message of victimization. . . . As long as Jackson and company can successfully portray African-Americans as victims to the public at large, they'll be able to wring concessions out of educational institutions like Harvard University and corporate America. . . .

Mr. Holmes didn't make just an occasional comment against affirmative action. He has written over a dozen columns and op-ed pieces expressing his views on race and affirmative action.

I understand and accept that people in good faith can disagree about issues of race and the merits of affirmative action. It is a hard issue for many people and it stirs passions on both sides. But Mr. Holmes' statements are those of an ideological soldier. When it comes to affirmative action, Mr. Holmes seems to have open hostility, not an open mind.

In its letter of opposition to the Holmes nomination, the Leadership Conference on Civil Rights wrote: ''Mr. Holmes has been a longstanding and outspoken critic of affirmative action, and his views raise serious questions about whether he would rule impartially and fairly in cases involving affirmative action.''

I asked Mr. Holmes a simple question: Would you be willing to recuse yourself in all cases involving affirmative action?

Section 455 of title 28 of the United States Code states: ''Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.''

This seems like a simple standard, and I share the belief of the Leadership Conference on Civil Rights that Mr. Holmes presents a clear case of someone whose impartiality would be questioned when it comes to affirmative action.

But Mr. Holmes doesn't see it that way. He said he would not recuse himself in affirmative action cases. He said he would be able to put his personal views aside and rule fairly on this issue. I doubt it. He harbors such hostility to affirmative action and such disdain for those who promote it—that I believe he will not have an open mind on this issue.

We have seen judicial nominee after judicial nominee come before this committee and pledge to put their personal views aside. But they rarely do. Chief Justice John Roberts and Justice Samuel Alito said they would put their personal views aside before they were confirmed, but they have not done so.

Just in the last 2 months, Chief Justice Roberts and Justice Alito have voted to limit the scope of the Voting Rights Act. They have voted to strip whistleblower protections for prosecutors. They have voted to restrict the right to privacy so that can police officers can enter a home without knocking. They have voted to expand the death penalty and to reduce the rights of the criminally accused. They have voted to roll back 30 years of environmental protection under the Clean Water Act. And in the case Hamdan v. Rumsfeld, Justice Alito embraced the view taken by John Roberts in the appellate court that the President should have unchecked power when it comes to using military commissions for enemy combatants.

There are very real and serious consequences when it comes to confirming judicial nominees.

I also think Mr. Holmes lacks good judgment because he didn't answer several questions that I asked him during the nomination process.

For example, I asked him if be believed the Supreme Court cases of Roe v. Wade, Brown v. Board of Education, and Miranda v. Arizona are consistent with the notion of ''strict constructionism.'' Mr. Holmes refused to answer. He said: ''it would be inappropriate for me to offer my personal views as to whether these decisions are consistent with a particular school of judicial decision-making.''

Well, tell that to Deborah Cook. She was a nominee to the U.S. Court of Appeals for the Sixth Circuit a few years ago, and I asked her the same question. She answered it. I appreciated her candor, and I voted to confirm her.

I also asked Mr. Holmes to explain a statement he made about his judicial philosophy. In his Senate questionnaire, he wrote: ''The judiciary should not . . . issu[e] rulings that go beyond the resolution of the dispute before the court to impose wide-ranging obligations on societal groups.'' I asked Mr. Holmes to provide some specific examples of what he meant by this. He refused to do so.

I do not believe Jerome Holmes deserves a lifetime position on the second highest court in the country.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I ask unanimous consent that the vote on the confirmation of Jerome Holmes be at 11:45 a.m. today with the remaining time under the majority.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COBURN. I thank the Chair. I will not take all the time. I want to go back to what we said earlier this morning. If we are going to do a litmus test on judges, if we are going to say a judge cannot have an opinion outside of his role of a judge, we will destroy this country, whether it is a conservative litmus test or a liberal litmus test.

The fact is, as to Jerome Holmes, there have been very few appointments or nominees for this position at the appellate level that compare to the qualifications of Mr. Holmes. He also has the life experiences that will make him even more valuable on the court in terms of his compassion. He has experienced discrimination as an African male. He has risen to heights on his own, struggled—advanced degrees from Harvard, law degree from Georgetown, cum laude from his alma mater. There are very few people who will measure up to him.

Now, does he fit every litmus test? No, he doesn't fit every litmus test that I might have for a judge, but that is not the basis under which we should be considering judges.

He does, in fact, have the one key characteristic that is necessary, and it has been attested to by the people who know him. It has been attested to if you just heard him in the hearings. But of all those who have come to the floor to oppose him, members of the Judiciary Committee wouldn't even come and confront him with concern. They didn't come to the hearing. They didn't hear what he had to say. They had their minds made up.

The fact is, this is an excellent nomination. It is someone of whom we in our country should be proud, who recognizes the diversity of our country, and despite what the Senator from Massachusetts said, he can be entrusted with the future of this country, our Constitution, and the limited role of a judge in applying the law.

With that, Mr. President, I yield back the remainder of our time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of

Jerome A. Holmes, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 213 Ex.]

YEAS—67

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Baucus	Domenici	Nelson (NE)
Bennett	Dorgan	Pryor
Bingaman	Ensign	Roberts
Bond	Enzi	Rockefeller
Brownback	Frist	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Burr	Hagel	Smith
Byrd	Hatch	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Stevens
Chambliss	Isakson	Sununu
Coburn	Jeffords	Talent
Cochran	Johnson	Thomas
Coleman	Kyl	Thune
Collins	Landrieu	Vitter
Conrad	Lincoln	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	
Crapo	Martinez	

NAYS—30

Akaka	Harkin	Murray
Bayh	Inouye	Nelson (FL)
Biden	Kennedy	Obama
Boxer	Kerry	Reed
Cantwell	Kohl	Reid
Clinton	Lautenberg	Salazar
Dayton	Leahy	Sarbanes
Dodd	Levin	Schumer
Durbin	Menendez	Stabenow
Feingold	Mikulski	Wyden

NOT VOTING—3

Feinstein	Graham	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Nevada.

CHILD CUSTODY PROTECTION ACT

Mr. ENSIGN. Mr. President, I ask that the Senate now proceed to S. 403 under conditions of the consent agreement from last week.

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

The bill clerk read as follows:

A bill (S. 403) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I rise to discuss the Child Custody Protection Act which will protect the rights of our Nation's parents and their children's well-being. Speaking as a father of three young children, including a daughter, I understand how difficult the challenge of raising children can be. In most schools across the country, our children cannot go on a field trip, take part in school activities, or participate in sex education without a signed permission slip. An underage child cannot even receive mild medication such as aspirin unless the school nurse has a signed release form. Some States even require parental permission to use indoor tanning beds. Nothing, however, prevents this same child from being taken across State lines in direct disobedience of State laws for the purpose of undergoing a surgical, life-altering abortion.

The bill before us, the Child Custody Protection Act, makes it a Federal offense to knowingly transport a minor across a State line for the purpose of an abortion in order to circumvent a State's parental consent or notification law. It specifies that neither the minor transported nor her parent may be prosecuted for a violation of this act.

It is important to note that this legislation does not supersede, override, or in any way alter existing State parental involvement laws. It does not impose any Federal parental notice or consent requirement on any State that does not already have a parental involvement law in place. This bill merely addresses the interstate transportation of minors, sometimes by a predatory older male or his parents, in order to circumvent valid existing State laws that require parental notification or consent. This bill goes a long way in strengthening the effectiveness of State laws designed to protect parents and their young daughters from the health and safety risks associated with secret abortions.

An overwhelming number of States have recognized that a young girl's parents are the best source of guidance and knowledge when making decisions regarding serious surgical procedures such as abortion. Forty-five States have adopted some form of parental notification or consent, proving the widespread support for protecting the rights of parents across America. The people who care the most for a child should be involved in these kinds of health care decisions. If there is aftercare needed, the parents should be fully informed in order to care for their young daughter.

An overwhelming majority of Americans support parental consent laws. In fact, most polls show that consent is favored by almost 80 percent of the American people. These numbers do not lie. By the way, these are people who call themselves pro-choice and pro-life. Well over a majority of even pro-choice people support parental notification or parental consent laws. The American people agree that parents deserve the right to be involved in their minor children's decisions. In many cases, only a girl's parents know her prior medical and psychological history, including allergies to medications and anesthesia.

The harsh reality is our current law allows for parents to be left uninformed about their underage daughter's abortion which can be devastating to the physical and mental health of their child. Take the case of Marcia Carroll from Pennsylvania. On Christmas Eve 2004, her daughter informed her she was pregnant. After listening to her daughter's story, Ms. Carroll assured her that they would handle this as a family and would support any decisions she decided to make. They scheduled appointments with both doctors and counselors and discussed all options available. Ms. Carroll purposely allowed her daughter to speak alone with the professionals so that her daughter felt comfortable to speak her mind. After all the advice and counsel, her daughter decided to have the baby and to raise it, a decision which the family fully supported.

Following her decision, despite their knowledge of her family's love and support, her boyfriend's family began to harass her and threaten that she could not see her boyfriend unless she had an abortion. Ms. Carroll was so concerned about their behavior, she called the police and even went so far as to contact a nearby abortion clinic to ensure that parental consent would be required before an abortion would be allowed. Pennsylvania's law requires that anyone under the age of 18 have consent of a parent before an abortion can be performed. Unfortunately, other States nearby do not have the same protections.

Shortly after, Ms. Carroll sent her daughter off to school, thinking she would be safe. Imagine yourself in the same position. Instead, her boyfriend and his family met her at the bus stop, bought them a train ticket, and sent the children to New Jersey, where other family members picked them up and took them to an abortion clinic. Despite her tears and desires to keep the baby, her boyfriend's family coerced her by telling her they would leave her in New Jersey with no way to get home. They planned, paid for, and threatened her into agreeing to an abortion. After the abortion, they dropped her off blocks from her house with no regard to her mental or physical well-being. Ms. Carroll called the local police department only to be told that there was nothing that could be done. This poor young girl, whose family was committed to loving her and respecting her decision, had her life forever altered by adults who never considered her wishes or the consequences such a decision would have on her life.

Parental notification serves another vital purpose: ensuring increased protection against sexual exploitation of

minors by adult men. All too often, our young girls are the victims of predatory practices of men who are older, more experienced, and in a unique position to influence the minor's decisions. According to the American Academy of Pediatrics, almost two-thirds of adolescent mothers have partners older than 20 years of age. Rather than face a statutory rape charge, these men or their families use the vulnerability of the young girl against her, exerting pressure on the girl to agree to an abortion without talking to her parents. We all know how easy it is to influence teenagers, boys or girls. In fact, in a survey of 1,500 unmarried minors having abortions without their parent's knowledge, 89 percent said that a boyfriend was involved in the decision, and the number goes even higher the younger the age of the minor. Allowing secret abortions does nothing to expose these men and their heinous conduct.

Such is the case with Crystal, the 12-year-old daughter of a Pennsylvania woman, who was intoxicated and raped by a local teenager 6 years her senior. Crystal's mother did not even know she was pregnant until Crystal went missing from school and it was discovered that her rapist's mother had taken her across State lines into New York where, scared and confused, she received an abortion. When Crystal developed complications from the incomplete abortion, the clinic physician refused to supply the medical records to her mother. Crystal's mother, a loving and responsible parent, was not even given the option to care for her daughter. Rather, the decision was made for her by an unknown adult.

There is overwhelming agreement that parents and parental notification laws and consent laws are important tools that enable parents to help protect their daughters from this kind of abuse. In 1998, Dr. Bruce Lucero, an abortionist who performed some 45,000 abortions, wrote of his support for the Child Custody Protection Act to the New York Times. In the article, Dr. Lucero pointed out that ''dangerous complications are more likely to result when parents are not involved in these out-of-state abortions.'' He goes on to say that parental involvement is the best guarantee that a minor will make the best and most safe decision. This is an abortionist doctor talking.

In the unfortunate instance of abuse or where there is rape or incest involved within a family, minors may be afraid to go to one of the parents—and rightfully so. In response, judicial bypass laws have been written across the country to protect the minor.

This legislation is a commonsense solution to defeat the legal loophole that currently results from parents being denied the right to know about the health decisions of their minor daughters.

The Child Custody Protection Act in no way imposes a parental involvement law on a State that does not already have a functioning law in place. It does not invalidate any State law, nor does this act contradict Supreme Court precedent dealing with minors and abortion.

In fact, the Supreme Court made it clear in Planned Parenthood v. Casey that it is the State's right to declare that abortion should not be performed on a minor unless a parent is consulted.

Mr. President, is it time for the adjournment?

The PRESIDING OFFICER. Under the previous order, it is.

Mrs. BOXER. Since my colleague has spoken for 10 or 15 minutes——

The PRESIDING OFFICER. Eleven and a half minutes.

Mrs. BOXER. I would like to have 5 minutes to respond. I thought we were going to start the debate after the luncheons. Upon his conclusion, perhaps in the next minute or so, may I have a few minutes to open?

Mr. ENSIGN. Mr. President, I ask unanimous consent for 30 more seconds and 5 minutes for my colleague.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ENSIGN. In fact, the Supreme Court made it clear in Planned Parenthood v. Casey that it is the State's right to declare that an abortion should not be performed on a minor unless a parent is consulted.

This is not an argument on the merits of abortion. Rather, this is a debate about preserving the fundamental rights of parents to have knowledge about health decisions of their minor daughters.

Let me conclude with this. This is one of the biggest moral issues of the day, the right to have an abortion or not. It splits America. The emotions are high. There are good people on both sides of the debate. We need to look for common ground, where we can come together and at least have some reasonable restrictions on abortion. I believe this bill is one of those reasonable restrictions on abortion that I think all of us should come together on.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I thank my colleague from Nevada. I rise to speak as a mother and a grandmother—a mother of a daughter and a son, a grandmother of a grandson, and a Senator who has been here now for three terms, and I served over in the House for many years—to say that my friend from Nevada is right that this is not a parental consent bill at all.

Some States have parental consent laws, some don't. In my particular State, it has been voted down because my people feel that if you ask them do they want their kids to come to their parents, absolutely. But if you ask them should you force them to do so, even in circumstances where there could be trouble that comes from that, they say no.

I respect those States that have parental consent laws, and perhaps we will have a law that is drafted in California that the voters will approve. So far, we have not seen that.

It is true it is not a partisan issue. When we voted down those laws, we did it regardless of political party. But the reason is unintended consequences in the way certain bills are drafted. I want to speak to that because I believe this bill is well-intentioned.

This bill emanates from a desire that our children come to us when we have family matters, when our children are in trouble, that they not be fearful, that they not be afraid that they disappoint us, that they be open with us and loving toward us, and we toward them. This is what we want to have happen.

The question is: Can Big Brother Federal Government force this on our families? That is where we will differ.

I have to tell you, as I look at this bill coming before us now, I have to ask the question: why are my colleagues on the other side of the aisle who run this place, who run the House, who run the White House, putting so much effort into this bill, having killed stem cell research, which all of our families are desperate to have—talk about 80 percent of America, it is 90 percent who want to find cures to Alzheimer's and all the rest. Oh, no, instead of getting another chance to pass that bill and convince the President, who is now backing off a little bit in his rhetoric, to sign a stem cell research bill, or to prevent teen pregnancies, which is so important, we don't have that. We have this bill that impacts very few people. Instead of improving the health of women and girls, we are spending precious time on a bill that, in essence, protects incest predators. This bill, as it is written, protects fathers who commit incest. Can you imagine? It allows them to drive their daughter across State lines. Unbelievable. We are going to try to fix this problem with an amendment. I hope my colleagues will support that, and it will improve this bill.

Right now, imagine, a father retains parental rights if he has committed rape on his daughter. This is supposed to be a warm and fuzzy bill? I don't think so. It also throws grandmothers in jail.

Mr. ENSIGN. Will the Senator yield?

Mrs. BOXER. When I am finished.

This bill, as it is drafted, will throw a grandmother in jail. Say the father committed incest on the daughter and she is hysterical. The first place she goes is not some judge but to her grandma, who she adores and who gives her unconditional love, or to her priest or rabbi, and says please help me out of this. That incestuous father, as the bill is written, can sue that caring adult who takes her over the line.

My friend is going to offer an amendment that goes part of the way on the incest provision. It will say the father cannot sue. I am so happy because I will join him in that. I hope we have a 100-to-0 vote. But I am shocked that we

cannot reach agreement on that. Talk about finding common ground. Even with the Ensign amendment that says a father cannot sue, he can still take the daughter across State lines. And the Federal Government can still sue the grandmother or the clergy.

This debate is just beginning. The Senator from Nevada and I are friends, but we will have a tough debate. I hope we will vote for the Democratic amendment to improve this bill.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived and passed, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:37 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CHILD CUSTODY PROTECTION ACT—Continued

AMENDMENT NO. 4689

(Purpose: To authorize grants to carry out programs to provide education on preventing teen pregnancies, and for other purposes)

Mr. LAUTENBERG. Mr. President, I call up amendment No. 4689, which is at the desk, and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. MENENDEZ, and Mrs. CLINTON, proposes an amendment numbered 4689.

(The amendment is printed in the RECORD of Monday, July, 24, 2006, under ''Text of Amendments.'')

Mr. LAUTENBERG. Mr. President, the amendment I am offering gets to the heart of the issue this bill purportedly means to address; that is, reducing the number of abortions. The best way to reduce the number of abortions is to prevent teen pregnancies in the first place. It is that simple.

The amendment I am offering, along with Senators MENENDEZ, CLINTON, SCHUMER, KENNEDY, KERRY, and FEINSTEIN, is aimed at dramatically reducing teen pregnancy rates in the United States. This amendment will assist efforts by nonprofit organizations, schools, and public health agencies to reduce teen pregnancy through awareness, education, and abstinence programs.

The root problem we are talking about today is not abortion, it is teen pregnancy. If we do nothing about teen pregnancy, yet pass this punitive bill, then it proves that this exercise is only a political charade and not a serious effort to combat the problem.

The U.S. teen pregnancy rate is the highest by far among developed countries, and here is some of the evidence we use to prove this.

In Germany, the teen pregnancy rate is 16 per 1,000. The U.S. rate is 84 per 1,000. I ask my colleagues to look at this chart which shows several countries teen pregnancy rates compared with the U.S. This is teen pregnancy rate for ages 15 to 19, among developed countries per 1,000 persons. In Sweden, it is 25 young women per 1,000; in France, it is 20 young women per 1,000; in Canada, 46; in Great Britain, 47; and here we are. Are we the winners in this contest? I hardly think so. We have 84 unintended teenage pregnancies per 1,000 persons.

I mentioned before that Germany has a teen pregnancy rate of 16 per 1,000, and again, I mention the rate in the United States is 84 per 1,000. So it tells us that there is something terribly wrong about the way we do things here.

I look further at Belgium, which has a teen pregnancy rate of 14 per 1,000; the Netherlands, 12 per 1,000; and ours is 84 per 1,000. We cannot continue to ignore facts such as these. We can pass all the abortion restrictions we can think of, but unless there are fewer teen pregnancies, the results will be tragic for thousands of young women.

In many cases, teen pregnancies result in abortion, but that is not the extent of the problem. We know that children of teenage mothers typically have lower birth weight deliveries, are more likely to perform poorly in school, and are at greater risk of abuse and neglect than other children. The sons of teen mothers are 13 percent more likely to end up in prison, while teen daughters are 22 percent more likely to become teen mothers themselves.

Each year in the United States, approximately 860,000 young women become pregnant before they reach the age of 20. Eighty percent of these pregnancies—80 percent of 860,000. That is over 600,000 young women are unintended, and 81 percent of these young women are unmarried.

So what are we doing differently in the United States that is separating us from the rest of the developed world? The answer is simple: the other countries promote full, comprehensive sex education programs, and in the United States—would you believe it—we don't allow funding for comprehensive sex education. I repeat that because some people may think they misheard me. The Federal Government will not fund comprehensive sex education programs despite the fact that 90 percent of parents polled say that in addition to abstinence, sex education should cover contraception and other forms of birth control. But the Federal Government currently will not fund any programs that even mention contraception and restricts all of its funding to abstinence-only programs.

I want to be clear, I am not against abstinence programs. In fact, our amendment will also fund abstinence programs. I think they can be effective at times. But the Federal Government's current policy of restricting funding to abstinence-only programs is producing the wrong result. Just look at how poorly our teenage pregnancy rates compare with other nations.

We need to dedicate our scarce Federal resources toward medically accurate, age-appropriate education that includes information about contraception as well as abstinence. In many cases, particular types of contraception can help avoid sexually transmitted diseases. Isn't that a good objective as well? We have to be realistic about the hope that each and every teenager is going to abstain from premarital sex. Saying ''Don't do it'' may work at times but not all the time.

Look at another problem—youth smoking, for instance. Kids are bombarded with warnings not to smoke. These messages have cut teen smoking rates dramatically, but 1,500 kids a day still start smoking. So it needs intensity of education, comprehensive education.

We remember First Lady Nancy Reagan's ''Just Say No to Drugs'' campaign. It worked for some kids but obviously not for others. For those teenagers who already are sexually active or who do become sexually active, we fail them if we don't teach them about contraception. If we are serious about reducing the number of unintended pregnancies, almost half of which tragically end in abortion—we have to implement programs that work so that our teenagers have the knowledge they need to bring about a positive future for themselves with the opportunity to pursue their dreams. We create a huge number of abortions as a result of the ignorance of what the facts are, about sex and young people.

This year, the Federal Government will direct $176 million of taxpayers' money to abstinence-only programs. Some of these programs can be effective but often don't get the job done because many teenagers need to understand something about contraception and other aspects of a comprehensive sex education program. Research has shown that the most effective programs are the ones that encourage teenagers to delay sexual activity but also provide information on how they can protect themselves. What is more, research shows that teenagers who receive sex education which includes discussion of contraception are more likely to delay sexual activity than those who receive abstinence-only messages.

There was an interesting article in this Saturday's Wall Street Journal about a sex education program in Bamberg County, SC. The article said:

More than a quarter of the families—

In this county—

live below the poverty line. Nearly half have only one parent living at home . . .

If ever there was a place to expect a wave of teen mothers, it would be . . . among the flat farmlands of South Carolina's Allendale and Bamberg Counties. Yet while teen pregnancies are numerous on the Allendale side—

That is the other side of the county line—

adolescent girls on the Bamberg side have one of the lowest pregnancy rates in the State. The county's rate has fallen faster than the rate in most of the U.S.

It is a startling revelation because, again, this is a county where so many people are below the poverty line, where typically teenage pregnancies occur, and in the neighboring county, which is better off, they have a far greater number than does Bamberg County.

Why does that happen? This is an area which has had historically high teen pregnancy rates, but they decided to take bold action to improve their teen pregnancy prevention efforts. Bamberg County initiated a comprehensive sex education program in 1982. Since that time, the county's teen pregnancy rate has fallen by nearly two-thirds. If our objective here is to reduce abortions, then this is one exceptionally effective way to do it.

Adjacent to Bamberg County, as I said, is Allendale County which has similar demographics, but Allendale County has not taken a comprehensive approach. Allendale restricts its programs to abstinence only. What is the result? Allendale County's teen pregnancy rate is more than twice as high as Bamberg's. In 2004, there were 24 pregnancies per 1,000 girls between the ages of 10 and 19 in Bamberg County. In Allendale County, there were 54 pregnancies per 1,000—more than twice the rate.

Abortion is a divisive issue, a tough issue, but we should all be able to agree that the best way or an effective way to reduce the number of abortions is to reduce the number of unwanted pregnancies, especially among unwed teenage girls. And the proven way to reduce the number of teen pregnancies is to provide youth with comprehensive sex education.

When it comes to our children, we should do everything within our power to protect them. We can and we must help America's young people to do better, to make better choices and have brighter futures.

So what we come down today is that this argument is not exclusively about abortion because if that were the case, then we would be giving comprehensive sex education wherever we have a young audience across the country and not saying as a Government: OK, we will give you the money, but you can't talk about an effective way to stop a pregnancy; we will not fund anything that tells you about contraception, about birth control, about thinking about how you plan your family.

We are looking at raw politics here, Mr. President. What we are looking at is a way to compel young people to go through with unwanted pregnancies, and I think the way to stop that is to prevent these pregnancies in the first place.

The way to prevent them is through knowledge.

I urge my colleagues to think this thing through thoroughly so we can effectively control the number of abortions that are done every year in this society and not only think of the punishment we render by jailing people who assist in helping young women get abortions, about penalizing families, about forcing young women who might have been victims of incest to carry on and find subversive, secret ways to end their pregnancies. That is not the way to do it. The way to do it is to present young people with knowledge about how they do not get themselves in a position where they want to consider an abortion.

I hope my colleagues will think this problem through thoroughly as we debate this issue and recognize that the alternative is strictly a punitive one and should not be dictated. I hope they will support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, the Democratic leader and the Republican leader had a unanimous consent agreement on this bill, and during that time—the way the Senate operates—amendments were exchanged and language was handed to each side. We were prepared to debate amendments based on text we were given, and in a highly unusual move, the Senator from New Jersey has brought forward language that is different than what was provided to us in the unanimous consent agreement. At this time, having to go through the amendment to see what all the consequences of those differences are, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, that time will be taken off my colleague's time.

Mr. ENSIGN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, I have a parliamentary inquiry. I ask that the quorum be suspended so I can make a parliamentary inquiry.

The PRESIDING OFFICER. The Senate is in a quorum call.

Mrs. BOXER. I ask unanimous consent and I would like to make a parliamentary inquiry.

Mr. ENSIGN. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

Mr. LAUTENBERG. Mr. President, I thank the Senator from Nevada for getting through the process. It is not unusual for Senators to be permitted to modify their amendments. However, at this point I yield up to 15 minutes to my colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I thank my distinguished senior Senator from New Jersey for yielding time and for his leadership on this issue.

I rise in opposition to the Child Custody Protection Act in support of a real solution to the problem of teen pregnancy. I don't support the legislation because it is nothing more than a misguided election-year ploy based on a false premise.

Instead of punishment, we should be focused on prevention. Instead of putting people in jail, we should be preventing teens from getting pregnant in the first place. That is why I am joining my fellow Senator from New Jersey in offering a comprehensive approach to prevent teen pregnancy. Our amendment will help prepare young people with the knowledge and skills to make responsible decisions and offer them an opportunity to succeed in life.

In a Senate filled with many different views on the right path for our country, it is refreshing to recognize we can all agree that we need to reduce the number of teenage abortions. But there is still disagreement about how to achieve that goal.

Many in this Senate believe the answer is to criminalize caring adults and threaten innocent youth. I cannot disagree more. The solution to this problem does not lie in the courtroom but rather in our classrooms and after-school programs.

Don't take my word for It. Look at this past weekend's Wall Street Journal—not a bastion of liberalism. In an article ''Winning the Battle on Teen Pregnancy'' the Wall Street Journal examines a comprehensive sex education program in rural South Carolina and compares two similar neighboring counties. One has a very intensive, comprehensive sex education program, the other does not.

The findings show that between 1982 when the Teen Life Center Program began and 2004, the county's estimated pregnancy rate among girls age 15 to 19 fell by nearly two-thirds, making its teen pregnancy rate among the lowest in the State. By contrast, the neighboring counties, which did not have such a program, had one of the highest teen pregnancy rates in the State, about 2½ times their neighbor's rate.

The article cites Douglas Kirby, a sex education expert:

The Teen Life Center has played a major role over the years in reducing teen pregnancy in the community it serves.

Also:

I do think it's one of the most promising approaches.

He notes the program devotes an unusual amount of time in the regular school curriculum to comprehensive sex education. As this case study shows, we clearly need to be putting more resources into preventing teen pregnancy, not punishing pregnant teens.

Rather than invest in proven programs such as the Teen Life Center, the Bush administration continues to insist on a narrow-minded, misguided approach of abstinence-only education. As this chart demonstrates, abstinence only simply does not cut it. The Bush administration invested almost $600 million for abstinence-only education between 2001 and 2005. Not only did we not see a reduction in the number of teens having sex, we actually saw a slight increase. What a rate of return. With a rate of return like that, any reasonable investor would have already fired their investment adviser long ago. The American taxpayers deserve a better rate of return on their investment, particularly one that is so critical on this subject.

The amendment Senator LAUTENBERG and I are offering takes a comprehensive approach to preventing teen pregnancy by providing medically and scientifically accurate sex education programs and funding important afterschool programs—such as 21st Century Community Learning Centers, Trio, and GEAR UP, and the Carol White Physical Education Program—that build life skills, put teens on a path to college, and ultimately help open the door of opportunity for young people. And our amendment also includes a demonstration program to encourage new approaches to reducing teen pregnancy.

It is time to do something more than criminalize grandmothers, trusted confidants, and clergy. It is time we do something to actually reduce the number of teen abortions. But, once again, the administration and this Congress have demonstrated their misplaced priorities by bringing this bill to the floor instead of meaningful legislation to prevent teen pregnancy.

Instead of debating comprehensive sex education, which is supported overwhelmingly by 94 percent of parents in our country, the Bush administration has continued to pursue its unproven abstinence-only programs, which have the support of only about 15 percent of parents. And instead of working in a bipartisan manner to prevent teen pregnancy, the Senate leadership is continuing to pursue their misguided proposal to limit the options for young women.

When the New Jersey Supreme Court struck down a law that would have required parental notification, they considered the effect that notification laws have had on other States. Their conclusion was the same as mine, and I quote:

[A] law mandating parental notification prior to an abortion can neither mend nor create lines of communication between parent and child.

For example, in Texas, a pregnant 16-year-old explained why she could not tell her mother she was pregnant. She said:

My oldest sister got pregnant when she was 17. My mother pushed her against the wall, slapped her across the face and then grabbed her by the hair, pulled her through the living room, out the front door and threw her off the porch. We don't know where she is now.

Furthermore, the underlying bill does nothing to protect a young woman whose father rapes her. Despite such a despicable violation, he would still be allowed to make parental decisions on her behalf. Instead of punishing him, we would punish grandmothers or clergy who actually have to try to protect her from such an abusive relationship.

Now, these are horrible situations, but they are real life situations, and by forcing a minor to ask an abusive, violent parent for permission, we are only adding to the abuse.

Now, as a father of a beautiful and bright daughter and fabulous son, I would hope that my children would feel comfortable talking to me about their serious life decisions. And because I am blessed to have a great, open relationship with my children, I believe they would be comfortable bringing these issues to me. Unfortunately, our Government cannot legislate positive family relationships in every home, and not all families function like yours or mine. Sadly, not every parent can be their daughter's best advocate.

Further, the New York Times analyzed six States that recently passed parental consent laws and discovered that these laws have done little to reduce the number of teen pregnancies or the number of abortions.

As a matter of fact, look at this chart. You can see that the United States has the highest rate of teen pregnancy among all westernized developed countries. Despite what you hear from the Bush administration and some of my colleagues on the other side of the aisle, abstinence-only programs and restrictions on a woman's right to choose are not the way to solve this problem. Clearly, we need a different direction.

Our amendment offers a real, proven solution to this problem—not just a hallowed, base-building effort. We need to make sure we are standing up first and foremost for the health and safety of our children. The time has come to reduce the number of teen pregnancies, and thus teen abortions, in this country, and our commonsense amendment will do just that.

We need to invest in our school, community, and faith-based organizations so they can teach scientifically and medically accurate family life education. We need programs that encourage teens to abstain from sexual activity. We need to educate young men and women about the responsibilities and challenges associated with parenting. We need to encourage parents to communicate with their teens about sex. We need to teach young people how to make responsible decisions. And we need to fund afterschool programs that will enrich their education and replace unsupervised hours that can lead to destructive behavior with constructive activities and positive role models.

We know afterschool programs reduce risky adolescent behavior. Teenage girls who play sports, for instance, are more likely to wait to become sexually active, which means they are less likely to become pregnant.

We know teen pregnancy has serious consequences for young women, their children, and communities as a whole. Too-early childbearing increases the likelihood that a young woman will drop out of high school and that she and her child will live in poverty.

Unfortunately, this administration has done nothing to support these initiatives that reduce the number of teen pregnancies. Instead, the administration has brought a politically charged debate to the floor in the name of politics, while the real solutions for our teenagers are being ignored.

Instead of preparing future generations with the important information they need to make responsible decisions, this administration keeps young people in the dark about medically and scientifically accurate sex information.

Instead of funding important afterschool programs that will build life skills and put teens on the road to college, this administration is shutting the door of opportunity on young people.

Instead of breaking the cycle of daughters of teen moms becoming teen moms themselves, this administration has made it harder for young mothers to go back to school and raise their children.

Instead of ending the trend of sons of teen moms ending up in prison, this administration has increased the number of unsupervised hours and decreased the number of positive activities and role models in a teen's day.

Let's join together to recommit ourselves to continuing to decrease the incidence of teen pregnancy and recommit ourselves to offering family life education and positive afterschool programs that will foster responsible young adults and responsible decisions.

The time is now to invest in our teens. As all parents know, we place overwhelming pressure on ourselves to make sure we raise our children well. The decisions we make—and they make—will affect them for the rest of their lives. We cannot afford to let the doors close on them. Instead, we must continue to open that door of opportunity.

I urge my colleagues to join us in supporting this important amendment. We have an obligation to stand up and do the right thing. It is time to stop talking about putting people in jail,

and time to start creating real opportunities for future generations. This amendment does that.

With that, Mr. President, I yield back the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, one of the principal obligations of government should be to enable families to grow and prosper and bring new life into the world. Our policies and our actions should be aimed at helping all families thrive in this great land of opportunity. Surely, we can agree that Congress should do all it can to help young women make choices that will help them be part of such thriving families.

In this land that cherishes individual rights and liberties, a woman has the constitutional right to make her own reproductive decisions, and I support that right. But abortion should be rare, as well as safe and legal. For that reason, being pro-choice also means helping women choose whether to become pregnant and providing them with support so they can make choices about their pregnancy that are not determined by their inability to afford or care for a child.

Congress and the administration can take a number of constructive steps to enhance choice and help to reduce the number of abortions. Unfortunately, time and time again, this Republican Congress and this Republican administration have turned their backs on women who need our help.

If Congress were serious about reducing abortions, we would be expanding family planning. But the administration and the Republican Congress have refused to increase funding for these important programs.

A serious effort to create a true culture of life would also include providing additional options to teenagers who become pregnant, such as by supporting adoption and foster care. But last year this Congress limited the number of children eligible for foster care and reduced assistance to States for their foster care systems.

Another way to reduce abortions is to promise a pregnant teenager that she and her child can rely upon some basic minimum of health care. For a third of all mothers and babies in America, that means Medicaid. Medicaid also provides the prenatal and pediatric care that children need to be healthy. But earlier this year, the administration proposed $13.5 billion in budget cuts to Medicaid.

A further source of help to young women who are pregnant is through the maternal and child health services block grant, which serves 27 million women and children. Here, too, an administration that calls itself pro-life should be doing all it can to provide services to infants. But the President's budget proposes only $693 million for a program that was funded at $730 million just 3 years ago.

If the administration wanted to reduce abortions, it would promise women that their infants will not go hungry. But President Bush has proposed cuts to the WIC Program that would reduce services across the program and cut out of the program entirely as many as 850,000 mothers and children.

Abortions would be rarer if young mothers could depend upon childcare. This Congress has underfunded childcare by $10.9 billion. The result is that 600,000 fewer children will have their childcare subsidized.

In short, there are many constructive steps that Congress could take today to reduce teenage pregnancy and promote a true culture of life. Instead, the Republican leadership has decided to play politics with the health of young women. The bill we are debating today does nothing to stand by young women in their time of need. It does nothing to prevent unwanted pregnancies. It does nothing to reduce abortions by letting women know that their infant will be fed, have good health care, and be cared for. It does not even prevent minors from crossing State lines to obtain an abortion. Instead, it threatens prison time to anyone who helps them to do so, even if the person providing assistance is a compassionate grandparent or aunt or uncle or even a member of the clergy.

Congress ought to have higher priorities than turning grandparents into criminals. I believe parental involvement is extremely important to teenagers' lives, and never more so than when a minor must make an extraordinarily difficult decision. But the Federal Criminal Code is not the right tool to improve communication and trust between parents and their daughters.

Constructive steps that would actually work to make abortion rare are contained in the Menendez-Lautenberg amendment on teenage pregnancy prevention. It calls for comprehensive sex education, not misleading abstinence-only programs. It increases the authorization for afterschool programs that encourage academic achievement, such as Trio, GEAR UP, and 21st Century Community Learning Centers that help keep teenage girls out of trouble. It increases funding for the Carol White Program, which encourages young women to become involved in sports, since we know that young women who participate in sports are far less likely to become pregnant.

Why aren't we spending our time helping young women succeed instead of denying them help in their time of need? The answer is that real solutions would unite us at a time when Republicans want to divide us.

I urge all of those who want to make abortion rare to rethink our shopworn slogans and pat answers. The way to foster a culture of life is not through a culture of war.

The PRESIDING OFFICER (Mr. COLEMAN). Who yields time?

The Senator from Nevada.

Mr. ENSIGN. Mr. President, we all agree that teenage pregnancy is a problem in the United States. And there are various views on the best way to deal with teenage pregnancy and how to prevent it and lower the rate of teenage pregnancies.

The Lautenberg-Menendez amendment is an attempt to do that. I think it is a misguided attempt. Let me point out some of the problems that I think are present in this amendment. Let's talk a little bit about what the amendment does.

First, sex education decisions have long been left to parents and local communities. When communities offer sex education programs in public schools, parents are typically heavily involved in deciding the scope of that education. Parental and local control of this issue is appropriate because the issues involved are uniquely related to parents' cultural, religious and moral values, and attitudes, as well as those of the community. The Menendez-Lautenberg amendment would send $100 million into localities in an effort to override the parents' and local community's decisions about how to raise their children. It is a prescriptive amendment about how these programs are to be set up.

These grants would require recipients to conduct sex education programs and would prohibit the recipients from providing abstinence-only education. All recipients of grant moneys would be required to teach children about all contraceptives, including condoms, the pill, and plan B emergency contraceptives. The amendment also reauthorizes and increases appropriations for a variety of other programs. I will talk about that in a moment.

Under this amendment, none of the authorized moneys would be available for programs focusing on abstinence only or for programs that refuse to discuss controversial contraceptives such as plan B, which many Americans view as an abortion pill.

There is a program out there called Best Friends. Under this program, teenagers are 6½ times less likely to have sex than their counterparts, about two times less likely to drink alcohol than their peers, eight times less likely to use drugs, more than two times less likely to smoke. Under this amendment, Best Friends would not qualify for grant monies available through this amendment.

While the authors of this amendment have offered it in good faith it is misguided.

Dr. COBURN and I got to know each other very well, when we served in the House together. He has been out there on the front lines, actually delivering babies. He talks to a lot of young girls and boys about their involvement or lack of involvement in sexual activities when they are young.

I yield Senator COBURN 10 minutes to speak on the bill and this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, this is a philosophical debate. There are two questions we ought to ask ourselves: How many people think it is in the best interests of our young people to be sexually active outside of marriage? Is there anything positive that ever comes from that? Is there positive self-esteem? Is there disease? Are there consequences to the fact that when our young people make a decision to become sexually active, almost always there is a negative downside?

Everybody in this body desires the best for our children. We desire the best for one another's children. We desire the best for every child. I have delivered over 4,000 babies. Most of those were Medicaid or teenage moms. I have been doing that for 23 years. I know the attitudes. I know what is going on. I can see.

I have also seen every complication that can come about when we take the parents out of the loop, when we rationalize, well, if the parents aren't going to do it, the Government is going to do it for them. What we do is divide. We make division between children and parents. We do something out in the dark.

I will never forget, I was in Stigler, OK, a small community. A farmer comes in there crying, with a bag in his hand. This was when I was a Congressman. He said: Congressman, how did this happen? My 13-year-old last night came home from the health department. She went with a friend. She came home from the health department with contraceptives and condoms, oral contraceptives and condoms. He said: How is it that I can pay my taxes and I am undermined by the local health department in what my child gets? She wasn't even going for her as an appointment. But she is sold on the fact that she needs to do this. She had good enough training that she came to her parents with that and said: Here is what happened to me.

The point is, as a practicing physician, I use every tool I can with young women to make sure they are well informed. But there is a tipping point about what the best medical advice is. This is debatable. But I would tell you the best medical advice we could give our young men and women, the best absolute medical advice is to stay abstinent until you are in a married relationship. Everybody in this body probably agrees with that.

If that is true, if risk avoidance is the best message, why do we turn around and give 1200 percent more money to risk reduction than we do risk avoidance? For every dollar we spend on abstinence education, we spend $12 on teaching people how to lower the risk. What is the message we are sending with that? We are going to spend $600 million this year on what this amendment does already. That is what we are going to spend. If you add up everything associated with this amendment, we are going to spend another $600 million. First, where are we going to get the money? We don't have it so we are going to borrow it from the very children we say we want to protect to do this.

No. 2, we are winning the war in this country on teenage pregnancy. We are winning the war. We have the highest level of virgin 16-year-olds we have had in 30 years in this country, both men and women, both girls and boys. I don't know if 1200 percent more of that is because we have comprehensive sex education or whether 100 percent of it is because of abstinence. I don't know that. But what I do know is, I am not going to vote for anything that destroys relationships as I have seen in my practice for young women for years.

Does that mean somebody who can't get available maternal child health should be denied it? No. Does that mean somebody who seeks out the right guidance should be denied it? No. This isn't a debate about not doing what we are already doing. We are already doing it. The question is, should we do more? Should we penalize the best medical advice that is out there, which is to abstain? The consequences of that would be disastrous.

The moral rationalization is if you make a mistake, there are no consequences. I have seen the consequences. Condoms on teenagers work about 50 percent of the time, if you add up all the studies. The STD rate for teenagers, even when used perfectly, for human papilloma virus is still 38 percent, the No. 1 cause of cervical cancer. We can rationalize our moral principle away or we can say: Here is where we should go. We are not talking about changing anything.

The President was widely attacked that he hadn't increased moneys for all this. We don't have money to increase anything in this country. We are fighting a war. We have had Katrina. We are running a $350 billion deficit. We don't have money. So if we are going to do this, what program are we going to cut? Or are we going to offer another $600 million? By the way, the title X program hasn't been authorized in 16 years and we are still appropriating moneys.

There is a difference in philosophy. It doesn't mean I am right or wrong. It doesn't mean those who oppose me are wrong or right. But what I have seen from experience is when we honor virtue, when we mentor integrity, when we encourage the right choices, what we get is right choices, honor, and integrity. When we rationalize the consequences of violating principles that are for a healthy productive life, we get a consumption of errors.

I have so many stories I would love for this body and the American people to know about the people I have cared for, the consequences of when we rationalize a moral principle of being pure until you are in a married relationship. Is that prudish? Does it happen? It happens a lot more than we give credit for.

The question we ought to ask ourselves is, would it happen more if we set the example, if we didn't glorify the other position, if we didn't rationalize the position?

I am opposed to the amendment on three grounds. One, we are already spending a ton of money on comprehensive sex education. I am not opposed to that. I teach condoms. I teach barrier methods. I also teach the consequences and the failure rates. I teach the consequences of oral contraceptives. We only have about 10 kids a year die in this country because they are given birth control pills that the parent didn't even know about and they have a thromboembolic event because there is a family history that was never related. So it is OK to sacrifice those 10 young girls because we didn't want their parents, who could have made a decision, to know. We could have done that, but we are not going to do that. We are going to rationalize the behavior of something that is not as good for our children, that is not the best medical advice, and we are going to sacrifice those lives. I am going to oppose it because we are already doing it, No. 1.

No. 2, we already have a markedly distorted ratio against the best medical advice on which we all agree, the best thing our kids could do is not be sexually active outside of a monogamous, long-term relationship. We all agree to that. There is not anybody who disagrees with that.

And finally, why is it here? Why is it on this bill? It is because we don't want this bill. Some of us don't want this bill to pass.

I will relate to you a story about a gal. I will call her Julie because I can't mention her name. Julie is dead. Julie was 16 years of age. Her parents didn't know she had a termination to her pregnancy. When I saw her in the ER at 2 o'clock in the morning, she had a fever and a little bit of bleeding. She had a botched abortion with an infection developed, what is called disseminated intravascular coagulation. And basically 3 days later, despite all the heroic events, she died. Why did she die? She died because we separated the choices that she made from her parents without their involvement. Would she have died if somebody had cared to know what her immediate post-op followup condition was? No. Had she had intervention earlier, would she have died? No. Her parents will never get over the fact that they weren't there. They blame themselves.

I oppose this amendment and hope other Members will do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 8 minutes to my colleague from New York State.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I have great deal of respect for the experience of my colleague from Oklahoma. I believe he has served his patients in a conscientious, caring manner for all those 20-plus years he has been practicing medicine as an OB/GYN. He comes to the floor with his own experience. It is entitled to great weight because it is his experience. He has very passionately set forth his strong beliefs. I come from a different perspective. I have been a lawyer for a number of years. I was a law professor running a legal aid clinic at the University of Arkansas in Fayetteville not far from the Oklahoma border when one day in my office I got a call from one of the local judges telling me he had assigned me to a case. That was pretty common.

I said: Judge, what kind of case is it?

He said: Well, I want you to represent this man who has been accused of raping a 12-year-old girl he is related to.

I said: Judge, I don't really want to do that.

He said: Professor, you are going to do it because I am signing the order right now.

So I did. I got into the details of this sordid crime and how this man who was related to this family had abused this child. And the family, to be charitable, wasn't really all that attentive or caring. They were people of very modest means. They lived a pretty disorganized life, and they didn't watch out for their children. There wasn't what we would call the kind of relationship and dialog and discussion that every one of us wants to have with our own children and would hope to nurture in others.

So I did my duty and I represented this man. But I often wondered about that little 12-year-old girl. About a year later, my phone rings again. This time, it is the prosecuting attorney. He said: Well, Professor, we have another case for you.

I said: I have done my part.

He said: We need you. We want you to represent a father who is accused of impregnating both of his daughters. The older daughter has had her baby and she is about 14. The younger daughter is now pregnant. The older daughter has come to us and said that it was the father, and she is desperate for us to take her younger sister away from this environment.

I said: You know, Mr. Prosecutor, find somebody else to do this.

He said: Well, you did such a good job in that bad case last year, we just need you to do this.

I said: I really don't want to do it.

He said: Well, I am having the judge sign the order.

I got deeply into the family dynamics of this perverse, incestuous family. I met the 14-year-old who already had a baby, and I met the 12-year-old who was now pregnant with her father's baby. And my heart just broke. Who was that child supposed to talk to? Where was that child supposed to go? The sister was trying to help her younger sister. If she had a driver's license, she might have driven her to where she could have gotten medical care.

A couple years later, I was practicing law in Little Rock, and Arkansas had a parental consent law with a judicial bypass. People were called by judges whenever this occurred and were asked to come and represent the young girl who was appearing before the court. I got called one day, as I was on the list as a practicing lawyer. So I went and met my client, a 15-year-old girl. She had been raped by her mother's boyfriend and was pregnant. Her mother could have cared less. Maybe her mother should have cared. Lord knows, I wish she had cared. But she didn't want to disrupt the relationship with the boyfriend. So the girl needed to come to court and get a judge to give her permission because there was no parent. There may have been a biological parent, but there wasn't a parent in any sense of the word other than biology.

By that time, I had my own daughter and I thought, what a tragedy. You know, life isn't always the way we wish it would be. Sometimes tragedies happen and sometimes families are not just negligent but abusive. Sometimes young girls are taken advantage of by members of their family, people in whom they should be able to trust.

So I just have to say that when we talk about experience, we can all bring experience to the floor of the Senate. We can talk about the many instances where things worked out, parents did do the right thing; they gave their children the right values, gave them the appropriate education to know how to take care of themselves, to respect themselves. But I have lived long enough to know that is not everybody. I wish it were. But in the meantime, we are going to sacrifice a lot of girls' lives. I think that is unfortunate, to say the least.

We now know, because we have research to prove it, what works. We know that in South Carolina—for example, in a Wall Street Journal article recently was a story about small, impoverished towns that had a high rate of teenage pregnancy, and they decided they wanted to do something and they got help. They had one-on-one coaching sessions for parents who would come and participate. They preached abstinence, but they also taught about contraception and they made it clear what they wanted their children to do, how they expected them to behave to try to prevent irresponsible sexual activity and pregnancy. They tried to make both the young women and the young men accept responsibility for their actions.

I know, too, in my State, we have a lot of grandmothers and aunts who are raising children. The Child Custody Protection Act would put any family member—a sister, aunt, or grandmother—in jail for helping a teenager deal with one of the most difficult decisions that any person has to make. I don't believe that these young women should make those decisions alone. Certainly, we are complicating the lives of everyone instead of doing our duty as parents, as family members, and as leaders, which is to inculcate and pass on values but to recognize that reality is messy. I have championed kinship care, and I know how many grandparents are raising children, and I know from my own personal experience how many older relatives who are faced with very difficult situations would be criminalized if they tried to reach out and help a young girl who asked them for that kind of assistance.

The Child Custody Protection Act, while seeking to criminalize what a teenager does once she is pregnant, fails to address the issue of teen pregnancy in this country, the root of the problem.

To address only how teenagers should behave once they become pregnant without any resources on the front end to prevent a pregnancy is shortsighted, to say the least.

One of the most important initiatives I worked on as First Lady and am proud to continue to champion in the Senate is the prevention of teen pregnancy.

In 1996, we worked with the National Campaign To Prevent Teen Pregnancy to set a goal to reduce teen pregnancy by one-third within a decade, and I am proud to say that we met that goal.

But we did not do it overnight. We invested over a period of time. We invested in different programs and initiatives, recognizing that this issue could not be solved with a one size fits all approach. And according to the National Campaign To Prevent Teen Pregnancy, between 1991 and 2004, the teen birth rate fell 33 percent to a record low for those aged 15 to 19.

And while we are all pleased that the teen pregnancy rate has dropped since 1991—as I am that in my home State of New York, it's come down a full 10 percent—we also recognize that this is just a drop in bucket if we are truly going to get to the root of the problem and eliminate pregnancy among girls and boys who are far too often too young and unprepared, emotionally and financially, to be mothers and fathers.

Sadly, even with this decrease, the United States continues to have the highest rate of teen pregnancy and births in the Western industrialized world.

Today, 34 percent of young women become pregnant at least once before they reach the age of 20, and that results in about 820,000 teen pregnancies a year. Eight in ten of these pregnancies are unintended.

We also have an overwhelming body of evidence about the repercussions of teen parenting. Children born to teen moms begin life with the odds against them; they are more likely to be born

a low birth weight baby, which is connected to a host of long-term health problems.

They are 50 percent more likely to repeat a grade and significantly more likely to be victims of abuse and neglect.

In addition, girls who give birth as teenagers face a long, uphill battle to economic self-sufficiency and self-esteem, with only 32 percent of teenage mothers who begin their families before age 18 ever completing high school.

For all these reasons, I urge my colleagues to support the Lautenberg-Menendez amendment that seeks to increase funding to critical programs that are helping to decrease teen pregnancy in our country.

Last week, CNN highlighted in a story what research has consistently shown: Teenagers who receive comprehensive sex education that includes discussion of contraception are more likely than those who receive abstinence-only messages to delay sexual activity and to use contraceptives when they do become sexually active.

And this past Saturday, a Wall Street Journal article featured how small, impoverished towns in South Carolina are showing the lowest teen pregnancy rates in the country. Both places owe their success to comprehensive sex education. From one-on-one coaching sessions for parents and teens to teaching about contraception, the towns are proactive in making kids more aware of the dangers that are out there if they don't practice safe sex.

This further reinforces the need to implement policies that support and educate young women about all of the facts, so that they do not become pregnant in the first place.

Teenagers need to be educated that abstinence is the best defense against an unwanted pregnancy, and they also need to be educated and encouraged to exercise cautious decisions about sex.

We should not have a cookie cutter approach to preventing teen pregnancy. In instances where young people are sexually active and are likely to remain so, we need to ensure that they are encouraged to use contraception consistently and carefully.

As policymakers, we need to recognize what works and what doesn't work, and to be fair, the jury is still out on the effectiveness of abstinence-only programs. I don't think this debate should be about ideology. It should be about facts and evidence. We have to deal with the choices young people make, not just the choice we wish they would make. We should use all the resources at our disposal to ensure that teens are getting the information they need to make the right decision and that we remain a part of the solution by supporting programs and policies that deal with all the layers of this issue, not just a one size fits all approach.

Sadly, instead of putting resources into this important fight to prevent teen pregnancy, we are adding more penalties for those who try to help teens during their time of crisis.

The Child Custody Protection Act would put any family member—a sister, aunt, grandmother—in jail for helping a teen cross State lines to obtain an abortion.

I don't believe that any young woman should have to make this decision alone. Research actually shows that in most cases, young women already involve one or both parents when faced with an unintended pregnancy, without being required to do so by law. But, tragically, not every family is perfect. There are some instances in which a young woman simply cannot involve her parents, including rape, violence or incest; and for some in this body to pretend that those instances should not be considered in this debate is unconscionable. The Child Custody Protection Act glosses over these complicated situations, making criminals out of grandparents, clergy and other adults who try to act in good faith.

Instead of criminalizing other caring adults in a teenager's life, we should do more to educate and involve parents about the critical role they can play in encouraging their children to abstain from sexual activity. Teenagers who have strong emotional attachments to their parents are much less likely to become sexually active at an early age.

I am disappointed that this bill does not provide any exemptions for adult relatives or clergy who seek to provide guidance and support to young women seeking abortions.

In the Senate, I have championed the Kinship Care Act which supports the many family members in New York and in America who are raising children who would otherwise be in the foster care system.

The reality is, not every child is fortunate enough to be raised by their biological parents. Nationwide, more than six million children—1 in 12 children—are living in households headed by grandparents. In New York City alone, there are over 245,000 adolescents already living in grandparent households.

It's important to note that for many families, but these families in particular, the legal guardian who has physical custody and who provides a young woman with support and guidance are not one in the same.

This bill fails to acknowledge the importance of close family members such as grandmothers and aunts, who often raise their relatives or play a significant role in their lives.

In doing so, this bill creates a strong incentive for young women to seek risky alternatives she wouldn't have considered if permitted to seek counsel from her family and community. Major medical and public-health organizations, including the American Medical Association, the American Academy of Pediatrics and the American Public Health Association oppose governmental parental-involvement laws because of the risk to women's health.

While we all hope that young women will involve their parents in these decisions, mandating parental consent has the serious potential to do more harm than good. In fact, during congressional testimony, Dr. Warren Seigel, an expert in adolescent medicine, stated that legislation mandating parental involvement ''represents bad medicine and places politics before the health of our youth.''

The Child Custody Protection Act is a reflection of the misdirected priorities out there when it comes to truly doing something about unintended pregnancy. Rather than criminalizing family members and clergy who are trying to provide guidance to these young women in crisis, we should be working to reduce the rate of teen pregnancy in this country. There are far better ways to prevent pregnancy than putting people in jail. We could start by supporting family planning services and making sure we're providing medically accurate information in sex education classes that includes contraception.

That is why my good friend HARRY REID and I have long championed the Prevention First Act here in the Senate which, among other important measures, ensures that Government-funded sex education programs provide medically accurate information about contraception.

And that is also why I rise today to encourage all of my colleagues to support the Lautenberg-Menendez amendment because we need policies that support and educate our young women about the importance of prevention now more than ever.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, just a quick response to our colleague and friend from Oklahoma. The fact is, there are certainly different views than this well-trained physician offered on the floor of the Senate. Parents all across the country—some 90 percent of the parents of high school students—insist that they would prefer to have comprehensive sex education available for their children.

The fact that this country of ours doesn't permit anything except abstinence only until marriage to be taught is outrageous. Where is the fairness? Where is the equity?

In New Jersey, we have a different view about people's choice than they do in Oklahoma. That doesn't mean that Oklahoma is totally wrong or that New Jersey is totally right. But the fact is, it is not sinful conduct and we ought to encourage people to give the young women a full understanding about sex education so they know there are alternatives to exposing themselves to an unwanted pregnancy.

It is outrageous that we want to close down the minds and opportunities for people to make a choice about what they do with their health and with their families.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I would like to make a few very brief remarks in relation to this particular amendment. There is one term used in this amendment that is of particular concern. The proponents say that they want a ''teen-driven'' approach to sex education. This is one of the things they want to encourage. I don't know about what kind of teenagers the rest of my colleagues were when they were teenagers, but when I was a teenager and if such a program was driven by me, that type of sex education program would look a lot different than one that would be driven by me as an adult and as a parent. I think focusing such a program in a manner that is ''teen-driven'' is just asking for problems, as far as what kind of mindset we want our sex education programs to contain. It is a minor example of a problem that is in this particular amendment.

Mr. President, because we don't know how much debate we are going to have on the underlying bill, I will talk for a couple minutes about the bill itself. First, I want to respond to something Senator CLINTON said when she spoke of the two sisters who were both raped by their father. That is a horrible, unimaginable situation. I applaud Senator CLINTON for her efforts in that family situation. The Senator talked about the older sister who wanted to help the younger sister because the older sister, had herself, been impregnated. Senator CLINTON had said the older sister would have gotten in trouble if she would have gone across State lines to help her younger sister obtain an abortion.

What Senator CLINTON pointed out is the exact purpose of this bill. The older sister had to get the judiciary involved to remove her sister from the abusive situation. Guess what. If the older sister would have taken her sister across State lines for an abortion, the legal authorities never would have been involved to take the child out of the abusive situation, and the younger sister would have been returned to an unsafe home where she would have been subjected to continued sexual abuse.

That is the whole point of this legislation, Mr. President. The judicial bypass for parental consent or notification that is required in most States is the only instances in which this bill actually applies. So the bill, I believe, would be consistent with what I understand that Senator CLINTON wanted for this girl: to get her out of an abusive situation.

Mr. President, will the Chair remind me when I have 5 minutes remaining?

The PRESIDING OFFICER. Yes.

Mr. ENSIGN. Mr. President, incest is a terrible act, a terrible crime. We should not be protecting the people who perpetrate these crimes. But at the same time, if there is incest involved we, as a society, must take steps to protect the young victims. Imagine a young girl who has had this terrible act committed against her and now somebody else with good intentions wants to take her across State lines to get an abortion. There are several problems raised by this scenario. If the judiciary can be involved, at least some of these crimes can be addressed. But if the crime remains secret from the parents and there is no judiciary involved, this girl will be forced to just goes back home, with the abortion hidden, to face continued victimization. The second concern that I have relates to the potential medical consequences that a young girl might face following an abortion. She might encounter a postsurgical infection, or complications if the abortion is performed with inaccurate or an incomplete medical history of the young girl, like administering some kind of medication or anesthesia to which the girl has an allergy. The young girls parents may not know to watch for postsurgical complications. Each of these medical concerns become life threatening when friends or a member of the clergy are involved rather than the young girl's parents or the authorities.

That is why I think some of the amendments coming up are ill-conceived and why this bill is so important to enact. I hope that as this debate goes forward we can bring out more of these points. I know the leaders are trying to work out differences right now.

I yield whatever time is remaining on this amendment to the Senator from South Carolina, Mr. DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I come to the floor today proud that Republicans are working to build a future of hope, by securing our homeland, securing our prosperity, and securing our values.

I believe today's debate over the Child Custody Protection Act cuts to the heart of who we are as a people. The ideas this bill is built on—preserving life, protecting our children, and upholding the rule of law—have defined the American character and shaped our society for over 200 years. Our commitment to protecting the most vulnerable among us is the surest test of our shared values and the key to our hope for a better future for our children and grandchildren.

There are very few who would disagree that the teenage years are a vulnerable and formative time of life. Peer pressure and the anxiety it can bring are sometimes overwhelming. From decisions about where to attend college, or to understand the negative impacts of things like drug and alcohol abuse, parental communication and support are vitally important as these young people make these decisions that will determine the course of the rest of their lives. Parents need to be involved. So it puzzles me that those who oppose this bill would essentially give a green light to those who would circumvent State laws and rob parents of the chance to give their young daughters the physical care and the psychological support they so desperately need.

Those who oppose this legislation claim that it would endanger teens facing truly abusive parents. So they want to strip the overwhelming majority of good parents of their rightful role and responsibility because of the misbehavior of a few.

Let's be clear: No one wants to place these vulnerable girls, many of whom have already been victimized by older men, into a situation that creates more fear than they are already experiencing. That is why States have built careful safeguards into their laws to provide recourse to those who have genuine reasons to fear an abusive parent.

I can imagine that the thought of facing any parent, no matter how loving, with the news of an unplanned pregnancy is a scary thing. But as a father of two daughters, I believe I speak for most parents in saying that the health and well-being of my girls is more precious to me than anything else in the world. Much worse than hearing of a pregnancy would be the news that a daughter was suffering from infertility or any of the other severe medical and emotional complications often associated with abortion—complications that, in many cases, might not be caught until it was too late if the parent was unaware of the procedure.

Other critics argue that this bill would add complicated consent regulations or that it would somehow be unconstitutional. Nothing could be further from the truth. This legislation does nothing to override existing State laws or enforce any kind of Federal mandate on States. It simply strengthens the idea that the will of the people of each State, as expressed by their elected State officials, should not be circumvented for major surgical procedures that have such profound moral and medical implications. Furthermore, this bill is designed to uphold only those State laws which have been drafted carefully enough to pass constitutional muster.

I am disappointed that this legislation has only attracted one Democratic cosponsor, but I am hopeful that my Democratic colleagues will not cave to pressure from the well-funded, profit-driven abortion industry, which includes Planned Parenthood and its lobbyist allies at Emily's List and NARAL. While they may provide significant sources of campaign funds, no amount of money can justify their ''abortion at any cost'' mentality, especially when that cost is the health and well-being of teenage girls and the rights of parents who most want to protect them.

An overwhelming majority of Americans understands that taking a minor across State lines to obtain an abortion without her parents' knowledge is

not consistent with our shared values. The Child Custody Protection Act is a well-crafted, balanced piece of legislation, and I urge my colleagues on both sides of the aisle to join the American people in supporting it. It is an important step toward protecting our families, securing our values, and building hope for a better future for all Americans.

Mr. President, I reserve the remainder of the time.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the vote in relation to the Lautenberg amendment No. 4689 be at 4:05 p.m., with the remaining time between now and then equally divided between the proponents and opponents of this bill.

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

Mr. ENSIGN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank my colleague from Nevada.

There is a lot of interest in this bill. People want to do something for our young people. People want to avoid these horrible situations. My friend cited the case of a young woman who was raped by her father, yet in this bill, the father retains all rights to take her over a State line. Can you imagine, to sign a parental consent form, a father who raped his daughter? So we want to correct these problems.

I yield 5 minutes to Senator PATTY MURRAY and then 2½ minutes to Senator LAUTENBERG at the close of the debate.

The PRESIDING OFFICER. The Senator only has 5 minutes.

Mrs. BOXER. Mr. President, I was told we have until 5 after, equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. I thank the Chair. It is the first time all day I have been correct.

I yield to Senator MURRAY 5 minutes and then, at the end of the debate, Senator LAUTENBERG for 2½ minutes.

Mrs. MURRAY. Mr. President, I rise today to speak about the so-called Child Custody Protection Act. This is yet another one of those divisive bills with a deceptive title and a dangerous impact on women.

Today, many Americans are upset about the direction in which our country is moving. One would think that the Republican majority would finally start addressing the real issues that affect working families every day—issues such as access to healthcare, high energy prices, fixing the prescription drug program, and protecting our ports.

But instead, we are seeing yet another debate on election year gimmick. Last month, Republicans rolled out a constitutional amendment on gay marriage just so they could energize their base. Then they brought up a constitutional amendment on flag burning. Now we have a divisive bill that threatens the health of women and undermines our rights.

It is no wonder that Americans are so frustrated with the Republican majority.

Today families are facing real challenges, and once again, what we see here is the Republican leadership is playing election year games. To me, this is just the latest example of how Republicans have the wrong priorities.

With a war overseas, painful cuts to education at home, veterans being denied healthcare, soaring energy costs, and mounting debt, the Republican majority is saying this is the most important issue we could be debating today.

They should stop wasting time on divisive election year politics and start focusing on the real challenges facing the American people.

We should be talking about pressing needs, not a dangerous and misguided bill that threatens the health of our Nation's young women.

Today's debate comes in the context of a series of attacks on women's rights.

Since 1994, we have seen a consistent and aggressive effort in Congress to limit a woman's right to choose.

There have been more than 170 antichoice votes taken in Congress since 1994. This bill follows that troubling pattern.

The legislation is not about protecting young women, or improving communication within families, or stopping sexual predators.

Instead, it is just another attempt by Republicans to chip away at a woman's right to safe and legal reproductive health care.

Let me turn to the substance of the bill.

This legislation could criminalize a grandparent, aunt, or adult sibling, for responding to a request for help from a young woman in a crisis pregnancy situation.

If any of these caring adults accompany a young woman across State lines to obtain reproductive health services, and the woman's home State has a parental-involvement law, then those caring adults could be criminally prosecuted.

Today, an amendment will be offered to exempt grandparents and clergy from this onerous bill. It is the least we can do to minimize the harm of this legislation.

But this law doesn't stop at turning caring adults into criminals. It would also criminalize anyone who transports a pregnant minor across any State line.

Imagine a young woman living in a rural area with no reproductive health service providers and the nearest facility is in a large city just over the State line. If that young woman boards a bus or takes a taxi to the city to get an abortion, the person who drives her could be criminally liable under this law and sued by the parents.

I think we all agree that a young woman facing a crisis pregnancy should be encouraged to talk to her parents. According to a study by Stanley Henshaw and Kathryn Kost, in the vast majority of these situations, the young woman does involve her parents. But tragically, in situations where women don't tell their parents, one-third of the young women are victims of abuse.

In an ideal world, every young woman would take to her parents, but we don't live in an ideal world.

The reality is that a young woman cannot always turn to a parent. We are not talking about a young woman who is afraid her parents will be ashamed or shun her. We are talking about serious situations where the young woman may be a victim of incest or abuse.

A young woman who has an abusive home situation often accurately predicts the danger of telling a parent about a pregnancy. This bill would punish those young women if they seek the support and help of other family members or clergy.

We live in a time when we have a lot of families who don't fit the traditional two-parent model. More and more grandparents are raising their grandchildren. Divorced parents are getting remarried, and young women can develop close relationships with their stepparents.

In these families, the caring adult who is responsible for the day-to-day care of a young woman would be criminally liable and could even be sued by an absentee parent.

We also know that some young women have no other alternative but to go to another State to obtain reproductive health services. Access to these services all across our country is severely limited—87 percent of counties have no providers.

There are States, such as Mississippi, that have only one provider. Our laws should reflect the reality that for some women, these services cannot be found locally.

Unfortunately, the only thing this bill does do is ensure that young women who are intent on seeking reproductive health services ''go it alone.''

If a young woman thinks that bringing a caring adult or supportive friend will get that person in trouble, she will make the trip on her own.

You wouldn't want your children to drive home from the hospital after having surgery, but this legislation will result in young women driving themselves after having a medical procedure.

How can my colleagues say that this bill is about the safety of young women when it actually endangers them more?

Proponents claim that the ''judicial bypass procedure'' is an adequate protection for young women who feel they can't involve their parents. That is not the case.

A young woman would have to go to a courthouse, get a hearing, tell the judge and anyone else in the courtroom her situation, and wait for a judge to rule.

Now imagine that this happens in a small town where the judge is friends with her parents. Whether it is a big city or a small town, a young woman who has never been to court could find the whole process intimidating and overwhelming.

This bill doesn't even have an exception to protect the health of young women. That raises huge constitutional questions.

Since Roe v. Wade, every constitutional Federal law restricting a woman's right to choice has contained a health exception, and many laws have been struck down because they lack one.

Should we really be saying that a young woman's health does not count when she faces a crisis pregnancy?

Is this Senate ready to tell young women that their health and safety do not matter?

This bill doesn't care about a young woman's health—and it barely even cares about her life. That is because the bill's exception for a life-threatening situation is very narrow and very limited.

In addition, according to experts who have studied it, this bill could effectively nullify the laws of States that allow physicians to provide confidential medical services to minors, such as my home State of Washington.

The people of my State have twice affirmed a woman's right to choose. That is the settled position of our State. This bill could reach into my home State and effectively eliminate those protections.

No matter how one feels about this bill, I think everyone should be concerned that Federal intervention could undermine the ability of States to set their own laws on this difficult subject.

The House version goes even further, potentially making criminals out of Washington State physicians who follow the laws of Washington State.

Proponents of this bill claim that it is needed to prevent sexual predators from taking pregnant young women across State lines to obtain reproductive health services against their will. But that is not how the bill is written.

If it were truly meant to prevent sexual predators from harming young women, why would it criminally prosecute a young woman's family members, including grandparents, aunts, or adult siblings? Why is the scope of this bill so broad that it includes clergy members and even unknowing taxi drivers?

Every one of us wants to reduce the numbers of abortions that occur.

Instead of forcing the Government deeper into sensitive and personal family relationships, we should focus on preventing teen pregnancies.

Mr. President, to summarize, across the country today, Americans are very worried about what is going on, whether it is access to health care, high energy prices, prescription drug programs, or protecting our Nation's security. But instead what we are seeing this afternoon is an election year gimmick.

Last year, we saw a constitutional amendment on gay marriage to energize their base, and then they brought up a constitutional amendment on flag burning, and now we are having a debate, instead of on the issues which are on the front burner for every American family, about the health of women and how we are going to undermine their rights. I find that very sad.

Let me talk a few minutes about the substance of this bill. As my colleague from California said, this is a bill which is going to criminalize a grandparent or an aunt or an adult sibling for simply responding to a request for help from a young woman who is in a crisis pregnancy situation. We will see later an amendment to exempt grandparents and clergy from this onerous bill. I hope we do that. It is the least we can do.

But I think what we should all agree on is that a woman who is facing a crisis pregnancy should be encouraged to talk to her parents. In fact, we have seen studies by Stanley Henshaw and Kathryn Kost that in the vast majority of situations, a young woman does involve her parents. But tragically, in situations where women don't tell their parents, one-third of those young women are victims of abuse. Those are the women we are going to be affecting by legislation such as this.

In an ideal world, the young woman would talk to her parents, but too often, too many young women do not live in an ideal world today. They cannot turn to a parent. We need to make sure they have the availability of health care for their needs, and this bill takes that away.

Unfortunately what this bill really does is ensure that young women who are intent on seeking reproductive health services go it alone. If a young woman thinks that bringing a caring adult or supportive friend will get that person in trouble, she will make that trip on her own. You wouldn't want your children to drive home from the hospital after having surgery, but this legislation is going to result in young women forced to drive themselves home after a medical procedure.

I don't see how my colleagues can say this bill is about the safety of young women when it actually endangers them more. This bill doesn't even have an exception to protect the health of young women, and that, frankly, raises huge constitutional questions about which we have heard.

This bill doesn't care about a young woman's health, it barely cares about her life, and that is because the bill's exception for a life-threatening situation is very narrow and very limited and, according to experts who studied it, this bill will effectively nullify the laws of States such as mine that allow physicians to provide confidential medical services to minors.

For that reason, I will oppose this bill, but I do commend the Senator from New Jersey, Mr. LAUTENBERG, who is offering an amendment that we will be voting on that is a comprehensive approach to reproductive health care for our teenagers. It will help reduce teen pregnancy, and that is its goal. That amendment would be a good step forward, but even that addition is not going to save this flawed bill.

We should be working on ways to reduce the number of crisis pregnancies among teens and women alike. That is why, on issues such as emergency contraceptives, I fought so hard to make sure the FDA makes its decision based on science on whether that drug is safe or effective.

Unfortunately, the bill we have in front of us today is just another ploy for the majority to get their base excited in an election year and, frankly, I am deeply concerned that women's lives are being used as pawns in a political debate. I believe women's rights should never be traded away in a ploy for votes.

I hope we send a message that we know our country is facing serious challenges and we are going to spend our very limited time addressing those challenges and fighting for all of our families.

I urge my colleagues to vote against this dangerous, divisive, and misguided bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. ENSIGN. Mr. President, the Senator from California said twice today that this bill protects a father who commits incest with his daughter. In other words, he can commit a crime and still take her across State lines to get an abortion.

That argument is illogical. Obviously, a father is a parent. In a State with a parental consent law, he is a parent with rights under State law. If he wants his daughter to have an abortion, to cover up his own crime, he can freely give his consent to allow his daughter to have the abortion in their State of residence. That father doesn't have to take his daughter across State lines. As a result, this bill does not affect such an outcome one way or the other. His abuse of his daughter in that situation is not only morally wrong, it is illegal. This bill doesn't affect that situation one way or another. So to say we are protecting a father's right to go across State lines—it is an argument, frankly, that just doesn't hold water. It just doesn't. This bill doesn't have anything to do with what the Senator was saying.

Let's just talk about what the bill does. This bill says that if a State has

enacted a parental consent or a parental notification law and if a teenage girl in that State gets pregnant and somebody besides her parents wants to take that child across State lines to avoid those parental consent or parental notification laws in direct violation of what the people of that State want, in direct violation of what the parents would want, that act, transporting a child across state lines, is a Federal offense. And that crime is punishable with time in prison.

Look at the consequences of not having this bill. I would point out, in order to put this in its proper context for my colleagues, that over two-thirds of the girls who have been taken across State lines for an abortion have boyfriends who are over 20 years of age. So typically, you would have a teenage girl with a boyfriend who is significantly older than her. And in the context of that relationship, the young girl becomes pregnant. Sometimes that pregnancy is the result of a forcible rape, where the girls does not consent; in most cases, it is at least statutory rape. This legislation will help law enforcement stop adult men from preying upon underage girls and violating the law with respect to the crime of rape—statutory or otherwise. Which is the right thing to do. This bill makes it a further crime if that male takes this young girl across State lines to get an abortion to cover up his tracks, basically to try to eliminate the evidence of his crime. Without this bill, the man who has already taken advantage of a young girl can further endanger her, by forcing her to have an abortion, with potential emotional scarring beyond what she has already gone through and potential physical scarring. In an abortion, some women actually become sterile because of the procedure, because of complications from the procedure.

The parents of most children in the United States are responsible. To take away their ability to be involved in something that is so important, so potentially life-altering with this teenager I believe is just wrong, and I think that is why 80 percent of the American people support this legislation.

In polls I have seen, 60-plus percent of people who call themselves prochoice support this legislation.

We are in a society that is so deeply divided over moral issues, and none more divided than this issue—the issue of whether you call yourself pro-life, or pro-choice, or anti-choice, or pro-abortion, or whatever names that are tossed around. I believe reasonable people can at least come together on some restrictions on abortion. This is one of those reasonable restrictions. That is why over 80 percent of the American people support this legislation.

It is only constitutional when—and this law only applies when—the States have judicial bypass. For those people who are concerned about whether in the case of incest the girl is going to be subjected to some kind of further abuse, it is reasonable that the judicial bypass is there and the reason the courts have recognized that for the parental consent cases. We are not forcing States to do anything as far as their laws are concerned. We are upholding the intent of the people of each State by saying don't circumvent the laws of our State by taking a minor outside of our State. The people of that State have spoken. I think we should at this point in time try to respect the laws the people of that State have enacted. Most importantly, we protect the parents' rights and the health and the lives of children across the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before we yield the 2½ minutes, this issue of incest is extraordinary. The bill as written ''protects the predators on our children who have committed incest.'' All you have to do is read it. These parents, these fathers, retain their parental rights in the bill. And even under the Ensign amendment it says they cannot sue a friendly person for helping their daughter. The government under this bill can still go after a grandma, or a clergyman who says to a young child, Let me help you, your father raped you. Those vicious criminals retain all their rights. It is an absolute outrage.

The point is, why I am in favor of the Lautenberg amendment is the Lautenberg amendment says let us take a step back, let us prevent these pregnancies. And if people want to vote against teen pregnancy prevention, I guess they have a right to do that. How they would explain it is beyond me. We are talking 800,000 teenagers who get pregnant, and in about 18 percent it was not intended.

I thank Senator LAUTENBERG and yield to him the remaining time before the vote.

The PRESIDING OFFICER. The Senator from New Jersey is recognized. The Senator has 1 minute.

Mr. LAUTENBERG. Mr. President, how incomprehensible it is that we have a position on the one hand that refuses to acknowledge in this body there are other ways to control teenage pregnancies than abstinence. We are not against abstinence. There are funds provided in the President's budget for 2007 for abstinence—$204 million. This amendment asks for additional funding to supply comprehensive education. We heard from the Senator from South Carolina saying that he describes our values as shared values. But we are not sharing values with the people in South Carolina from Bamberg County who had the lowest rate of teenage pregnancies after they started a program for comprehensive education in South Carolina. The Senator from South Carolina said we had to have shared values on these things. But these are shared values.

I hope our colleagues will look at this fairly, and think about the women who are hurting because they are prevented from getting an education and vote ''no'' on this bill and ''yes'' on my amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Mr. President, one last point related to instances where a father has raped his daughter and whether his rights are protected under this bill. We have an amendment that will address the concerns raised with respect to that issue. The Senator from California mentioned that the grandfather could be sued under this bill, could be prosecuted under this bill if he took his granddaughter across State lines to get the abortion. In that circumstance, the grandparent should be calling the local authorities. If it is a clergy, a friend, whoever it is that has knowledge of a crime against a child, that person should be calling the local authorities so that young child can be removed from that awful situation that she is forced to live in. The authorities should be involved, and in those cases where pregnancy results, the young girl, with the help of her grandparent, clergy member or other adult can seek a judicial bypass. I am confident that a judge hearing that case would allow an abortion under judicial bypass. But if the grandparents or the clergy truly care about, or the friend truly cares about that young girl who has been a victim of incest, then that adult should contact the local authorities. That is how an adult would be acting in the best interests of the child. Otherwise, all the adult is doing is taking her across State lines for an abortion, bringing her back to her home state, and returning her into the same very harmful situation that she was in before.

I yield the remainder of time. I call for the vote.

The PRESIDING OFFICER (Mr. CHAFEE). The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—48

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Smith
Conrad	Levin	Snowe
Dayton	Lieberman	Specter
Dodd	Lincoln	Stabenow
Dorgan	Menendez	Wyden

NAYS—51

Alexander	DeWine	Martinez
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Frist	Roberts
Bunning	Graham	Santorum
Burns	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Cornyn	Isakson	Thune
Craig	Kyl	Vitter
Crapo	Lott	Voinovich
DeMint	Lugar	Warner

NOT VOTING—1

Feinstein

The amendment (No. 4689) was rejected.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. THUNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENSIGN. Mr. President, I ask unanimous consent that for the next 20 minutes, the first 10 minutes be taken by the Senator from Illinois, Mr. DURBIN, and then the 10 minutes following that would be allotted to Senator SANTORUM from Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, this is a difficult issue for most Americans, the issue of abortion. There are strongly held feelings on both sides and the American people are conflicted. When you probe and ask them what they think about abortion, first, they would rather not talk about it. I think that is a natural human reaction because we know it is a delicate and difficult issue. Secondly, they basically say: Well, I don't want to criminalize someone who goes out for an abortion, but is there any way to reduce the number of abortions in this country? I think that is a natural reaction by most, that we should keep abortion legal, not a crime, but reduce the incidents of abortion in our country.

So we have a bill before us today which deals with one aspect; and the aspect is, what do we do about the fact that some States have laws that require parental consent before a person who has not reached adulthood would have an abortion performed and some States do not have those laws? What if you move from one State to the other? What law will apply?

Senator ENSIGN of Nevada brings us his bill and suggests that if you knowingly remove a person across one border where parental consent is required to another State where it is not required, the person who took that minor to that abortion clinic in the State without parental consent is going to be liable not just for a civil lawsuit that can be filed against them by the parents but also for a crime.

Their idea is to reduce the likelihood that young people will be taken across a State line to a State without parental consent by imposing new civil penalties and criminal penalties on those who would transport them.

Senator BOXER of California has come before us and pointed out some real problems with this bill. What about the situation where the young girl we are talking about has been a victim of incest? Would the father then have the right to bring a lawsuit against someone who took the daughter he abused across the State line? Nobody wants to talk about this issue. This is not the kind of thing you wake up in the morning and say: I hope the debate today will be about abortion and incest. But that is what we face. We are talking about writing the laws of the land in a way that is sensible. You say: That has to be a rare situation. Yes, it is. I am sure it is. But for that life and that person and that crime, it could be the most important and tragic event that ever happened in their lives. That is why we have to take this very seriously. We have to write these amendments very carefully.

The thing that troubles me about this debate is evidenced in the vote we just took. Senators LAUTENBERG and MENENDEZ came to the floor and said: If we are truly going to reduce the number of abortions, then we have to deal with the reality of family planning and sex education, other issues that politicians don't jump forward to speak about. They suggested we start creating programs that have been proven to be effective, that will help educate young people so they will avoid unwanted pregnancies and avoid the diseases and problems that may result therefrom.

What happened on this vote? What happened on a vote where we were talking about sex education as part of our approach? It was defeated. The approach which is dominant now is not to deal with the reality of young people and their knowledge of what they face if they make the wrong decision but, rather, punishment, to suggest to them that what they have done is not only morally wrong but could be criminal.

My wife and I have raised three children, two daughters. I know that to be a parent is to be countercultural. So many times we would say: We don't want you to go to that movie or look at that book; you can't watch this television show. Parents do that all the time in the hopes that you instill in your kids values they can live by and that they will make the right decisions. I never felt at any point that ignorance was a virtue. I felt with our kids, as many parents do, you have to be honest with them about the realities of life and what they will face.

The question of abstinence comes up on the floor. It is brought up by many. That is the first thing we told our kids: Stay away from sexual activity. This is something you shouldn't do. That is the best advice from a parent to a child. But beyond that, what more should you tell them? Senator LAUTENBERG suggests you should tell them more in certain circumstances, and it was rejected 48 to 51.

You might ask why we are debating this issue this day. I think it is important for us to reflect on why this happens to come to the Senate floor today. This issue is before the Senate today for two or three reasons. One reason is many Republican Senators who traditionally vote against abortion voted for stem cell research last week. This is a make-good vote. This is so some of them can remind their antiabortion constituencies they are still in their corner. I understand that.

Secondly, it is a way to kill time in the Senate rather than address the real issues the American people care about. This debate over this issue is taking time away from any debate on gasoline prices, on health insurance, on jobs.

Third, of course, it fires up a political base on the Republican side for the upcoming election.

A Gallup poll asked 1,000 Americans this open-ended question: What do you think is the most important problem facing this country today? They asked 1,000 Americans a few months ago. The top vote getters: The war in Iraq, gasoline prices, immigration, health care, and the economy. Where did the issue of abortion show up on this list? It tied for No. 33. Less than one half of 1 percent of people said abortion was the most important problem facing America today. But it is the most important issue in the mind of the Republican leadership that we should be debating on the floor of the Senate.

I hope we are able to work out an amendment to deal with the reality of the issue of incest, which is part of the debate, sadly. Perhaps the most egregious part of this bill is the fact that there is no exception for the case of incest. It empowers the parent who may be guilty of the crime to file a lawsuit and recover money because someone else took the victim across a State line. That is hardly where we want to go. Many incest victims are understandably frightened and don't want to tell their parents anything for obvious reasons.

Listen to the words of Sharon from New Hampshire, raped by her father at the age of 17:

> Imagine being 17, pregnant after being raped by your father, alone, isolated, afraid to tell anyone for fear your parents would find out and that, if they did, you would be further humiliated, harassed and abused. . . . I felt and feared these things.

Consider the case of Spring Adams, a 13-year-old girl from Idaho, raped by

her father and impregnated. A private organization learned about the girl, made arrangements to take her to the nearest abortion clinic 6 hours away to have an abortion. The night before Spring was to leave, her father discovered it. When Spring went to sleep that night, her father went into her room and shot her to death with a rifle.

These aren't isolated incidents. One study showed that 30 percent of the minors who had an abortion without telling their parents had previously experienced violence or threats of violence in their family. That is the real world. We should deal with the real world when we write these laws.

I think Senator ENSIGN understands changes have to be made to this bill. I hope we will make them. Let us all agree on this: We need to find ways to reduce the incidence of abortion. We need to find ways that are sensible and sensitive. Merely telling people you can't do it, you shouldn't do it, may not be enough. Education may be part of it as well. It is unfortunate the Senate has rejected the Lautenberg amendment which would have moved us closer to the point where that would have been available in some areas where good family planning information would have been available. It was rejected by the Senate.

Now we come before the Senate with this bill that is subject to amendment. We are hoping we can find a reasonable compromise on a very difficult and divisive issue.

Mrs. BOXER. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mrs. BOXER. I want to go back to the Lautenberg-Menendez amendment. It is extraordinary to me; when we try to talk about common ground on the issue of pregnancy prevention, doesn't my colleague believe one area we ought to all come together on, regardless of whether we call ourselves pro-choice or anti-choice, would be preventing pregnancies among teens?

Mr. DURBIN. That ought to be the starting point. Shouldn't we all agree on that? If we are going to reduce the incidence of abortion, one of the things we should do is make sure young people are aware of consequences. We should stress abstinence. The Lautenberg amendment put that as the highest priority. But then have family planning information available so young people know that there are ways to protect themselves. I think that was a reasonable starting point. We had a few from the other side of the aisle join us with that amendment but clearly not enough.

Mrs. BOXER. If my friend will further yield, is my friend aware there are 800,000 pregnancies among young women and that we could prevent these unwanted pregnancies and all of the attendant upset among families and that we had an opportunity to do that?

The PRESIDING OFFICER. The Senator's time has expired. Mrs. BOXER. I ask unanimous consent for 30 additional seconds and for Senator SANTORUM to have an additional 30 seconds.

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

Mrs. BOXER. Here we had a chance to do something to prevent these unintended pregnancies. This bill focuses on a small number of cases. It seems to me by two votes we lost that vote. It is an issue, wouldn't my friend say?

Mr. DURBIN. I would say we have to find very common ground on a divisive issue. That was a good starting point. Unfortunately, it did not prevail today. We will go on with this debate, but I hope those of us who look at this issue and worry over how to reduce the number of abortions can work to find some common bipartisan ground to help strengthen families and educate their children about the consequences of their actions, to promote abstinence but not to promote ignorance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise in strong support of the Child Custody Protection Act. I congratulate the majority leader for scheduling time for this important piece of legislation, as well as Senator ENSIGN for the terrific work he is doing in managing the legislation as the author of the bill.

This is very important legislation. It has been described many times so I won't go into detail. What we are trying to do is protect children from being taken across State lines to avoid parental involvement laws. As a father of six children, two daughters, I believe parents should be involved in the health care decisions of minor children. I am not alone in that regard. The vast majority of Americans believe in parental consent laws when it comes to having abortion procedures done on minors, that parents should be involved in that decision.

The Senator from Illinois described situations that are certainly the exception rather than the rule. When those exceptions arise, in all of the States there is a judicial bypass. The Senator from Illinois described some pretty horrific circumstances of incest or rape. Here you have a situation where if we don't have this law, the rapist or the person who committed the incest against this minor child could take that child across State lines, never report it to the police, have the abortion done, and the parents never know about it. Nobody knows about it, and the child is back in the home and potentially in the same threatening environment the child was in in the first place. At least under our parental consent laws and with this statute, if we are successful, the court can get involved. We can remove that child from the dangerous situation.

I don't know why allowing someone surreptitiously to avoid state parental consent laws is a benefit to the child. If anything, it is the opposite. That is not a rational reason for objecting to this statute.

Again, I suggest the American public overwhelmingly feels the same way. Parents deserve and should have the ability to be consulted and notified or give consent, depending on the State, to a medical procedure as severe and serious as an abortion.

If you look at the poll question, do you agree or disagree that a person should be able to take a minor girl across State lines to obtain an abortion without her parents' knowledge—this isn't consent, it is just knowledge—15 percent agree, 15 percent agree with that statement that she should be able to be transported across State lines; 82 percent disagree. They said people should not be able to take a child across State lines without the knowledge of their parents. Seventy-five percent strongly disagree with the current state of the law which is you can transport children across State lines in order to circumvent state parental involvement laws.

In Pennsylvania, all of the surrounding states but the State of Ohio have weaker laws on parental involvement than the State of Pennsylvania. So a child in the northwestern part of our State can go up to New York or, in the eastern part of the State, New Jersey or Delaware or, in the southern part of our State, Maryland, West Virginia, all of which have laws that are not as favorable to parents and children as Pennsylvania with respect to consent.

This is, unfortunately, not a hypothetical for those of us in Pennsylvania. There are cases, unfortunate cases of children being taken by a boyfriend or his family members across State lines and the horrible consequences that result.

We also have abortion clinics from other States that advertise in Pennsylvania. There are a couple of ads I will put up on the board. This is northeastern Pennsylvania. Scranton is there, up near the New York border. Here in the Scranton Yellow Pages is the All Women's Health and Medical Services in White Plains, NY, a toll free number; ''We are here if you need us.'' This is, again, advertising in White Plains, NY, which is not that close to Scranton. It is at least 50 miles away. And it talks about no consent, no waiting period. There is a parental consent provision in the Pennsylvania statute that was upheld as constitutional back in 1992. There is a 24-hour waiting period. Again, the clinic is advertising no consent, no waiting period, directly aimed at minors in Pennsylvania urging them to come and have abortions at their clinic across the State line.

Here is another one. This is at the other end of the State, the southern part of our State. This is the Yellow Pages in Lancaster. Atlantic Women's Medical Services, Inc., no parental consent, 16 years and older. The Pennsylvania law is 18 years of age. So if you are 16, 17, they require no consent; again, directly targeted at a State, encouraging women and others to bring

young women across the State line for abortions. They advertise abortions to 24 weeks, the abortion pill, low fees, all trying to make sure these young girls know that abortions are available without consent.

This is not a hypothetical. This is direct marketing to minors, direct marketing in the Yellow Pages to minors who are desperate and, in many cases, afraid and feel alone. They are marketing to these vulnerable children to get them to not talk to their parents but to come and get an abortion out of State, against their State laws. This is, again, not just a hypothetical but a real-life situation. And which I will share a case.

We had a case in Lancaster, PA, which began on Christmas Eve, 2004. A 14-year-old told her mother she was pregnant. The parents were prepared to be supportive, to help that child in whatever decision she made and in scheduling appointments with doctors, counselors, and other programs that could help this child get through this very difficult situation. The daughter chose to have the baby and raise it with the love and support of her family.

But the boyfriend's family didn't like the young girl's decision and began to harass and coerce the girl and her family in order to intimidate her into getting an abortion. The mother called the local police for advice and even called an abortion clinic to see how old you needed to be to have an abortion in Pennsylvania because she was afraid that her daughter might be pressured toward an abortion. She was told the daughter needed to be 16 though that was actually incorrect because she needed to be 18 to have an abortion without consent. Therefore, her mother thought she was protected.

That wasn't the case. In mid-February, she sent her daughter off to school, but the daughter never made it there. Her boyfriend's family met her and her boyfriend down the road, put them in a cab and then on a train, and then a subway to New Jersey, where his family met them and took them to an abortion clinic where one of them had made an appointment. The young girl had second thoughts, but she was told they would leave her in New Jersey if she didn't undergo an abortion.

After the abortion, the family of the boyfriend, who may have been attempting to conceal the evidence of his statutory rape, drove her back to Pennsylvania. Again, this left the young woman completely unprotected with the state not being able to go after this young man and his family for taking her across state lines for an abortion. That is what it seems was behind the parents trying to get rid of this child. This is a situation which should not happen. We have State laws that protect children and parents and their rights to be able to nurture and help their children along the way.

This was a difficult circumstance, and as I said before, there are, unfortunately, others. We even have in the State of Pennsylvania organizations outside of these legal clinics that are trying to give advice and help to minor children on evading the parental consent laws. There is an organization called the Women's Law Project. It says here in their publication, ''Is it legal for teen-aged women to cross State lines to get an abortion?'' This is a document which is handed out and given to young women to help them avoid the State laws that are in place for parental consent. It says:

> Yes. However, the adult may risk a charge of interfering with the custody of a minor. Adults who are accompanying young women under 14 to out-of-State abortion providers should contact a lawyer for the Women's Law Project.

So if you are over 14 years of age, they assure you that you can go to an abortion clinic out of State. If you are under 14, your accompanying adult may have to call our lawyers to take care of the situation.

This is a real-world situation, a problem we are confronted with in this country. All we are trying to do is let the State laws, the collective wisdom of the people of Pennsylvania, have effect, have efficacy; that the laws which are put in place are there to protect children and the rights of parents. The only one that can stop others from getting around those protections and avoiding State laws is the Federal Government, by stopping the interstate transportation of these children for the purpose of abortion.

So this is a vitally important piece of legislation for the Commonwealth of Pennsylvania. This is one in which I am hopeful that 75 or 80 percent of the Senate will agree with when it is all said and done because it is vitally important, for the health of our children and for the stability of families, to give families and children this legal protection. That is what we are doing. That is what these States have done—given legal protection from further abuse of minors who find themselves in a situation where they are pregnant and under, obviously, a horrible situation in their lives. They need their parents. Where the parents are the problem or a threat to them, there is a judicial bypass. We have in place safeguards where parents are the problem, which, again, is a minority of situations. We do have protections in place.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. Yes.

Mr. DURBIN. The bill creates a civil cause of action the parents can bring. Does the Senator from Pennsylvania believe that in one of those rare, tragic cases of incest and the father is the reason for the incest, he should be allowed to bring a civil cause of action against the person who has transported the victim?

Mr. SANTORUM. The Senator from Nevada has an amendment which is going to take care of that situation. I will defer to him, if he would like to answer that question on how the amendment would work to preclude that problem.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, to answer the Senator from Illinois, we are going to fix that. We realized we needed to fix that problem, and we have an amendment. The Senator addressed this, and that will be one of the amendments that is coming up.

I yield 10 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I thank the Senator from Nevada, and I thank the leadership for bringing up this topic. It is commonsense and pro-family legislation. I hope we pass it in an overwhelming fashion through this body and that it arrives on the President's desk once we go through conference committee and get it back here and that it can become the law of the land.

The bill has been described in many different iterations. I believe people understand the concept of what is being put forward about involving the family. I believe this is a significant pro-parent, pro-child, pro-life piece of legislation. It is a bill that everybody knows is to help to preserve this role by making it illegal for somebody to take a child across State lines for an abortion, thereby circumventing parental rights laws in the State where the child resides. That is all well known. The issue I wish to deal with briefly, if I could, is the commonsense feature of this legislation.

Everybody has talked about the examples of how you cannot get an aspirin in school without the parents' permission. You virtually cannot do any medical procedure without the parents' permission, except an abortion. Everybody looks at that, and they are quizzical and wonder why there is this exception.

I wish to talk about the commonsense feature of this. Why is it that we don't give aspirin to children at school? Why is it that we require that parents are involved in the medical decisions of their children? The reason, I think—and most people look at it as common sense—is that there are consequences to this. If this happens, if the child has a response to the aspirin or if the child has some reaction to a minor surgery, the parent needs to be involved. Something might happen, so the parent needs to know. We need to take care of the child. The parents have the role of being entrusted with that child's life and working with that child and therefore needs to be actively engaged in knowing what is going on with the child.

We have held hearings in the Senate and in the House of Representatives, and many States have held hearings on

the impact of abortion on women. There are groups that are formed about the impact of abortion on women, both physically and psychologically. We have had expert witnesses present and testimony about how abortion impacts and harms women physically and psychologically. There have been books written on this topic. Some people say: We don't think it has as big an impact as you say it has. Others say: I think it has a bigger impact. That debate can be taken, I suppose, to any medical procedure on a child.

The point of the issue is that we have the parents there to help them help the child, and they decide. That is who is making the decision. That is who is making the decision on whether the child gets minor medical care at the school. You want the parents involved. They are the guardians, the ones who are responsible.

Here is a situation where, clearly, you have a physical impact on the child. I believe clearly that you have a psychological impact on that child. I think that has been documented. Others question whether that has been fully documented. Clearly, on a number of women who have abortions, there is a psychological impact. Isn't it simply common sense that parents would be involved in such a monumental decision that is going to impact this child for the rest of their life and that parent would be involved in helping the child to process what is the wise decision, the right thing to do, the appropriate thing, what the options are and the sorts of things they can do? Particularly at a time when the child is going to have to process this in a difficult emotional situation, the parent needs to be involved and should be involved to give that wise counsel, prudent counsel, to the child involved in this particular circumstance.

Parents can and do help present all of the health facts to their children and help them make a prudent decision. That is just basic common sense. It is the right thing that we ought to do. Parents can help to spot abusive situations which might not otherwise be evident to the child. Without parental involvement, abortion can be forced upon a young woman by, in some cases, an abusive male figure in order to cover up a crime.

The role of parents in protecting children is essential. This cannot be delegated to any other person. Yet in this law, we even provide for the judicial bypass procedure. Especially when a daughter is facing an unintended pregnancy, parents need to be involved. We talk a lot on the Senate floor and have worked over the years to try to build more and stronger family units. One of the key ways to do that is to have the parents more involved in the decisionmaking of the child, particularly when health consequences are there. This is one on which that should take place.

When a child is undergoing this procedure, it does clearly terminate a young life growing in the mother's womb. That has an impact on the child psychologically, if in no other fashion. Parents need to be involved in helping to process how that is going to be handled for the child.

I believe this legislation is a step in the right direction. It would go some distance toward helping protect parents' rights and children's health. It would help integrate and build that relationship between the parent and child.

I urge my colleagues to pass this legislation. I hope, as a message to the country, we can pass it in a large bipartisan fashion and send a signal to people that this makes good sense. It is appropriate for us to do.

It is not simply that you are pro-life or you are pro-choice; therefore, we are going to split on those lines. Rather, we should look at this as parents, as we virtually all are on this floor, and saying as a parent, whether I am pro-life or pro-choice, I would want that sort of information for my child, and I would want to be able to have that information to process as a parent, and that I would say to my legislators I am one way or the other on the abortion debate, but as a parent I believe it is my duty to know this. This is my duty to be involved in this type of decisionmaking for my child.

I think that is why, while we have a lot of debate about the issue of abortion in the country, this is so strongly supported by people because so many people look at this outside the abortion debate, and they look at it much more as a parental debate, as to how they observe and they deal and they want to deal with this particular issue. I urge my colleagues to look at it that way as well. Take it out of the grid of the abortion debate and put it into the decisionmaking grid of a parent. I think if we do that, we will pass this in a strong bipartisan fashion.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from California is recognized.

Mrs. BOXER. Mr. President, I yield myself time off the bill. How many minutes is remaining on our side on the general debate on the bill?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mrs. BOXER. Mr. President, I have not yet had a chance to lay out my objections to this bill. I would like a chance to do that and, of course, those objections have just been elevated given the fact that by just two slim votes, we failed to adopt teen pregnancy prevention legislation, which is, of course, one of the most important issues we face in our society today. We have 800,000 young women whose pregnancies could have been prevented if they had such education.

Here we are dealing with a bill that seems to come back before the Senate every election for reasons that the other side can explain. Instead of tackling the issues of health care for our young people, insurance for our young people, pregnancy prevention for our young people, we are dealing with an issue that impacts just a few people. But so be it.

The good news is, we have had a debate on teen pregnancy prevention. The whole country got to see it, and they got to see where the votes lined up. It is pretty clear.

The other good news is that we had a debate on stem cell research, and we saw a very similar situation where we picked up a few votes on the other side but not enough votes. The President vetoed stem cell research. You want to talk about a health issue, you want to talk about helping the health of our young people who have juvenile diabetes or those who are paralyzed because of an accident; if you want to talk about helping people with Alzheimer's or Parkinson's. But oh no, the President vetoed that. Another four or five votes in this Chamber could have made the difference between having stem cell research and not. But now we are not going to have it.

Frankly, in my State, we took matters into our own hands, and Republicans and Democrats together voted for stem cell research, and we have a $3 billion program. This isn't a partisan issue in my State. But oh boy, it is a partisan issue here. It just shows how far to the right we have come in the national debate.

So instead of doing something to improve a lot of our people, we are looking at this small issue. We are looking at a bill that, as it is now drafted, protects incest predators. We are working on that, hoping to come to some joint approach that can stop that problem, or part of it anyway.

As drafted, this bill throws grandmothers in jail and violates our Constitution. I would say this bill has a problem.

Again, we tried to make it better, but even our amendments did not go far enough. We did not have an exception for rape. If a young girl gets raped and she runs to the most trusted adult she knows, perhaps her grandma, and her grandma takes her into her loving arms because she is too scared to go to her parents for whatever reason. We have situations and I will share those with you where girls were so fearful, so frightened, and with good reason, that they couldn't go to their parents. So they go to a loving grandmother. And guess what? Under this bill, the parents can sue the grandmother. Unbelievable. That is Big Brother all right. Talk about family values interfering straight in. It is unbelievable.

We tried to fix the thrust of this bill to add on a Teen Pregnancy Prevention Act. We couldn't do it.

So this bill, at the end of the day, focuses on a small number of young women crossing State lines with an adult to get an abortion and ignores 800,000 pregnancies which could have been prevented.

We had our chance. We had our chance, but, oh no, it is going to be

about political correctness. It is going to be about rightwing ideology. Oh no, we can't do that.

This bill does nothing to increase communications between parents and teens. It does nothing to stop sexual predators. Most young women who become pregnant already turn to their parents for help.

This is a wonderful country. We have loving families, for the most part, loving open families who say to their kids, as I certainly did to mine, and my husband did: Anything you have on your mind, you just come to us. You feel free to tell us. That is how it should be.

When I was a child, my mother said I could tell her anything, and I did. I told her anything. She loved me unconditionally and helped me through whatever problem I might have had.

With my own children, I tried to emulate my mother. I hope and I think I did that. They are now grown. They take care of me.

But what about young people who don't have that warm feeling in their families? What about the millions of victims of violence and abuse? This bill, as it is drafted, hurts just those victims. It doesn't mean to. That is not the purpose of it. But we have found out in our lives that some bills have unintended consequences, and this one sure does.

As this bill is drafted, a father who commits incest and takes his daughter over a State line—we are trying to fix it, and we hope we can fix it—that father has rights under this bill. It is an outrage.

Nearly half of pregnant teens who have been abused or assaulted are found to be abused and assaulted by a family member. That is the sad truth. Thirty percent of minors who don't tell their parents have experienced violence in the home. In other words, they are too fearful to go to the home where they have suffered violence. They fear violence or they worry that, in a rage, their parents will kick them out if they tell them they have become pregnant.

Don't we want them to be safe and secure? Don't we want them to have help from a caring adult? I would hope so. But under this bill, a clergy member who really cares about the family could be sued by parents who abuse their children. A loving grandma or a loving aunt could be sued. Oh, there are no exceptions allowed.

Senator FEINSTEIN, unfortunately, is suffering from the flu and cannot be here today. She had an amendment—she cannot offer it—that would have exempted caring clergy and caring relatives. She couldn't be here.

This bill is so imperfect that I cannot begin to count the ways.

In my State, as I mentioned previously, parental notification laws have been voted down. In general, we all want to have adult consent. I believe it is important to help guide a young person through such a decision. But when we look at some of the unintended consequences of these bills and the fine print of these bills, we find that they are going to have the opposite effect of what we want. Instead of helping the minor, it puts her at risk.

We know some specific cases: A 12-year-old whose pediatrician discovered she was pregnant. It turned out the rapist was her stepfather and the mother wasn't living with the girl. The doctors recommended that her Aunt Vicki bring her to a specialist in a neighboring State. She was only 12 years old, the aunt said. It is bad enough to go through incest, but then to have a child from that incest. We should all agree that only the father should go to jail, not the caring relative, Aunt Vicki.

I know it is very difficult to talk about this topic, but some very sick people do rape. Fathers do rape, uncles do rape and even impregnate their daughters.

Look at these newspaper stories from around the country.

''An American Tragedy.'' This is from The Oregonian:

> A 13-year-old girl in Idaho whose father had impregnated her. . . . the morning she was supposed to have an abortion, her father, who admitted his guilt, walked into her room with a rifle . . . shot her in the head and then he shot himself.

How does this bill prevent that? This bill will frighten a girl, make her more alone because she can't go to a caring adult because a caring adult could be sued by a parent. So she is scared. She gets in a car. She drives over the State line by herself. She is all alone. The father finds out, grabs her. She has no protection. He shoots her, shoots himself.

What are we doing here? Why don't you look at what you are doing. Why don't you look at the practical impact of what you are doing?

Here is another: ''Teen Accuses Father of Rape,'' The Journal News, Westchester County, NY.

> . . . man was arrested and charged with first degree rape of his teenage daughter. The man tried to force his daughter to take an unknown pill to cause a miscarriage because he believed she was pregnant.

This happens too often.

''Father Sentenced for Raping Daughters,'' Newark Advocate:

> Man convicted of raping his two daughters. . . . the girls were 13 and 17 at the time of the crimes.

''Man Charged with Incest is Arrested in North Carolina'':

> Police said a father raped and impregnated his 16-year-old daughter and raped his stepdaughter who is mentally and physically disabled.

The way this bill has come to us from the committee protects the father. Senator ENSIGN and I are working hard—and I hope we can reach agreement—to solve the problems of this bill. But the way the bill passed the other body, they didn't pay any attention to this. Wonderful, we pass a bill that protects fathers who rape their daughter. It is basically a bill that, all of that incest aside, really will wind up in a young woman getting into a car on her own, frightened to death to tell her parents, and driving alone.

''Ordeal Ended/Dad's Arrest Ends Years of Rape for Teen,'' Newsday.

> For years, a convicted child sex offender used his Bronx home as a pornographic movie studio for sex videos of himself and his young daughter. The girl had tried at least once to alert someone—her mother . . . her mother took no action.

''Her mother took no action.'' As Senator ENSIGN and I try to reach an agreement on an incest amendment, let me be clear: We are not going to reach that mother. I, if I go along with this, am giving up a lot of my amendment. This is still an imperfect bill, and I will show you in a checklist my amendment versus the Ensign amendment and what we try to do in our amendment.

The Ensign amendment, as was originally proposed—we support it—stops a father who has raped his daughter from suing the trusted adult who helped his daughter end the resulting pregnancy. We applaud that amendment, and that amendment will hopefully be adopted.

But we don't stop with that because the Ensign amendment doesn't go far enough. We want to stop a father who has raped his daughter from exercising any parental consent rights. We want to stop all criminal prosecution or jail time for a trusted adult who helps a victim of incest.

Imagine under this bill a child goes running to a nextdoor neighbor whom she loves, a kind of an aunt to her, and she says: Please help me, please help me. I am pregnant. My father raped me. I can't go in that house. I can't tell my mother. My mother won't believe me. The nextdoor neighbor helps her. Under this bill the mother and the father can sue. We have to fix that. We are not going to fix it today. We can't reach all of what I am trying to do because I can't get agreement on the other side. It is still going to be an awful problem.

We also stop a father who has raped his daughter, or any other family member who has committed incest against a minor, from transporting her across State lines to obtain an abortion.

We don't want these perpetrators of incest to take their victims across the State line. We are working hard under the parameters of this bill to address the issue of incest.

At the end of the day, if our negotiations go well, we will have taken care of two of the five Boxer provisions. Will I be happy that these three provisions are not taken care of? No. I am not happy. It is outrageous that we can't get it all done. So be it. Let the people judge. But we will do as much as we can to improve this bill.

This bill as written protects the rights of brutal fathers. There are not many out there, but there are some.

There is only one thing that we can do to make matters worse than parental consent: that is giving these sexual predators more power over their children to keep on perpetrating these acts

and then saying they know how to handle it. They can handle it. Just take a child in the car and go.

The bill as written actually forces some young incest victims to get permission from their rapist fathers to get an abortion. Can you imagine? We have to fix that. And it allows the predator fathers to take their daughters across State lines.

We are trying hard to reach an agreement to take care of this problem. I am grateful that we may get two-fifths of the way there on my amendment.

I will work hard if this bill becomes law to fix this bill. I will introduce legislation to fix this bill. I will also prepare legislation that goes further than this and says if someone is a victim of rape and they are fearful of telling their parents, that parent, adult, or grandma can't be sued.

We really have a long way to go. This bill has many problems. It sends a message to young girls: Go it alone. Avoid all of this. Get in your car and go it alone. Don't take anyone with you. If you get in trouble at your moment of need, this bill says go it alone. She can go across the State line on her own. This bill doesn't do anything about it—only if she has a parent with her to help her.

I believe this bill is unconstitutional. The Supreme Court has been clear that abortion restrictions must not impose an undue burden on women, and they must include a health exception. There is no health exception in this bill. If a doctor takes a girl across State lines because he worries about her health, and if she doesn't get an abortion right away and faces paralysis or faces infertility, there is no exception in this bill. The doctor can be sued.

What kind of message are we sending to young women? Go it alone. What kind of message are we sending to fathers who commit incest or mothers who turn a blind eye to it? Oh, don't worry. You are protected. Maybe Boxer will get two of her provisions, but we are not going to give you the five. I thought it was one nation under God, indivisible.

I didn't think when we cross over State lines we are going to have the pregnancy police look in our cars. This is unconstitutional. You don't have to carry the laws of your own State on your back. If you go through another State and there is a speed limit that is different than the one you live in, you obey the laws of the State you are in. That is the law you carry on your back, not the State you left. No one could go gambling in Nevada if we said: If you live in Tennessee and no gambling is allowed, you can't go gamble in Nevada because you will be arrested by the police at the border.

There are different criminal acts and different penalties in different States. Some have tough laws. We know that. States have rights.

We find it interesting how someone only supports the States when they agree with them. But if they don't agree with that State's law, then they try to force another State's law onto the State with which they disagree. I don't know of any other law in history, with the exception of the Fugitive Slave Act, that has required citizens to carry the laws of their own State on their backs. That was back in the days of slavery. If you ran away to another State, you were still stolen property until the court said no.

If you look at the constitutionality issue, if you look at the fact that victims of rape are left in deep trouble, as are victims of incest, if you look at the fact that good, kind, loving people like grandmas and grandfathers could go to jail for helping their granddaughter—no matter how you look at this bill, I believe you should come to the conclusion that this bill has major problems.

Parental consent—you know something, Senator ENSIGN is right. People support the idea that a parent should be contacted by their child and talked to when a child has an unintended pregnancy. We want that so much. I want that so much.

I also want kids to know they could talk to their grandma, they could talk to their grandpa, they could talk to their clergy, they could get help when they need it.

I don't believe the American people support throwing grandma in jail because she embraced her granddaughter and said: My God, I am worried that your parents, your dad might hurt you if you tell the truth. She throws her arms around the granddaughter and protects her and helps her through a crisis.

I believe stopping an abortion is worth preventing a teen from having a lifetime of paralysis, infertility, or worse, and yet there is no health exception in this bill. I think people want us to stop using this issue as a political football.

I know who brought this up. It is brought up by the other side of the aisle every time we have an election.

I hope we can join hands to stop teen pregnancies. We had a chance to do it. But no, we had a vote and we lost that vote. It is unreal. We got a couple of Republicans, but not enough.

I hope the American people are watching this debate. If our goal is to help our young people—and that is the stated goal—there are a lot of ways we could help rather than scaring them to death and making them go it alone in a desperate situation, making criminals of their grandmas and their grandpas and their clergy.

I am sad that the Teen Pregnancy Prevention Act didn't pass as part of this bill. It would have made this bill better. I am glad that we are going to have some coming together on the incest amendment, although as I said, it is only going to take care of two of the five problems we have relating to the bill. But at least we are making a bit of progress.

The bill, to me, is blatantly unconstitutional. It violates our core principles of federalism. It puts caring adults in jail and endangers the health and lives of our most vulnerable teens. On that basis it ought to be defeated.

I believe this bill will pass. I also believe our incest amendment will pass. I think that is important. We should have two votes on that. I think it is important to have those recorded votes so that the message goes to the House that their bill blatantly helps the predators. I call it the ''Incest Predators Protection Act.'' Thank you very much. I know my time is up. I yield the remainder of my time at this time.

Mr. ENSIGN. Mr. President, I yield 15 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I thank the Senator from Nevada, Mr. ENSIGN, for his leadership on this issue and for yielding time and for bringing this important matter before the Senate.

My colleague from California mentioned that this is an election year ploy. But I think the last time this was voted on in the Senate was in 1998. That was a cloture vote. I don't know that there has ever been an up-or-down vote in the Senate. It has been voted on in the House.

I think most people see this particular provision as something that is a commonsense approach to this issue. Obviously, there are a lot of labels that are thrown around in this very contentious debate in our country. But when it comes to this particular issue, the courts have laid out some parameters under which States can operate when it comes to statutes that they adopted that impose conditions and restrictions on abortion. The undue burden requirement that came out of the Planned Parenthood v. Casey decision many years ago created this scenario where if there is not an undue burden, that statutes enacted by States can impose restrictions. And many States have done that.

One that many States have adopted is the issue of parental consent or parental notification. In fact, there are about 37 States to date that have adopted in some fashion that particular legislation. Thirty-seven States have enacted statutes imposing legal obligations on pregnant minors to notify or gain the consent of their parents before getting an abortion. S. 403, which we are debating today, does not supercede or otherwise alter any of those laws, nor does it impose any parental notice or consent requirement on any State. These are States that adopted these laws. The bill would only give effect to a State's parental involvement law if that law is constitutional. Therefore, any State parental consent law given effect under this bill must contain a judicial bypass provision which allows the minor girl to petition a judge to waive the parental notification requirement.

Just to give you an example of States that have enacted these types of laws,

my State of South Dakota, for example, requires that a minor under the age of 18 have the consent of one parent or judicial bypass to obtain an abortion. States in my region and neighboring States such as North Dakota, require the same thing, only it requires two parents' consent or judicial bypass. Nebraska requires essentially the consent of one parent or judicial bypass. Iowa requires that a minor must have the consent of one parent or grandparent or judicial bypass. Wyoming requires that a minor under the age of a eighteen must have the consent of one parent or judicial bypass. In Minnesota you must have the consent of two parents or judicial bypass. Montana, again, one parent or judicial bypass.

My point very simply is that the States and State legislatures have found, within their purview, ways that are constitutional to address what is a very gripping issue for the country, one that has created a great deal, obviously, of debate for the past 30 some years, and I suspect will continue to be debated not only here in legislative bodies but in front of the courts.

The courts have laid out a framework, a set of parameters. States have acted accordingly. All this simply does is reinforce those State laws and allow parents to be involved in probably what, without argument, has to be one of the most consequential decisions a teenager will ever make. As a parent of two teenage daughters, we talk about everything. We talk about where our children want to go to college. I have a teenager who is starting college this year. We talk about who they hang out with on a regular basis. We talk about what they wear, obviously, their apparel. We talk about who they date. We talk about who they associate with, all the decisions that they make in their lives on a daily basis. We try to stay very involved and engaged in their lives, for obvious reasons, because that is important as a parent.

I have a 16-year-old who will be a junior in high school. Ironically, in 27 States in this country, my 16-year-old can't get a tattoo without the permission of a parent. In 27 States, my 16-year-old cannot get her body pierced without permission of a parent. Yet we would allow what, arguably, would be the most consequential decision that child could ever make to go without consultation with a parent. It seems to me that common sense dictates, and I think most people around this country would agree, whatever side of this issue they find themselves on, this is a very common sense way to proceed. Allowing someone to essentially bypass a parent and take a minor, a teenager, across the State line to have an abortion is something that crosses not only State lines but crosses the lines of what most Americans would concede makes common sense when it comes to the way we raise our children and the kind of culture we want to have in our country.

I have to say I sure as heck as a parent would not want some other person taking one of my daughters somewhere to have this procedure when the emotional, the health, the medical ramifications of that decision could be so consequential in terms of my daughters, or any daughter, any teenager or any minor's future. I cannot imagine that this does not meet the common sense threshold, the test that most Americans would apply—again, irrespective of what side they find themselves on this particular issue.

If you look at this bill, and ultimately what it is designed to do, there are several things that would happen. I believe, if this act passed, it would substantially cut down on the number of minors who obtain abortions. It has been shown that parental involvement laws can decrease abortions among minors by 8 to 9 percent. Furthermore, Senate bill 403 will likely magnify that effect since minors often cross State lines to evade their home State laws. The bill does not infringe on States' rights. It merely gives teeth to existing State laws. In fact, the Federal Government will prosecute individuals in violation of this act. Senate bill 403 does not mandate individual States to enforce laws which they have not passed.

Additionally, this legislation does not criminalize doctors or the young women who obtain abortions. It prosecutes only those who take minors across State lines in an effort to evade parental involvement laws. In States that do not have parental notification laws, nearly 40 percent of minors keep their pregnancies secret. Since abortion is a major surgical operation, I believe parents need to know if their daughters undergo an abortion so they will be able to help them with any potential complications, including both the physical, emotional, and mental complications that can arise from the procedure. In cases where this would be inappropriate because of an abusive relationship, the judicial bypass is still an option.

Senate bill 403 will help parents keep their daughters out of inappropriate and/or predatory relationships. The American Academy of Pediatrics Committee on Adolescents estimates that almost two-thirds of adolescent mothers have partners over the age of 20. Additionally, in 58 percent of cases where a daughter does not notify her parents of her pregnancy, her boyfriend is the one who accompanies her for the abortion.

Combining those two statistics suggests a substantial number of abortions are obtained in an attempt to avoid statutory rape laws. Underage children cannot obtain an aspirin at school without parental consent, but nothing prevents a minor from being transported from her current State where parental consent is required to another State where she can legally obtain an abortion without any parental consent. That is what this legislation intends to correct. Abortion clinics in States where there are no parental consent laws actually advertise in States requiring parental consent by using ''no parental consent required'' ads.

This legislation is not unreasonable. As I said earlier, 27 States require a minor, a person under the age of 18 today, to obtain parental consent to get a tattoo. Essentially, 27 States also require minors, persons under the age of 18, to get parental consent to get piercings, including ear piercings.

It seems to me, again, as a parent of two teenage daughters, as well as someone who is observing the debate we have in this country over this particular issue, this is a reasonable, commonsense approach, a measure that has been discussed and debated, the constitutionality of it addressed.

My colleague from California, Senator BOXER, said this is unconstitutional. As I said before, the courts have said as long as it does not impose an undue burden, these types of restrictions fit within the parameters of what is constitutional. Furthermore, under the Commerce Clause, the way this particular bill is worded fits within that constitutional framework. I don't think that is a valid argument.

One of the arguments that was made, as well, by my colleague from California had to do with the issue of incest. A judge found Arizona Planned Parenthood negligent for failing to report to Child Protective Services an abortion performed on a 13-year-old girl in foster care. This girl's case dates back to 1998 when she went in for an abortion at a Planned Parenthood abortion facility accompanied by her 23-year-old foster brother with whom she was having a sexual relationship. Planned Parenthood did not notify authorities until the girl returned 6 months later for a second abortion, according to court records.

There are lots of examples that can be used, obviously, to support what this legislation attempts to accomplish. As I said before, this issue has not been debated in the Senate for some time, although I will say it has been acted on by the Congress—not in the Senate but by the House of Representatives. The House earlier this year passed this bill by 270 to 157 or something like that, and had voted in 1998, 1999, and 2002. I was a Member of the House during those years and in every case this legislation passed the House and passed it by very sizable margins.

It would make sense that the House, having acted on it this year, having gotten approximately 270 votes in support, that we have a debate in the Senate and have an up-or-down vote on this legislation which, as I said earlier, I believe is a reasonable, commonsense approach to dealing with what is a very controversial, contentious issue in the country today.

Most Americans would agree that parental notification, parental consent, allowing parents to have involvement,

input, consultation, with a teenager who was pregnant and is considering having an abortion, rather than having that teenager taken across State lines in a way that contradicts the will of the parents, makes a lot of sense. Again, it is an affirmation of parental involvement, parental rights, an affirmation of States rights, for that matter, too, if you look at all the States that have enacted laws. Thirty-seven States have enacted, in some form, this kind of requirement. Whether it is notification of one parent and judicial bypass or two parents and judicial bypass, but, clearly, there is precedent with all the States that have taken steps. This does not circumvent in any way those State laws. It simply affirms those laws in many respects because the States that have acted in a way that would require this kind of a notification, this kind of consent, this kind of involvement on a parental level.

Right now, people who are going around that requirement and going across State lines to have abortion procedures are getting around State laws. This is simply a way of drawing parents into the debate and making sure that, regarding teen abortions in this country, the States have acted accordingly and have adopted statues that require some kind of consent, notification, consultation, that those laws are respected, and, again, that parents' rights are asserted in this process.

I simply add, in closing, my State of South Dakota has this kind of law on the books. This is something a vast majority of South Dakotans would be very supportive of. As someone who is raising teenage daughters, who on a daily basis is conferring and consulting and discussing the decisions they make, the day-to-day decisions they make, I cannot imagine, for the life of me, not having some input, some opportunity to weigh in on an issue of this consequence, that would have the kind of long-term effects—health and emotional effects—on a young girl.

This is about the health of our young girls. It is about the rights of parents. It is about States that have acted in accordance with what the courts have given them authority to do and making sure we are standing behind those States and making sure their laws are enforced.

I hope when we vote on this—and, again, I appreciate the Senator from Nevada for his leadership on this issue—we will get a big vote in the Senate. It is the right vote. It has been a lot of years—8 years. 1998 was the last time we had this debate in the Senate. At that time, we got to a cloture vote, but we did not have an up-or-down vote on the underlying bill.

The substance of this bill needs to be voted on. I hope it will be voted on today, that it will be a big vote coming out of the Senate, and we can put this on the President's desk and have it signed into law, which I believe is what a vast majority, I know a vast majority of South Dakotans would believe, and I believe also a vast majority of Americans.

I yield back the remainder of my time.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

Mrs. FEINSTEIN. Mr. President, I rise today to oppose the Child Custody Protection Act, which imposes criminal penalties on those who help transport a minor across State lines to obtain an abortion if she does not first meet the parental involvement requirements of her home State.

My primary concern with this legislation is that it unnecessarily puts minors' health and well-being in danger. In addition, the language is so broadly written that it has the effect of harshly punishing those adult family members and loved ones who try to help a young woman in a time of need.

In addition to criminalizing the actions intended to assist a young woman with a difficult decision, this bill would create a new civil action where parents can file a lawsuit against the individual assisting the minor this means relatives, teachers, other trusted adults as well as potentially the doctor, nurse or clinic staff all could face civil court action.

As a mother and a grandmother, I would argue that, in a perfect world, young women and their parents should communicate openly about all major decisions, including whether to terminate a pregnancy. And, in fact, many young women do involve a parent in these decisions. However, the reality is that not all young women live in a household where they can turn to their parents. Some young women face physical, sexual or emotional abuse from their parents; some families do not have open, supporting relationships. For these young women, they may be more comfortable confiding in an older sister, aunt, or a grandparent. Yet this bill would turn these trusted relatives into criminals if they helped her seek an abortion. An unplanned pregnancy is upsetting at any age, and this legislation would deprive young women of support when they most need it.

First and foremost, this bill flies in the face of accepted legal precedent. While it reflects a great deal of concern for potential harms and the violation of parents' rights, it ignores the legal rights of young women to choose safe medical care that protects their health.

The legislation lacks an essential, constitutionally required exception in cases where the restriction it places on the ability of a young woman to get an abortion endangers her health. I am very concerned that once again language is being proposed that would omit this essential protection for women and girls.

The bill provides some limited exceptions to its criminal and civil liability by allowing a sister, aunt, grandmother, or friend to help a girl cross a State border to get an abortion if her life was in danger. But it does not protect actions taken if her health was in danger.

First of all, the Supreme Court has repeatedly affirmed that there must be protection for both the life and health of the mother.

The Supreme Court has ruled time and again from Doe v. Bolton, 1973, to Planned Parenthood v. Casey, 1992, to Stenberg v. Carhart, 2000, that any law restricting access to abortion must contain an exception to protect a woman's health.

Most recently, three Federal courts in California, New York, and Nebraska declared the partial birth abortion ban, which was passed by Congress and signed into law in 2003, unconstitutional and permanently enjoined its enforcement.

All three courts concluded that the law was unconstitutional because it lacked an exception to protect a woman's health.

This measure before the Senate today ignores these precedents and demonstrates a complete disregard for the health of young women.

Secondly, in addition to being unconstitutional, this is bad public policy. If a girl turns to her sister to ask for help because she is having complications with a hidden pregnancy how are either of them going to know whether the complication is life threatening or not? Do we really want to create a situation where a girl's sister, aunt, grandmother or friend has to step into the shoes of a doctor and determine whether complications with a pregnancy are life threatening or face criminal and civil charges for helping her? This could occur even if the girl wants to continue her pregnancy but because of health complications cannot.

Does Congress really want to say it is the best public policy to have young women and girls who are in traumatic situations not get medical assistance because it could result in an abortion for a non-life-threatening complication?

Let's be clear, that is the impact of this legislation. I believe it is unconstitutional and bad public policy. A pregnant minor who feels she cannot confide in a parent is already left with few options.

She can seek a judicial bypass. But few young women have the tools to navigate our complex legal system. The legal system is very difficult for the average adult to manage let alone a minor in an extremely difficult and vulnerable position. In addition, the legal system has demands that further restrict a girl's access; for instance, court hours are usually 9 to 5, requiring a young woman to miss school in order to appear in court. And many girls are reluctant to discuss such a personal decision that could involve traumatic experiences with a judge.

She may delay her decision. However, an abortion that occurs later in her pregnancy will be more dangerous and complicated than one that occurs in

the early stages of her pregnancy. She may opt to travel out of State, alone, undergoing a medical procedure with no family or friends there to support her.

She may seek a dangerous and illegal abortion. A pregnant minor who cannot safely tell a parent about her situation faces enough obstacles. We do not need to criminalize well-intentioned assistance provided to her.

I am also concerned that it is not only the young women making a deliberate choice not to tell a parent of an abortion who would suffer under this bill. Access to abortion is declining in this country, for women of all ages. Eighty-seven percent of counties no longer have a doctor who will perform an abortion. For many women, the most convenient provider is across State lines.

An older sister or aunt accompanying a minor to the nearest provider may unwittingly become a criminal. Even if neither woman intended to evade parental consent laws, this act of family support would be criminalized. A grandmother or sister could have no idea that she is violating a Federal law when she helps a family member access legal medical care.

But proponents of this legislation would like you to believe that this debate is not about young women who can no longer find a doctor who will provide full services in their home State. To them, this is not about the young women who, for whatever reason, need to look beyond a parent for adult support.

While supporters of this bill are correctly horrified by stories of girls kidnapped by older boyfriends and forced into having abortions they did not want, this legislation does not create a limited solution to fix that problem. In fact, in many cases the actions in these circumstances are already illegal. Laws prohibit kidnapping. Laws prohibit statutory rape. Medical ethics require that physicians obtain informed consent from the patient before performing any medical procedure. People who violate these laws can already be prosecuted. I welcome a debate on policies that will crack down further on sexual predators who abuse young women.

If there is a problem that current laws are not being enforced, then let's address that; if there is a problem that these laws are not strong enough, then let's address that, but let's not criminalize behavior of a loving family member, friend, or confidant who is trying to help a young girl in a traumatic time in her life.

This bill is not about protecting vulnerable young women from crime. It is about limiting their access to a constitutionally protected medical procedure. This legislation does reflect a great deal of concern for potential harms and the violation of rights—of parents.

Under this proposal, a parent has legal recourse if his or her supposed ''right'' to stop their daughter's abortion is violated. Parents can sue to collect damages.

This bill, in fact, could create a situation in which a mother sues a grandmother for helping her granddaughter exercise her right to choose. Yet it leaves a young woman with no recourse for the violation of their right to seek and receive safe medical care of her choice.

This legislation also runs counter to basic notions of federalism, linking a young woman to the law of her home State no matter where she may be living. No other State laws follow her to college or summer camp.

In this country, State laws do not extend beyond State borders. When residents from my home State of California travel to Nevada for vacations, they are allowed to play the slot machines, even though gambling is illegal at home. There is no reason why laws should reach across State lines to restrict access to a safe and legal medical procedure.

I wish this were a perfect world. I wish we could legislate that every child has a loving and stable parent to guide him or her through the trials of adolescence. I wish we could legislate that every family talk openly and honestly about the risks of sexual activity.

But we cannot. Parental consent laws do not create these idealized families. Instead, they further burden those that are already troubled. A young woman facing an unplanned pregnancy in an unstable situation must be able to turn to another trusted adult—without the fear of subjecting the adult to Federal criminal liability.

The very fact that we are having this debate is a clear demonstration of the leadership's misplaced priorities. They claim this is a women's health issue, a family values issue.

We have only a few legislative days remaining this year. There are so many other problems we should be addressing.

We should be debating ways to prevent these difficult situations from arising in the first place. We should be discussing policies that promote honest information about reproductive health and ready access to contraceptives. No teen should face an unplanned pregnancy. Those that do must not face it alone.

I urge my colleagues to join me in opposing this bill that endangers young women's health and turns their relatives into criminals.

Mr. KERRY. Mr. President, today the Senate considered legislation that proponents claim will reduce the number of abortions. But in reality everyone knows this legislation will do little to lower the number of abortions, and it will do even less to protect the role of parents in our society. In a move that is all too typical of the coarsening partisanship of this city and of this Congress, instead of bringing before the Senate legislation that could actually reduce the number of abortions, the Senate Republican leader decided to just check another on the Republican ''To Do'' list before election day this November.

It is sad that the Senate has missed this opportunity to enact legislation to reduce teen pregnancy. Every Senator agrees that we should do more to reduce incidences of teen pregnancy. And yet the bill debated in the Senate today is little more than a political stunt that will do little to reduce the number of abortions.

This is not the first time we have faced legislation like this which reflects a political calculus, not a policy consideration. In 1998, just prior to that year's election, the Republican leadership brought forward a similar bill. I opposed that legislation as well, as it failed to take meaningful steps towards reducing abortions and because it threatened to endanger victims of rape, incest, or abusive family situations.

If the Senate Republican leadership were really serious about reducing the number of abortions among young women, they'd get serious about efforts to prevent unwanted pregnancies in the first place. Research shows that reducing unintended pregnancies significantly reduces the rate of abortion. And the good news is that we know what works to prevent unwanted pregnancies in the first place. In fact, the amendment offered by Senators LAUTENBERG and MENENDEZ earlier today, which I cosponsored, would take meaningful steps to reduce teen pregnancy. Communities need to provide education for our children so they understand the serious consequences of their decisions; we need to support effective, existing after-school programs that provide academic enrichment for at-risk kids; and we need to invest in new efforts to help reduce teen pregnancy.

If the Senate leadership were really serious about reducing the number of abortions, they would get serious about providing support for foster care and adoption. Instead, last year this Congress limited the number of children eligible for foster care and reduced funding for state foster care systems. What kind of family values does that represent?

If the Senate leadership were really serious about reducing the number of abortions, we would address the problems that working families face in raising their children. We would increase the minimum wage and extend the earned income tax credit so that the decision whether to have an abortion is not based on whether there is enough money to support the child.

This is where we should be focusing our energy—on providing families with the tools they need to raise a family; on providing mothers with the care they need to carry out their pregnancies, and on educating our teens about the consequences of their actions.

But then again, the Child Custody Protection Act isn't intended to reduce

teen pregnancies. In fact, it accomplishes very little except to risk taking a very young victim of rape or incest—a victim of an abusive family situation—someone who is just plain scared—and putting someone they turn to at risk of criminal prosecution, jail time and fines if they decide to help a minor with one of the most painful decisions a person could be asked to make. It targets the most vulnerable minors—those needing the most help because of poor family relations or even serious abuse—and makes it more difficult for them to receive critical advice and support.

Is it right to punish a victim of incest by forcing her to get consent from the very person who impregnated her? What rational person wouldn't agree that she has been victimized enough already? Is it really smart, or fair, or right to punish and remove the caring adult who a young woman in this situation is relying on to get her through such an ordeal? Is it right to consider sending a grandparent, a clergy member, a doctor, or a counselor to prison if a terrified young woman has nowhere else to turn?

This discussion isn't about most families. If one of my daughters were in a terrible situation, I believe they could and would turn to me or to their late mother. I know they could. I think every one of us in the Senate know our children would turn to us in a time of desperation. That is how we raised our kids. Ideally all young women facing an unplanned pregnancy will turn to their parents for guidance when faced with this kind of decision. And in most cases they do. In fact, one study found that the overwhelming majority of parents in states without mandatory parental involvement laws knew of their child's pregnancy. But 30 percent of young women who did not tell their parents about their decision did so out of fear of violence in the family or fear of being forced to leave home. What does that tell you about these situations? It tells you this bill does not address the real-life tragic situations in which awful decisions are being made.

This bill is not the way we should be addressing the problem of unwanted pregnancies. We should not be criminalizing grandparents or clergy or doctors who try to help young women in horrible situations. We should not be criminalizing that small percentage of people willing to accompany a minor-in-need to obtain an otherwise legal abortion.

Here's the bottom line: If this bill had simply made exceptions for young women in abusive situations—like rape, or incest—and ensured that children who were endangered if they turned to their parents would have a responsible, caring adult to turn to, I would have voted for it. And I guarantee so would all of my colleagues. Mr. President, 100 to 0, that's the kind of statement we could have made—but that kind of unity was sacrificed on the altar of Republican wedge-issue politics.

Of course, parents should be fully involved in all decisions regarding their children, but refusing to take into account possible family dysfunction, including abuse or incest, would be both unconstitutional and unacceptable. It would be dangerous. It would be anything but pro-life. Not every child is lucky enough to have a supportive family, and I can't imagine that any person would fail to understand that it just doesn't make sense for a 16-year-old who has been raped or abused by a parent to get consent from that abuser. There must be a way to bring a supportive and nurturing adult into that difficult decision. This bill forecloses that possibility.

Mr. CORNYN. Mr. President, just last week the Senate unanimously approved landmark legislation that will help protect American children from violent sexual predators and other such criminals who would do them harm.

I proudly cosponsored and worked to strengthen that bill—The Adam Walsh Child Protection and Safety Act of 2006 because the States needed, and asked for, the Federal Government's help to detect and deter violent sexual predators. The nationwide sex offender database and registration requirements are critical components that help prevent violent sexual predators from slipping underground and out of sight. Indeed, the Senate's passage of the Adam Walsh Act was a banner day for the safety of our children.

And today, Mr. President, the Senate will consider another important measure to protect the health and safety of American children—in particular, female minors. I am referring, of course, to S. 403, the Child Custody Protection Act. I am proud to join Senator ENSIGN and a bipartisan group of over 40 Senators that have cosponsored this legislation.

This long-overdue proposal amends the Federal Criminal Code to prohibit the transportation of a minor across State lines—without parental consent or notification—in order to obtain an abortion. To date, at least 37 States have laws on the books that require a minor girl who wishes to have an abortion to notify or obtain the consent of her parents. But let's be clear: this bill neither establishes a Federal parental consent law, nor supersedes existing State laws. It merely reinforces the prerogatives of those States that have enacted parental notification and consent laws.

So the question before the Senate today is a straightforward one: Should Congress safeguard the legislative choice made by those States that have chosen to preserve the role of parents and guardians in the health and medical decisions of their children—particularly, their minor daughters? I believe that we must safeguard State prerogatives by protecting parental rights.

If a State has on its books a constitutionally sound parental notification or consent law, parents in that State should not have to fear that their minor daughters can legally be driven into a neighboring State to receive an abortion.

This is not a hypothetical concern. The New York Times reported that ''Planned Parenthood in Philadelphia [Pennsylvania has a parental consent law] has a list of clinics, from New York to Baltimore, to which they will refer teenagers, according to the organization's executive director . . . .''

Even more disturbing, there is evidence that abortion clinics in States bordering Pennsylvania—States that don't have parental involvement laws—will advertise the lack of such requirements and use it as a selling point in their advertisements directed at minors in Pennsylvania.

I also worry that interstate transportation of minors to have abortions may be used to conceal criminal activity—like statutory rape. I, for one, believe that we ought to make it a Federal crime for an adult male who impregnates a young girl to transport her out of her home State—without the knowledge and consent of her parents—in order to have an abortion. That is just common sense.

Mr. President, this legislation is not about abortion rights. It is about protecting the health and safety of children and preserving the role of parents in decisions concerning their child's medical care.

I urge my colleagues to support this bill.

Mr. KYL. Mr. President, as a cosponsor of the Child Custody Protection Act, I am pleased to see that this legislation is finally being considered and hopeful that it will be passed quickly.

S. 403 makes subject to fines or imprisonment up to 1 year anyone who ''knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides.''

The provision I cite is an admirably clear piece of legislative language. It not only makes a salutary change in existing law; it provides an convincing explanation as to why it is needed.

Notwithstanding the abortion debate's notoriously divisive character, parental involvement statutes constitute an area of near-consensus around which pro-life and pro-choice Americans can come together.

Forty-five States—including my own—have enacted statutes aimed at ensuring that parents of minor girls are not deprived of the opportunity involved in this most sensitive decision, one with profound implications for their daughters' physical and mental health.

Public opinion polls demonstrate overwhelming support for the proposition that in all but the most extraordinary circumstances—in which instances, the State statutes in question

provide for a judicial bypass—parents must be involved in decisions affecting the health of their minor children.

Unfortunately, the public record now provides ample evidence suggesting that these laws are frequently circumvented—often by individuals who by facilitating an abortion may be covering up evidence of a crime: statutory rape.

When abortionists buy advertisements in the yellow pages directories serving communities in neighboring States with parental involvement statutes, and when they adorn the ads with helpful reminders that their services can be obtained without parental consent, both the authority of State lawmakers and the sanctity of the parent-child bond are mocked.

As a father and grandfather, I believe it is vital that the Senate today draw a line against this egregious manifestation of the abortion culture. Colleagues who support a liberal abortion regime but claim that they want the practice to be rare should welcome this opportunity to support a unifying commonsense measure that helps give effect to public policies embraced by legislators of both parties in the States.

Mr. NELSON of Florida. Mr. President, I will vote in favor of the Child Custody Protection Act.

I support the Florida law which was enacted after voters approved an amendment to the Florida Constitution. The law requires that Florida parents must be notified prior to their minor child obtaining an abortion, and it provides that a judge can grant an exception.

This act will help ensure that minors in Florida consult with their parents before obtaining an abortion in another State, while also preserving the ability of minors to seek a judicial waiver when that notice is not in the best interest of the minor.

The ultimate goal must be to prevent teen pregnancy so that none of our children find themselves in these difficult situations, and thus I also supported the amendment to provide Federal grants for programs that educate minors on the use of contraceptives and abstinence.

Mr. BYRD. Mr. President, it has always been my firm belief that minors should be required to notify their parents prior to seeking an abortion. I cannot help but believe that in nearly every case, young women do themselves, their babies, and their families well to seek guidance from their parents or legal guardians before making such a serious decision. Most parents honestly do have their daughters' best interests at heart. Consequently, how can parents not be informed when their children are confronted with making one of the most critical decisions of their lives, one which carries with it such extraordinary, expensive, and irretrievable consequences?

I have a long history of support for parental notification in such difficult circumstances. In 1991, I supported legislation that would have required entities receiving grants under Title X of the Public Health Service Act to provide parental notification in the case of minor patients seeking abortions.

While I support parental notification, I would also observe that we, as a nation, must work harder and do more to ensure that young women understand the consequences of unwanted pregnancy before they find themselves in such a predicament. We need to return to a time when abstinence was respected, not denigrated. A time when young men and women were praised and rewarded spiritually, emotionally, and financially—for doing the right thing.

Today, little girls are encouraged to become sexual at younger and younger ages by a consumer society that cares more about what it can sell than what it can teach. The entertainment culture, with its ''sleaze'' does all Americans, and particularly young women, a despicable disservice. Repulsive lyrics and morally offensive videos degrade women to the point where little girls as young as 10 or 12 years of age come to believe that their only real value lies not in themselves but in bearing the child of a teen-aged boy. How truly sad.

We all recognize that the family is, and has been, in crisis. We would all like to see a reduction in unwanted pregnancies and abortion. No one is pro-abortion. But the question remains, what are we doing to prevent these unwanted pregnancies—meaning what are all of us together, on both sides of the aisle, doing to prevent them? Aren't there more creative ways in which we could be bolstering the self-esteem of young women?

Let us not forget that the future of humanity passes through the family, and that each of us must, in our own way, fulfill our duty to preserve the family. As John Kennedy once put it so succinctly and so beautifully, ''On Earth, God's work must truly be our own.''

Mr. VITTER. Mr. President, I rise today in support of the Child Custody Protection Act, which prohibits transporting a minor across State lines to obtain an abortion if doing so abridges a parental notification or consent statute in the State in which the minor resides. The bill also provides an exception for cases where an abortion is necessary to save the minor's life. I am proud to say that I am a cosponsor of this bill and I supported it in past Congresses.

One of the most important roles of parents is to provide guidance and comfort to their children. Parents are more mature and possess the wisdom of experience that children simply cannot possess. In no other circumstance is the need for parental guidance more important than when a child requires medical care. Who is in a better position to provide a child's relevant medical and psychological history and other valuable medical information than a parent? Not only has the Supreme Court recognized the importance of parental rights with regard to the ''care, custody, and control of their children'' as ''perhaps the oldest of the fundamental liberty interests,'' they have also acknowledged the importance of parental guidance and consent when a child is faced with a difficult decision by stating ''the law's concept of family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions.''

At a time when a school nurse cannot even administer aspirin to a child with a headache without parental consent, how can we allow a child to have an abortion, a major medical procedure with potentially deadly consequences, without parental consent? I can think of no other time when parental guidance and consent is more important than when that parent's minor daughter is pregnant and contemplating abortion. A minor girl, who is undoubtedly under incredible stress, does not have the maturity to make the decision to have an abortion on her own. And, it makes matters worse when the girl receives pressure to have an abortion from the father, the father's family, or others.

As a father, it appalls me to learn that oftentimes older adult males pressure young mothers to have an abortion without telling anyone and transport these young girls into States without parental consent laws to hide instances of statutory rape. Studies show that the majority of today's teenage mothers are being impregnated by adult men. One study of 46,500 schoolage mothers in California found that two-thirds of the girls were impregnated by adult males, with the median age of the father being 22 years old. The fact that many of these adult males could be charged with statutory rape creates an incentive for them to transport young girls across state lines to have an abortion to avoid criminal prosecution.

Mr. President, the pro-abortion lobby has come out in full force against the Child Custody Protection Act saying that it infringes upon a girl's right to have an abortion. I have two major objections to that argument. First, I do not believe that a minor child has the right to an abortion without her parents' consent. At a time when children cannot even be given aspirin without parental consent, they should not be able to undergo a major medical procedure with potentially deadly consequences without parental consent. Second, the Child Custody Protection Act is not about the right to have an abortion; it is about protecting the rights of parents and the well-being of children. It is commonsense legislation that says if one State has established a legal principle for its residents, neighboring States should not discourage those residents from following that principle. This is hardly a radical or

extreme proposal; rather, it is necessary, constitutional, and it is carefully and narrowly drawn. I hope that my colleagues can support this very important, commonsense legislation, which protects our most vulnerable citizens—our children.

Mr. HATCH. Mr. President, this morning we are continuing our discussion of the Child Custody Protection Act, S. 403. This is an appropriate debate, and it comes at an appropriate time.

Last week, the Senate passed the Adam Walsh Child Protection and Safety Act. That important bipartisan bill, which the President is expected to sign this week, will empower the Federal Government to step up the fight against sexual predators of children.

The bill we passed last Thursday is a serious bipartisan achievement, and for good reason. Republicans and Democrats alike can agree on the need to protect minors from abuse. That same purpose, the desire to protect children, is what motivates the Child Custody Protection Act, and my hope is that we can come together on this bill as well, Republicans and Democrats, and pass this legislation.

The American people have spoken. Our States have spoken. Though the media might not always hear the message, Americans are quite unified, and have been for a long time, on the issue of abortion. Supermajorities of the American people think that some regulation of abortion is appropriate. Nowhere is this more obvious than on the issue of parental consent and notification laws.

Most Americans understand that a parent or a guardian should be involved in this decision. The Child Custody Protection Act will give Federal support to State laws requiring this involvement, laws that are too often circumvented when young girls are taken across State lines to obtain an abortion, often with the assistance of the predatory men responsible for their pregnancies.

These actions are terrible for families and young women. They are a danger to a young woman's health and to her spirit. And, indeed, the involvement of a parent or guardian is critical when a young woman is making a choice of this magnitude, and we should do our part to support these parental involvement laws.

This bill does so by making it a Federal crime to transport a minor across a State line to obtain an abortion that would not be permitted absent parental involvement in the State where the minor resides. This is a limited and a reasonable bill. It specifies that neither the minor nor a parent can be prosecuted or sued for violation of the act. It also provides defendants in a prosecution or civil action an affirmative defense if they believed the required parental notice or involvement took place. Finally, it creates a private right of action for the parent or guardian whose rights are violated by a person who violates the act.

This is a balanced bill. And my hope is that my colleagues will support it.

Forty-four States have enacted laws that require some level of parental involvement in a minor's decision to obtain an abortion. Parental involvement laws are not a divisive issue. They are reasonable regulations. At many middle schools and high schools, you cannot get an aspirin from the school nurse without permission from your parents. Would it really make sense to allow a young girl, perhaps only 14 years old, to obtain an abortion without her parents' involvement?

The liberal pro-abortion interest groups routinely tell us that women must have completely unfettered access to abortion throughout their pregnancies. And they typically give two reasons. First, this is a private, medical decision between a woman and her doctor. And second, this is a moral choice that the woman should be able to make without any interference at all. These principles are taken to extremes by these groups. They lead to opposition of almost any regulation of abortion, including informed-consent laws, and even partial-birth abortion. Parental involvement regulations are commonsense and widely supported by the American people. But the reasoning of these interest groups leads them to a position of abortion absolutism—there can be no interference at any time with the decision to undergo this medical procedure.

I disagree with these arguments. Even so, taking these groups on their own terms leads me to believe that they should actually support parental involvement laws. After all, if abortion is a medical procedure, do we really want minors electing invasive medical procedures without a parent or guardian knowing about it? And if the decision to have an abortion is a profound moral choice, do we really want a child to make that choice without consulting with the parents who are responsible for teaching and raising that child? Of course not. And so the American people have reasonably, and responsibly, endorsed with considerable bipartisan support, the parental involvement laws that exist in 44 States.

Recently, my home State of Utah passed its own law. It is a good law. And it is a careful law. My State requires that before a minor obtains an abortion there must be notification of, and consent by, a parent or guardian. Our parental consent requirement prohibits a doctor from performing an abortion without first obtaining the written consent of a parent or guardian. And consistent with the Supreme Court's requirement that some judicial bypass be included in a parental consent statute, Utah allows a minor to obtain an abortion without the consent of a parent or guardian if a court finds by the preponderance of the evidence that the minor has given informed consent and is mature enough to be capable of giving her informed consent or that the abortion would be in the minor's best interest. That is a reasonable balance. The interest groups that oppose any and every restriction on abortion always tell us that this is an important choice. Well, if it is an important choice, I believe we should require that a minor's choice be an informed one.

Utah law also requires that a doctor, prior to performing an abortion, notify a parent or guardian. Again, this is reasonable. Why would we allow a young woman to undergo a medical procedure without first notifying those charged with her well-being? We would not allow it for a routine checkup, much less any other invasive surgical procedure. And Utah's legislators were careful in the way they went about this. They knew that in certain circumstances, a young woman might not want to notify her parents. For that reason, there are generous exceptions to this notice requirement.

If a medical emergency exists, the notice requirement is waived. If the physician reports to the proper State agency that the pregnancy occurred through incest, or if the child is a victim of abuse, the parent responsible for the physical or sexual abuse need not be notified. And if the legal parent or guardian has not assumed responsibility for the young girl's upbringing, that parent or guardian need not be notified.

Utah's citizens are not unique. As the citizens in most other States have, Utahns have determined that some level of parental involvement in this process is an important one. The interest groups disagree. And as a result, there is some opposition to this commonsense bill.

Here is the bottom-line. Forty-four States have parental involvement laws. In my opinion, some of those State parental involvement laws are ineffectual, but in 26, parents are effectively guaranteed the right to parental notification or consent. Yet with minor children, too often they are being taken across State lines, to a State with a more liberal abortion policy, to obtain an abortion without their parents' involvement. Taking a minor across State lines without her parents' knowledge? Most people would call this kidnapping. And in many cases, the actions come close.

I want to thank my colleague from Alabama, Senator SESSIONS, for chairing a hearing in the Judiciary Committee on this subject in the 108th Congress. The hearing was very informative. This is what we learned from the testimony presented there:

The American Academy of Pediatrics Committee on Adolescence has found that ''[a]lmost two thirds of adolescent mothers have partners older than 20 years of age.''

The National Center for Health Statistics concluded that ''among girls 14 or younger when they first had sex, a majority of these first . . . experiences were nonvoluntary. Evidence also indicates that among unmarried teenage

mothers, two-thirds of the fathers are age 20 or older, suggesting that differences in power and status exist between many sexual partners.''

In a study of over 46,000 pregnancies by school-age girls in California, researchers found that ''71%, or over 33,000, were fathered by adult post-high-school men whose mean age was 22.6 years, an average of five years older than the mothers . . . Even among junior high school mothers aged 15 or younger, most births are fathered by adult men 6 to 7 years their senior. Men aged 25 or older father more births among California school-age girls than do boys under age 18.''

I could go on, and I want to thank Professor Teresa Collett of the University of St. Thomas School of Law for putting these statistics together in her testimony. They are important. They remain uncontroverted by those opposed to this bill. And they tell an important story.

Many thousands of teenage pregnancies are caused by predatory males, many years the girl's senior, who should be prosecuted for statutory rape. Let's be clear. Many thousands of teenage pregnancies are caused by felonious activity—scared and pregnant young girls; wounded and abused by these sexual predators.

And parental involvement laws go a long way toward making sure that people become aware of this abuse. Yet currently, it is too easy for these predators to circumvent these laws.

We have heard of older men, or their mothers, or their friends, who take these vulnerable young girls across State lines to get an abortion, and get rid of the evidence of the crime. And then when these girls are dumped back at home, those who care for them and love them are oblivious to what they have been through. This is not only physically dangerous. It is a threat to the spirit of a wounded and confused young woman.

This is not some hypothetical situation. In the Senate Judiciary Committee, we heard from Joyce Farley of Dushore, PA. In 1995 her daughter, Crystal, was raped and impregnated by a 19-year-old man whose mother then took Crystal for an abortion into the State of New York.

This was not a decision for this man, or his mother to make. These people were not interested in making the right decision for Crystal. They were making a decision that was in the best interests of the man who raped this child.

The Child Custody Protection Act would protect these young women. It would protect the rights of parents.

The decision to obtain an abortion is an important one. It is a medical decision, but it is also so much more. It is a decision that will impact a woman for the rest of her life. And it is a decision that a minor should, in most cases, make with the involvement of a parent or a legal guardian.

This important bill that my colleague from Nevada, Senator ENSIGN, has introduced will go a long way toward discouraging the abuse that often leads to teenage pregnancy, toward protecting minors from predatory males, and toward protecting the constitutionally recognized right of States to involve parents in these important decisions.

I look forward to this debate. There should be some bipartisan consensus on this issue, and my hope is that we will reach one. This is a bill that is worthy of our support. It protects the rights of parents that have been recognized by the States that we represent.

We should do our best to support those rights. I encourage my colleagues to support this bill.

Mr. LEAHY. Mr. President, I am disappointed that the Senate is bypassing normal procedure to debate a controversial bill on which the Senate refused to proceed 8 years ago. That was the last action taken on this kind of bill. Since then 8 years have passed. Our Constitution has not changed. I am thankful for that. The complex issues and federalism concerns that so many Senators voiced 8 years ago still remain. So if anything has changed, it is difficult to know. Instead of regular order and allowing the committee of jurisdiction to gather the facts, to consider the legislation, to amend it or reject it, we find ourselves proceeding almost helter-skelter on what is a very serious matter with important personal, privacy and legal implications.

It is a striking contrast that we turn to this bill after last week's bipartisan unifying effort in which we took four months to hold nine hearings and work with our counterparts in the House to reauthorize key provisions of the historic Voting Rights Act of 1965. If that process exemplified the Senate at its best, this proceeding stands in sharp contrast. The press is reporting that the Senate is being required to turn to this bill at this time as part of the Republican-designed run up to the elections. Having spent time on a constitutional amendment that would have cut back on the Bill or Rights, having wasted precious time seeking to write discrimination into the Constitution, this is next on their campaign checklist of items needed to rev up their voting base. In fact, having just seen the President reject our efforts to authorize Federal funds for vital stem cell research with his first official veto, they now rush to reopen the abortion debate. I am a little surprised they are not seeking another vote on some further intervention into the circumstances of Terri Schiavo and her family.

In fact, the bill before us, like the legislation rushed to the floor to intervene in Florida's legal system in the case of Terri Schiavo, is another case of congressional overreaching and of trying to federalize decisions that previously have been left to the States. I unequivocally support the goal of fostering closer familial relationships and the value of encouraging parental involvement in a child's decision about how to respond to an unplanned pregnancy. We all do. That is not the issue. I thank Senators BOXER, MENENDEZ, LAUTENBERG, and FEINSTEIN for bringing amendments seeking to make this legislative consideration worthwhile and beneficial to those in need of government help, rather than an imposition of the heavy hand of government intervention. I support their amendments.

The underlying bill, however, raises challenging issues of federalism that caused many of us to reject it before and will lead me to oppose it, again. I find it ironic that many of the same people who insist that fully considered State laws on civil union and civil partnership and marriage not be respected, are those who in the context of this legislation insist that State laws be held to bind people even when they travel outside their States, and that Federal criminal law become the enforcement mechanism to ensure that they are binding.

The underlying bill does little to strengthen communication and trust in families. While I know as a father that most parents hope their children would turn to them in times of crisis, no law will make that happen. No law will force a young pregnant woman to talk to her parents when she is too frightened to do so. This bill does not increase the perception of choices for such young women. Rather, it is likely to drive young women who are afraid to seek help from their families away from their families and greatly increase the dangers they face from an unwanted pregnancy.

The nature of our Federal system revolves around States maintaining their historically dominant role in developing and implementing policies that affect family matters, such as marriage, divorce, end-of-life choices, child custody and policies on parental involvement in minors' abortion decisions. I respect that. I respect each State to define those family relationships and have resisted Federal intrusion into those matters. Congress should not dictate the nature of family relationships. I had hoped we learned our lesson on this when the American people reacted with outrage to the President and Congress intervening in the Terri Schiavo matter.

Twenty-six States have adopted parental consent or notification laws that are currently enforced and meet the bill's definition of a ''law requiring parental involvement in a minor's abortion decision.'' That means that the remaining States—the 24 States that include Vermont—either have opted for no such law, or have decided on a State law that allows for the involvement of adults other than a parent or guardian in the minor's reproductive decision. While I respect the 26 notification law States, I also respect the 24 other States and the privacy rights guaranteed by the Constitution. The direct consequence of this bill

would be to federalize the reach of the most constricted notification laws and to override the policies in the remaining States.

It is telling that the bill does not expressly establish a Federal parental consent requirement. It does not directly override the various State laws in this area of traditional State interest. Instead, it seeks to do indirectly what it will not and likely could not do directly. Doing so makes it no less an abuse of Federal power. The underlying bill would use the power and resources of the Federal Government to force favored States' laws into effect in the other States that have made other legislative choices. It would impose a law that a State has chosen not to adopt on that State, regardless of the choice its people have made through the legislative process. Most troubling of all, it would create a Federal crime as a mechanism for such Federal interference. It is an affront to federalism and an exercise in heavy-handed overcriminalization.

Make no mistake: Despite the proponents' contention that this bill does not attempt to regulate any purely intrastate activities, the effect of this bill would be to impose the policies of certain States on the remaining ones. Just because some in Congress may prefer the policies of certain States over those in the others does not mean we should give those policies Federal enforcement authority across the Nation. Doing so is not only wrong, it sets a dangerous precedent.

An example apart from family law: Should residents of States that prohibit gambling not be able to travel to Las Vegas or Atlantic City or the many other places that now allow it? It is the nature of our Federal system that when residents of a State travel to neighboring States or across the Nation, they must conform their behavior to the laws of the States they visit? When residents of each State are forced to carry with them only the laws of their own State, we will have turned our Federal system on its ear.

Congress has wisely repealed laws in the past that require residents of each State to carry with them only the laws of their own State. We saw this when the Thirteenth Amendment to the Constitution was passed. That outlawed slavery and repealed article IV, section 2, paragraph 3 of the Constitution, which authorized return of runaway slaves to their owners. That constitutional authority and such laws as the Fugitive Slave Act of 1793 enabled slave owners from slave States to reclaim slaves who managed to escape to free States or territories. None of us—and certainly not the sponsors of this legislation—would ever condone slavery. Those discredited laws and the infamous Dred Scott case are about the only precedent we have for a bill like this that would use the force of Federal law to enforce a particular State's laws against people wherever those people may travel.

I was proud in November, 2004, when the Senate unanimously passed a resolution sponsored by Senators MCCAIN, HATCH, KENNEDY, and REID to express the sense of the Senate that John Arthur ''Jack'' Johnson should be pardoned for his ''crime'' of transporting a white woman across State lines for ''an immoral purpose.'' The injustice done to Jack Johnson was something we all joined to try to correct many years later. Let us not allow the misuse of Federal power, again.

This bill would sweep into its criminal and civil liability reach extended family members, including grandparents or aunts or uncles, who respond to a cry for help from a young relative by helping her travel across State lines to terminate a pregnancy. In addition to close family members, any other person to whom a young pregnant woman may turn for help, including health care providers and religious counselors, could be dragged into court and face prison time on criminal charges. Rev. Doctor Katherine Hancock Ragsdale once helped a stranger, a 15-year-old girl. The girl feared for her safety if her father learned of her pregnancy, and she had no relative to turn to for help. She was alone and desperate. Should offering comfort subject Reverend Ragsdale to Federal prosecution?

The purported goal of this bill, to foster closer familial relationships, will not be served by threatening to throw into jail any grandmother or aunt or sibling who helps a young relative. The result of this bill will be to discourage young women from turning to a trusted adult for advice and assistance. Instead, these young women may be forced then into the hands of strangers or into isolation.

Keep in mind what this bill does not do. It does not prohibit pregnant minors from traveling across State lines to have an abortion, even if their purpose is to avoid their parents. The perverse effect of the bill, if it is to be followed, would be to encourage more young women to travel alone to obtain abortions. I will not support an effort that may lead back to the days of ''back alley'' abortions. How can anyone view these outcomes as desirable or fostering closer familial ties? Young pregnant women who seek the counsel and involvement of close family members when they cannot confide in their parents—for example, where a parent has committed incest or there is a history of child abuse—would subject those same close relatives to the risk of criminal prosecution and civil suit, if the young woman subsequently travels across State lines to terminate her pregnancy. Is that really what we want? We should not compound these most difficult circumstances by taking actions that if successful will succeed in isolating young pregnant women, forcing them to run away from home or pushing them to seek protection from strangers at a time of crisis.

No law will force a young pregnant woman to involve her parents in her abortion decision if she is determined to keep that fact secret from her parents. No law can force a familial connection that does not exist. According to the American Academy of Pediatrics, the percentages of minors who inform parents about their intent to have abortions are essentially the same in States with and without notification laws. The President remarked just last week that ''governments can't change hearts.'' States have found that there are families in which parental notification laws are not effective.

While doing nothing to foster familial relationships, this bill would do serious damage to important federalism and constitutional principles. The underlying bill imposes significant new burdens on a woman's right to choose and impinges on the right to travel and the privileges and immunities due under the Constitution to every citizen. Peter J. Rubin of Georgetown University Law Center and Laurence H. Tribe of Harvard Law School have argued that this language, adopted by the House in 2002, violates both ''the rights of States to enact and enforce their own laws governing conduct within their territorial boundaries, and the rights of the residents of each of the United States . . . to travel to and from any State of the Union for lawful purposes, a right strongly reaffirmed by the Supreme Court.'' These leading constitutional scholars contend that the bill as drafted is unconstitutional. I will ask that a copy of their analysis be printed in the RECORD, at the conclusion of my statement.

For all these reasons—legal, constitutional, practical and institutional—I will vote against the underlying bill. I urge all Senators to respect federalism, the Constitution and families by rejecting this attempt to politicize fundamental decisions and family relationships.

Mr. President, I ask unanimous consent that a copy of the aforementioned analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 5, 2001.

To: United State House of Representatives Committee on the Judiciary, Subcommittee on the Constitution

From: Laurence H. Tribe, Tyler Professor of Constitutional Law, Harvard University Peter J. Rubin, Associate Professor of Law, Georgetown University

Re H.R. 476 and Constitutional Principles of Federalism

INTRODUCTION

We have been asked to submit our assessment of whether H.R. 476, now pending before the HOUSE, is consistent with constitutional principles of federalism. It is our considered view that the proposed statute violates those principles, principles that are fundamental to our constitutional order. That statute violates the rights of states to enact and enforce their own laws governing conduct within their territorial boundaries, and the rights of the residents of each of the United States and of the District of Columbia to travel to and from any state of the Union for lawful purposes, a right strongly reaffirmed by the Supreme Court in its recent landmark

decision in *Saenz* v. *Roe*, 526 U.S. 489 (1999). We have therefore concluded that the proposed law would, if enacted, violate the Constitution of the United States.

H.R. 476 would provide criminal and civil penalties, including imprisonment for up to one year, for any person who ''knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion. . . [if] an abortion is performed on the individual, in a State other than the State where the individual resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law in the State where the individual resides.''

H.R. 476, §2 (a) (proposed 18 U.S.C. §2431(a)(1) and (2)). In other words, this law makes it a federal crime to assist a pregnant minor to obtain a lawful abortion. The criminal penalties kick in if the abortion the young woman seeks would be performed in a state other than her state of residence, and in accord with the less restrictive laws of that state, unless she complies with the more severe restrictions her home state imposes upon abortions performed upon minors within its territorial limits. The law contains no exceptions for situations where the young woman's home state purports to disclaim any such extraterritorial effect for its parental consultation rules, or where it is a pregnant young woman's close friend, or her aunt or grandmother, or a member of the clergy, who accompanies her ''across a State line'' on this frightening journey, even where she would have obtained the abortion anyway, whether lawfully in another state after a more perilous trip alone, or illegally (and less safely) in her home state because she is too frightened to seek a judicial bypass or too terrified of physical abuse to notify a parent or legal guardian who may, indeed, be the cause of her pregnancy. It does not exempt health care providers, including doctors, from possible criminal or civil penalties. Nor does it uniformly apply home-state laws on pregnant minors who obtain out-of-state abortions. The law applies only where the young woman seeks to go from a state with a more restrictive regime into a state with a less restrictive one.

This amounts to a statutory attempt to force this most vulnerable class of young women to carry the restrictive laws of their home states strapped to their backs, bearing the great weight of those laws like the bars of a prison that follows them wherever they go (unless they are willing to go alone). Such a law violates the basic premises upon which our federal system is constructed, and therefore violates the Constitution of the United States.

ANALYSIS

The essence of federalism is that the several states have not only different physical territories and different topographies but also different political and legal regimes. Crossing the border into another state, which every citizen has a right to do, may perhaps not permit the traveler to escape all tax or other fiscal or recordkeeping duties owed to the state as a condition of remaining a resident and thus a citizen of that state, but necessarily permits the traveler temporarily to shed her home state's regime of laws regulating primary conduct in favor of the legal regime of the state she has chosen to visit. Whether cast in terms of the destination state's authority to enact laws effective throughout its domain without having to make exceptions for travelers from other states, or cast in terms of the individual's right to travel—which would almost certainly be deterred and would in any event be rendered virtually meaningless if the traveler could not shake the conduct-constraining laws of her home state—the proposition that a state may not project its laws into other states by following its citizens there is bedrock in our federal system.

One need reflect only briefly on what rejecting that proposition would mean in order to understand how axiomatic it is to the structure of federalism. Suppose that your home state or Congress could lock you into the legal regime of your home state as you travel across the country. This would mean that the speed limits, marriage regulations, restrictions on adoption, rules about assisted suicide, firearms regulations, and all other controls over behavior enacted by the state you sought to leave behind, either temporarily or permanently, would in fact follow you into all 49 of the other states as you traveled the length and breadth of the nation in search of more hospitable ''rules of the road.'' If your search was for a more favorable legal environment in which to make your home, you might as well just look up the laws of distant states on the internet rather than roaming about in a futile effort at sampling them, since you will not actually experience those laws by traveling there. And if your search was for a less hostile legal environment in which to attend college or spend a summer vacation or obtain a medical procedure, you might as well skip even the internet, since the theoretically less hostile laws of other jurisdictions will mean nothing to you so long as your state of residence remains unchanged.

Unless the right to travel interstate means nothing more than the right to change the scenery, opting for the open fields of Kansas or the mountains of Colorado or the beaches of Florida but all the while living under the legal regime of whichever state you call home, telling you that the laws governing your behavior will remain constant as you cross from one state into another and then another is tantamount to telling you that you may in truth be compelled to remain at home—although you may, of course, engage in a simulacrum of interstate travel, with an experience much like that of the visitor to a virtual reality arcade who is strapped into special equipment that provides the look and feel of alternative physical environments—from sea to shining sea—but that does not alter the political and legal environment one iota. And, of course, if home-state legislation, or congressional legislation, may saddle the home state's citizens with that state's abortion regulation regime, then it may saddle them with their home state's adoption and marriage regimes as well, and with piece after piece of the home state's legal fabric until the home state's citizens are all safely and tightly wrapped in the straitjacket of the home state's entire legal regime. There are no constitutional scissors that can cut this process short, no principled metric that can supply a stopping point. The principle underlying H.R. 476 is nothing less, therefore, than the principle that individuals may indeed be tightly bound by the legal regimes of their home states even as they traverse the nation by traveling to other states with very different regimes of law. It follows, therefore, that—unless the right to engage in interstate travel that is so central to our federal system is indeed only a right to change the surrounding scenery—H.R. 476 rests on a principle that obliterates that right completely.

It is irrelevant to the federalism analysis that the proposed federal statute does not literally prohibit the minor herself from obtaining an out-of-state abortion without complying with the parental consent or notification laws of her home state, criminalizing instead only the conduct of assisting such a young woman by transporting her across state lines. The manifest and indeed avowed purpose of the statute is to prevent the pregnant minor from crossing state lines to obtain an abortion that is lawful in her state of destination whenever it would have violated her home state's law to obtain an abortion there because the pregnant woman has not fully complied with her home state's requirements for parental consent or notification. The means used to achieve this end do not alter the constitutional calculus. Prohibiting assistance in crossing state lines in the manner of this proposed statute suffers the same infirmity with respect to our federal structure as would a direct ban on traveling across state lines to obtain an abortion that complies with all the laws of the state where it is performed without first complying also with the laws that would apply to obtaining an abortion in one's home state.

The federalism principle we have described operates routinely in our national life. Indeed, it is so commonplace it is taken for granted. Thus, for example, neither Virginia nor Congress could prohibit residents of Virginia, where casino gambling is illegal, from traveling interstate to gamble in a casino in Nevada. (Indeed, the economy of Nevada essentially depends upon this aspect of federalism for its continued vitality.) People who like to hunt cannot be prohibited from traveling to states where hunting is legal in order to avail themselves of those pro-hunting laws just because such hunting may be illegal in their home state. And citizens of every state must be free, for example, to read and watch material, even constitutionally unprotected material, in New York City the distribution of which might be unlawful in their own states, but which New York has chosen not to forbid. To call interstate travel for such purposes an ''evasion'' or ''circumvention'' of one's home-state laws—as H.R. 476 purports to do, see H.R. 476, §2(a) (heading of the proposed 18 U.S.C. §2431) (''Transportation of minors in circumvention of certain laws relating to abortion'')—is to misunderstand the basic premise of federalism: one is entitled to avoid those laws by traveling interstate. Doing so amounts to neither evasion nor circumvention.

Put simply, you may not be compelled to abandon your citizenship in your home state as a condition of voting with your feet for the legal and political regime of whatever other state you wish to visit. The fact that you intend to return home cannot undercut your right, while in another state, to be governed by its rules of primary conduct rather than by the rules of primary conduct of the state from which you came and to which you will return. When in Rome, perhaps you will not do as the Romans do, but you are entitled—if this figurative Rome is within the United States—to be governed as the Romans are. If something is lawful for one of them to do, it must be lawful for you as well. The fact that each state is free, notwithstanding Article IV, to make certain benefits available on a preferential basis to its own citizens does not mean that a state's criminal laws may be replaced with stricter ones for the visiting citizen from another state, whether by that state's own choice or by virtue of the law of the visitor's state or by virtue of a congressional enactment. To be sure, a state need not treat the travels of its citizens to other states as suddenly lifting otherwise applicable restrictions when they return home. Thus, a state that bans the possession of gambling equipment, of specific kinds of weapons, of liquor, or of obscene material may certainly enforce such bans against anyone who would bring the contraband items into the jurisdiction, including its own residents returning from a gambling state, a hunting state, a drinking state, or a

state that chooses not to outlaw obscenity. But that is a far cry from projecting one state's restrictive gambling, firearms, alcohol, or obscenity laws into another state whenever citizens of the first state venture there.

Thus states cannot prohibit the lawful out-of-state conduct of their citizens, nor may they impose criminal-law-backed burdens—as H.R. 476 would do—upon those lawfully engaged in business or other activity within their sister states. Indeed, this principle is so fundamental that it runs through the Supreme Court's jurisprudence in cases that are nominally about provisions and rights as diverse as the Commerce Clause, the Due Process Clause, and the right to travel, which is itself derived from several distinct constitutional sources. See, e.g., *Healy* v. *Beer Institute*, 491 U.S. 324, 336 n. 13 (1989) (Commerce Clause decision quoting *Edgar* v. *Mite Corp.*, 457 U.S. 624, 643 (1982) (plurality opinion), which in turn quoted the Court's Due Process decision in *Shaffer* v. *Heitner*, 433 U.S. 186, 197 (1977)) (''The limits on a State's power to enact substantive legislation are similar to the limits on the jurisdiction of state courts. In either case, 'any attempt ''directly'' to assert extraterritorial jurisdiction over persons or property would offend sister States and exceed the inherent limit of the State's power.' '').

The Supreme Court recently reaffirmed this fundamental principle in its landmark right to travel decision, *Saenz* v. *Roe*, 526 U.S. 489 (1999). There the Court held that, even with congressional approval, the State of California was powerless to carve out an exception to its otherwise-applicable legal regime by providing recently-arrived residents with only the welfare benefits that they would have been entitled to receive under the laws of their former states of residence. This attempt to saddle these interstate travelers with the laws of their former home states—even if only the welfare laws, laws that would operate far less directly and less powerfully than would a special criminal-law restriction on primary conduct—was held to impose an unconstitutional penalty upon their right to interstate travel, which, the Court held, is guaranteed them by the Privileges or Immunities Clause of the Fourteenth Amendment. See Saenz, 526 U.S. at 503–504.

Although Saenz concerned new residents of a state, the decision also reaffirmed that the constitutional right to travel under the Privileges and Immunities Clause of Article IV, Section 2, provides a similar type of protection to a non-resident who enters a state not to settle, but with an intent eventually to return to her home state: ''[B]y virtue of a person's state citizenship, a citizen of one State who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the 'Privileges and Immunities of Citizens in the several States' that he visits. This provision removes 'from the citizens of each State the disabilities of alienage in the other States.' *Paul* v. *Virginia*, 8 Wall. 168, 180 (1869). It provides important protections for nonresidents who enter a State whether to obtain employment, *Hicklin* v. *Orbeck*, 437 U.S. 518 (1978), to procure medical services, *Doe* v. *Bolton*, 410 U.S. 179, 200 (1973), or even to engage in commercial shrimp fishing, *Toomer* v. *Witsell*, 334 U.S. 385 (1948).''

Saenz, 526 U.S. at 501–502 (footnotes and parenthetical omitted).

Indeed, *Doe* v. *Bolton*, 410 U.S. 179 (1973), which was decided over a quarter century ago, and to which the Saenz court referred, specifically held that, under Article IV of the Constitution, a state may not restrict the ability of visiting non-residents to obtain abortions on the same terms and conditions under which they are made available by law to state residents. ''[T]he Privileges and Immunities Clause, Const. Art. IV, §2, protects persons . . . who enter [a state] seeking the medical services that are available there.'' Id. at 200.

Thus, in terms of protection from being hobbled by the laws of one's home state wherever one travels, nothing turns on whether the interstate traveler intends to remain permanently in her destination state, or to return to her state of origin. Combined with the Court's holding that, like the states, Congress may not contravene the principles of federalism that are sometimes described under the ''right to travel'' label, Saenz reinforces the conclusion, if it were not clear before, that even if enacted by Congress, a law like H.R. 476 that attempts by reference to a state's own laws to control that state's resident's out-of-state conduct on pains of criminal punishment, whether of that resident or of whoever might assist her to travel interstate, would violate the federal Constitution. See also *Shapiro* v. *Thompson*, 394 U.S. 618, 629–630 (1969) (invalidating an Act of Congress mandating a durational residency requirement for recently arrived District of Columbia residents seeking to obtain welfare assistance).

In 1999, this Committee heard testimony from Professor Lino Graglia of the University of Texas School of Law. An opponent of constitutional abortion rights, he candidly conceded that the proposed law would ''make it . . . more dangerous for young women to exercise their constitutional right to obtain a safe and legal abortion.'' Testimony of Lino A. Graglia on H.R. 1218 before the Constitution Subcommittee of the Committee on the Judiciary, U.S. House of Representatives, May 27, 1999 at 1. He also concluded, however, that ''the Act furthers the principle of federalism to the extent that it reinforces or makes effective the very small amount of policymaking authority on the abortion issue that the Supreme Court, an arm of the national government, has permitted to remain with the States.'' Id. at 2. He testified that he supported the bill because he would support ''anything Congress can do to move control of the issue back into the hands of the States.'' Id. at 1.

Of course, as the description of H.R. 476 we have given above demonstrates, that proposed statute would do nothing to move ''back'' into the hands of the states any of the control over abortion that was precluded by *Roe* v. *Wade*, 410 U.S. 113 (1973), and its progeny. The several states already have their own distinctive regimes for regulating the provision of abortion services to pregnant minors, regimes that are permitted under the Supreme Court's abortion rulings. That, indeed, is the very premise of this proposed law. But, rather than respecting federalism by permitting each state's law to operate within its own sphere, the proposed federal statute would contravene that essential principle of federalism by saddling the abortion-seeking young woman with the restrictive law of her home state wherever she may travel within the United States unless she travels unaided. Indeed, it would add insult to this federalism injury by imposing its regime regardless of the wishes of her home state, whose legislature might recoil from the prospect of transforming its parental notification laws, enacted ostensibly to encourage the provision of loving support and advice to distraught young women, into an obstacle to the most desperate of these young women, compelling them in the moment of their greatest despair to choose between, on the one hand, telling someone close to them of their situation and perhaps exposing this loved one to criminal punishment, and, on the other, going to the back alleys or on an unaccompanied trip to another, possibly distant state. This Federal statute would therefore violate rather than reinforce basic constitutional principles of federalism.

The fact that the proposed law applies only to those assisting the interstate travel of minors seeking abortions may make the federalism-based constitutional infirmity somewhat less obvious—while at the same time rendering the law more vulnerable to constitutional challenge because of the danger in which it will place the class of frightened, perhaps desperate young women least able to travel safely on their own. The importance of protecting the relationship between parents and their minor children cannot be gainsaid. But in the end, the fact that the proposed statute involves the interstate travel only of minors does not alter our conclusion.

No less than the right to end a pregnancy, the constitutional right to travel interstate and to take advantage of the laws of other states exists even for those citizens who are not yet eighteen. ''Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights.'' *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52, 74 (1976). Nonetheless, the Court has held that, in furtherance of the minor's best interests, government may in some circumstances have more leeway to regulate where minors are concerned. Thus, whereas a law that sought, for example, to burden adult women with their home state's constitutionally acceptable waiting periods for abortion (or with their home state's constitutionally permissible medical regulations that may make abortion more costly) even when they traveled out of state to avoid those waiting periods (or other regulations) would obviously be unconstitutional, it might be argued that a law like the proposed one, which seeks to force a young woman to comply with her home state's parental consent laws regardless of her circumstances, is, because of its focus on minors, somehow saved from constitutional invalidity.

It is not, for at least two reasons. First, the importance of the constitutional right in question for the pregnant minor too desperate even to seek judicial approval for abortion in her home state—either because of its futility there, or because of her terror at a judicial proceeding held to discuss her pregnancy and personal circumstances—means that government's power to burden that choice is severely restricted. As Justice Powell wrote over two decades ago:

''The pregnant minor's options are much different from those facing a minor in other situations, such as deciding whether to marry. . . . A pregnant adolescent . . . cannot preserve for long the possibility of aborting, which effectively expires in a matter of weeks from the onset of pregnancy.''

''Moreover, the potentially severe detriment facing a pregnant woman is not mitigated by her minority. Indeed, considering her probable education, employment skills, financial resources, and emotional maturity, unwanted motherhood may be exceptionally burdensome for a minor. In addition, the fact of having a child brings with it adult legal responsibility, for parenthood, like attainment of the age of majority, is one of the traditional criteria for the termination of the legal disabilities of minority. In sum, there are few situations in which denying a minor the right to make an important decision will have consequences so grave and indelible.''

Bellotti v. *Baird* (Bellotti II), 443 U.S. 622, 642 (1979) (plurality opinion) (citations omitted).

Second, the fact that the penalties on travel out of state by minors who do not first seek parental consent or judicial bypass are triggered only by intent to obtain a lawful abortion and only if the minor's home state has more stringent ''minor protection'' provisions in the form of parental involvement rules than the state of destination, renders any protection-of-minors exception to the basic rule of federalism unavailable.

To begin with, the proposed law, unlike one that evenhandedly defers to each state's determination of what will best protect the emotional health and physical safety of its pregnant minors who seek to terminate their pregnancies, simply defers to states with strict parental control laws and subordinates the interests of states that have decided that legally-mandated consent or notification is not a sound means of protecting pregnant minors. The law does not purport to impose a uniform nationwide requirement that all pregnant young women should be subject to the abortion laws of their home states and only those abortion laws wherever they may travel. Thus, under H.R. 476, a pregnant minor whose parents believe that it would be both destructive and profoundly disrespectful to their mature, sexually active daughter to require her by law to obtain their consent before having an abortion, and who live in a state whose laws reflect that view, would, despite the judgment expressed in the laws of her home state, still be required to obtain parental consent should she seek an abortion in a neighboring state with a stricter parental involvement law—something she might do, for example, because that is where the nearest abortion provider is located. This substantively slanted way in which H.R. 476 would operate fatally undermines any argument that might otherwise be available that principles of federalism must give way because this law seeks to ensure that the health and safety of pregnant minors are protected in the way their home states have decided would be best.

In addition, the proposed law, again unlike one protecting parental involvement generally, selectively targets one form of control: control with respect to the constitutionally protected procedure of terminating a pregnancy before viability. The proposed law does not do a thing for parental control if the minor is being assisted into another state (or, where the relevant regulation is local, into another city or county) for the purpose of obtaining a tattoo, or endoscopic surgery to correct a foot problem, or laser surgery for an eye defect. The law is activated only when the medical procedure being obtained in another state is the termination of a pregnancy. It is as though Congress proposed to assist parents in controlling their children when, and only when, those children wish to buy constitutionally protected but sexually explicit books about methods of birth control and abortion in states where the sale of such books to these minors is entirely lawful.

The basic constitutional principle that such laws overlook is that the greater power does not necessarily include the lesser. Thus, for example, even though so-called ''fighting words'' may be banned altogether despite the First Amendment, it is unconstitutional, the Supreme Court held in 1992, for government selectively to ban those fighting words that are racist or anti-semitic in character. See *R.A.V.* v. *City of St. Paul*, 505 U.S. 377, 391–392 (1992). To take another example, Congress could not make it a crime to assist a minor who has had an abortion in the past to cross a state line in order to obtain a lawful form of cosmetic surgery elsewhere if that minor has not complied with her state's valid parental involvement law for such surgery. Even though Congress might enact a broader law that would cover all the minors in the class described, it could not enact a law aimed only at those who have had abortions. Such a law would impermissibly single out abortion for special burdens. The proposed law does so as well. Thus, even if a law that were properly drawn to protect minors could constitutionally displace one of the basic rules of federalism, the proposed statute can not.

Lastly, in oral testimony given in 1999 before the Subcommittee on the Constitution, Professor John Harrison of the University of Virginia, while conceding that ordinarily a law such as this, which purported to impose upon an individual her home state's laws in order to prevent her from engaging in lawful conduct in one of the other states, would be constitutionally ''doubtful,'' argued that the constitutionality of this law is resolved by the fact that it relates to ''domestic relations,'' a sphere in which, according to Professor Harrison, ''the state with the primary jurisdiction over the rights and responsibilities of parties to the domestic relations is the state of residence. . . and not the state where the conduct'' at issue occurs. See transcript of the Hearing of the Constitution Subcommittee of the House Judiciary Committee on the Child Custody Protection Act, May 27, 1999.

This ''domestic relations exception'' to principles of federalism described by Professor Harrison, however, does not exist, at least not in any context relevant to the constitutionality of H.R. 476. To be sure, acting pursuant to Article IV, §1, Congress has prescribed special state obligations to accord full faith and credit to judgments in the domestic relations context—for example, to child custody determinations and child support orders. 28 U.S.C. §§1738A, 1738B. These provisions also establish choice of law principles governing modification of domestic relations orders. In addition, in a controversial provision whose constitutionality is open to question, Congress has said that states are not required to accord full faith and credit to same-sex marriages. Id. at §1738C.

But the special measures adopted by Congress in the domestic relations context can provide no justification for H.R. 476. There is a world of difference between provisions like §§1738A and 1738B, which prescribe the full faith and credit to which state judicial decrees and judgments are entitled, and proposed H.R. 476, which in effect gives state statutes extraterritorial operation—by purporting to impose criminal liability for interstate travel undertaken to engage in conduct lawful within the territorial jurisdiction of the state in which the conduct is to occur, based solely upon the laws in effect in the state of residence of the individual who seeks to travel to a state where she can engage in that conduct lawfully.

The Supreme Court has always differentiated ''the credit owed to laws (legislative measures and common law) and to judgments.'' *Baker* v. *General Motors Corp.*, 522 U.S. 222, 232 (1998). For example, while a state may not decline on public policy grounds to give full faith and credit to a judicial judgment from another state, see, e.g., *Fauntleroy* v. *Lum*, 210 U.S. 230, 237 (1908), a forum state has always been free to consider its own public policies in declining to follow the legislative enactments of other states. See *Nevada* v. *Hall*, 440 U.S. 410, 421–24 (1979). In short, under the Full Faith and Credit Clause, a state has never been compelled ''to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate.'' *Pacific Employers Ins. Co.* v. *Industrial Accident Comm'n*, 306 U.S. 493, 501 (1939). In fact, the Full Faith and Credit Clause was meant to prevent ''parochial entrenchment on the interests of other States.'' *Thomas* v. *Washington Gas Light Co.*, 448 U.S. 261, 272 (1980) (plurality opinion). A state is under no obligation to enforce another state's statute with which it disagrees.

But H.R. 476 would run afoul of that principle. It imposes the restrictive laws of a woman's home state wherever she travels, in derogation of the usual rules regarding choice of law and full faith and credit.

Mr. FEINGOLD. Mr. President, I cannot support the Child Custody Protection Act. First, I object to the decision to bring this bill directly to the floor, circumventing the Senate's committee process. I remember when this bill came before the Senate Judiciary Committee in the 105th Congress. We held a hearing, debated and voted on amendments, and even issued a committee report with minority views. Mr. President, that was in 1998; surely, the factual basis of this legislation has changed since then. I do not see why the Leadership feels that this bill no longer deserves the serious consideration that it received eight years ago.

In addition, this bill is an overreach of Federal power that comes at the expense of the health and safety of young women. The notion that one State may not impose its laws outside its territorial boundaries is a core federalist principle, and I believe this bill might very well violate the Constitution if enacted. States should retain their right to enact and implement appropriate policies within their territorial boundaries. The Child Custody Protection Act would preempt these rights by allowing the laws of certain States to essentially trump the laws in other States.

In an ideal world, all young women who face this difficult decision would be able to turn to their parents. But we do not live in an ideal world, and the reality is that there are young women who feel they cannot turn to a parent out of fear of physical or mental abuse, getting kicked out of the house, or worse. This bill would deny these young women the ability to turn to another trusted adult for help. Many national medical and public-health organizations, including the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have expressed grave concern about mandatory parental consent laws for these reasons.

Our focus in the Senate should be on ensuring that unintended pregnancies do not happen in the first place. For these reasons, I intend to continue my work in the Senate to ensure that all women have access to the best information and reproductive health services available. If we do that, abortions will become even more rare, as well as staying safe and legal.

Ms. MURKOWSKI. Mr. President, I rise today to speak on the Child Custody Protection Act. I support the intent of the act, which seeks to protect the health and safety of pregnant minors, as well as the rights of parents to be involved in the medical decisions of

their minor daughters. However, I believe this act might have gone further in protecting young women in situations of family abuse or incest.

As a parent of two, I understand the importance and centrality of family, and an essential element of that: the parent-child relationship. The Supreme Court noted in Planned Parenthood v. Casey that parental involvement laws related to abortions ''are based on the quite reasonable assumption that minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart.'' It is important that, to the extent possible, a young woman be able to consult with her family before making the decision to have an abortion.

Unfortunately, some young women, particularly victims of incest or family violence, cannot safely involve parents in their decision to obtain an abortion. In such a circumstance, as my colleagues have rightfully pointed out, the minor girl could seek a judicial bypass, which would allow the girl to petition a judge to waive the parental involvement law. The bypass is intended for situations of incest or family abuse, and would allow for the involvement of appropriate state authorities, making it more likely that the minor girl will be removed from the abusive situation and that the abuser will be brought to justice. The bypass option is fundamental to the rights of the minor, and exists to protect her safety.

Constitutional law requires a parental consent law to contain a judicial bypass provision. However, the circuit courts are divided as to whether parental notification laws also must contain a judicial bypass. I am concerned for those girls who are in an abusive family situation and who reside in states that could enact a parental notification law without a bypass option. I believe something must be done to strengthen the bypass requirements in this bill to ensure the protection of minor girls with abusive families.

Given the unanimous consent agreement, I do not have the opportunity to amend the Child Custody and Protection Act on the floor in order to strengthen the bypass option in cases of parental notification. I will look to my colleagues in conference to consider adding a provision that would ensure, with respect to parental notification, that minor girls in incestuous or family abusive situations be able to seek a bypass, whether it be the judicial bypass or, as in Utah, the medical bypass, which permits a physician to waive the parental notification requirement in cases of incest or family abuse. The physician must also notify State authorities.

It is right to protect pregnant girls and their families from those who do not have the minor girl's best interest at heart. Mr. President, I only ask that everything be done to protect the health and safety of those minor girls seeking an abortion who feel they cannot safely turn towards their family.

Mr. OBAMA. Mr. President, I am the parent of two young daughters. And as a parent, it is my sincere hope that my daughters will always feel they can come to me or my wife with any problem. So, even though I strongly believe in a woman's right to choose, I also believe that young women, if they become pregnant, should talk to their parents before considering an abortion.

But I also know that the reality is different for many young women. Some don't live in a traditional two-parent household. Others don't have a parent in whom they are comfortable confiding. For these young women, the most trusted adult in their life may be a grandparent, an aunt, or a clergy member.

I certainly hope these trusted adults would want to help a young person through a difficult time like a pregnancy. Unfortunately, this bill all but eliminates this option for young women. Instead of encouraging pregnant teens to seek the advice of adults, this bill criminalizes adults who attempt to help a young woman in need and essentially abandons them to confront a difficult issue on their own.

In fact, this bill would criminalize adults even if they were not attempting to help a young woman in need. Under this bill, if a grandparent gave a young woman a ride across a state line—say from South Dakota into neighboring Iowa—and that young woman ended up seeking an abortion, that grandparent could spend up to a year in prison.

Now, there are a lot of other problems with the bill: there is no health exception, no judicial bypass, and the notion that one State's laws can take precedence over another State's laws is unconstitutional and unacceptable. But the fundamental flaw with the bill is its criminalization of compassion. At a time when teenagers most need help, this bill would instead force caring and trusted adults—whether it's an older sister, an aunt or grandparent, or health professionals, social workers, or a minister—to stand to the side and watch the young woman go it alone.

I wish this bill was an honest effort to confront the real issue here: unwanted teen pregnancies. No one in this body—whether pro-choice or pro-life—wants young women to seek abortions. But this bill does not address this serious issue. I hope we can work to pass legislation that will provide young people today with the information they need to prevent unwanted teen pregnancies. I regret that I am unable to support this bill today.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the Child Custody Protection Act. I oppose this bill for three reasons. The first is that it does nothing to promote the health and safety of our children. The second is that I do not believe it can pass constitutional muster. The third reason I oppose this bill because it is just another example of the continual assault on women's reproductive freedom.

I strongly believe that minors should involve their parents in all important decisions. This includes the decision to have an abortion. Research shows that most women voluntarily involve their parents when making this decision. However, I recognize that there are some young women who cannot talk to their parents about this issue. Some young women may not live with either of their parents, and instead live with a grandparent, aunt, or another adult relative. Some young women may be growing up in households where they experience physical and sexual abuse and may be threatened with further abuse should their parents be aware of a pregnancy. Yet young women facing pregnancy crisis need help and support.

There are no exceptions in this bill which address the realities of women's lives. The reality is that some young women come from abusive homes. The unfortunate reality is that sometimes young women are raped by their fathers, and this results in a pregnancy. And, the reality is that a young woman may need a trusted adult whether it be a grandparent, older sibling, priest or rabbi, to accompany them if they choose to get an abortion.

This bill does not help these young women. In fact, this bill says to women who cannot involve their parents that they have to go it alone. That is why I voted for the Feinstein amendment which would have allowed other trusted adults like grandparents or clergy members to be allowed to step in when a young woman could not go to her parents for help. This amendment was a step in the right direction. It acknowledged that unfortunately some young women cannot talk to their parents about this very important decision.

That is why I also voted for the Lautenberg-Menendez amendment. This amendment addresses the causes of teen pregnancy. The amendment takes positive steps to prevent teenage girls from getting pregnant in the first place. It funds teen pregnancy prevention programs in schools and community settings. The amendment provides funding to keep teens out of trouble and on the road to success. It restores budget cuts to after school programs and physical education classes.

I also oppose this bill because it does not pass constitutional muster. Not only does it totally ignore cases where a young woman's health is threatened. That clearly undermines the major holding in Stenberg v. Carhart which requires any law regulating abortion must contain an exception for a woman's health. Let's be clear: because this bill does not contain an exception to protect the health of young women it will be ruled unconstitutional.

Finally, I oppose this bill because it is yet another assault on women's reproductive freedom. I strongly support a woman's right to choose and have fought to improve women's health during the more than two decades I have

served in Congress. Whether it is establishing offices of women's health, fighting for coverage for contraceptives, or requiring Federal quality standards for mammography, I will continue the fight to improve women's health.

Today, I will oppose S. 403 because it forces young women who are dealing with a crisis pregnancy to go it alone and deprives them of the advice and assistance of a trusted adult. It assumes that every family is safe, stable, and supportive. The bill ignores that some minors cannot go to mom and dad for help. It does not make our children any safer. I urge my colleagues to vote against S. 403.

Mr. INHOFE. Mr. President, I rise today in support of S. 403, the Child Custody Protection Act. This bill prohibits transporting minors across State lines to obtain an abortion without parental notice or consent. I have and will continue to fight for the protection of children in the womb as well as the safety of minors.

I believe that life begins at the moment of conception and that children in the womb deserve the same rights and protection as all other human beings.

The Child Custody Protection Act will not only help protect these children in the womb, it will also protect their young mothers and families by involving parents who have their best interests at heart.

I believe we can all agree that our young girls must be protected, and the laws put in place for that purpose must be upheld. Currently, 45 States have laws that require notification, consent, or some type of consultation with a minor's parent or guardian before she can legally have an abortion. However, there are no laws to prevent a minor from crossing State borders and having an abortion performed in a State without such laws.

This practice disregards abortion policies of individual States, implicates interstate commerce, and endangers young girls by allowing them to have dangerous abortion procedures performed without the guidance of their parent or guardian. The Child Custody Protection Act prohibits transporting a minor across a State line for the purpose of obtaining an abortion if doing so circumvents a parental notification or consent statute in the minor's residing State.

The Child Custody Protection Act will not change the parental notification or consent laws of any individual State, but will help to enforce these laws by helping to prevent minors from being taken out of a State for an abortion without a parent's knowledge or consent. This bill will actually reinforce State policies that are already in place.

Sadly, many young girls have been taken out of State by an individual other than her parent or guardian to obtain an abortion and have been subjected to unsafe and unlawful abortion procedures that endanger them physically and mentally. Abortion can cause physical and emotional complications for a young girl, and these dangers are greatly increased by taking her away from of the influence of her parents or guardian, placing her in the hands of an individual who does not have her best interests in mind.

Crystal Farley Lane was one such victim. When she was 12 years old, she became pregnant after tragically being raped by a 19-year-old man. Rosa Hartford, the man's mother, then took Crystal from her home in Pennsylvania, without her mother's knowledge or consent, to New York, where there were no parental consent laws, to have an abortion. After the procedure, Ms. Hartford abandoned young Crystal, who had serious medical complications, 30 miles from her home. When Crystal's mother, Joyce Farley, found out what happened and tried to help by asking the abortionist for Crystal's medical records, she was denied. Fortunately, Ms. Farley was able to help her obtain the medical care she needed in time, despite this obstacle by the abortionist.

Crystal's near-death experience could have been prevented had the Child Custody Protection Act been in place. Instead, there are currently no laws to prevent people like Ms. Hartford from taking Crystal out of Pennsylvania to obtain an abortion without parental consent.

Ms. Farley poignantly testified before the Senate Judiciary Committee that, ''situations such as this are what the 'Child Custody Act' was designed to help prevent. I am a loving, responsible parent whose parenting was interfered with by an adult unknown to me.''

In another instance, Marcia Carroll's 14-year-old daughter was forced into having an abortion by her boyfriend's family. The family took her from Pennsylvania to New York without Ms. Carroll's knowledge or consent, left her alone to have an abortion that she did not want to have, and then left her a block from her home in Pennsylvania. This 14-year-old girl had to go through a frightening and painful abortion procedure on her own and was then left to deal with the physical and emotional pain from an abortion that she did not want to have.

I find it terribly unjust that there are no laws to prevent situations such as these from happening and that families have no recourse against those who are responsible.

Very often, adult men, who are on average 6 to 7 years older than their victims, are the culprits of this violating crime against these young girls. Two-thirds of these adult men are 20 years of age or older. Additionally, more than half of the time it is a girl's boyfriend who takes her to another State to have an abortion without her parents' consent. An abortion performed in a jurisdiction that prohibits release of the medical records destroys any evidence that might have been used against a perpetrator to prosecute him for statutory rape and leaves him free to continue preying on these young girls without consequence.

The incongruity of this status is striking. There are so many restrictions to protect our minors from making bad decisions by requiring parental consent for their actions. They must have parental consent to take medication at school, even an aspirin. They cannot go on a school field trip without a permission slip signed by a parent. Why, then, can a young girl who cannot take an aspirin without the consent of her parents, cross a State border and have an abortion without notifying them? And why can an adult be prosecuted for giving a child aspirin but not for taking her to another state to have an abortion?

By reinforcing State abortion laws requiring parental notification or consent, the Child Custody Protection Act will protect our young daughters from making or being coerced into poor, irreversible, life-changing decisions. I believe we can all agree that action must be taken to prevent the evasion of laws created to protect minors and their families and help preserve the precious lives of children in the womb. I ask that this Chamber quickly pass this lifesaving legislation.

Mr. LIEBERMAN. Mr. President, I rise today in opposition of the Child Custody Protection Act, S. 403. This bill is not about reducing the numbers of abortions in America. S. 403 is about politics played at the expense of young women in the United States. S. 403 would make it a Federal crime for adults other than guardians to transport a minor across State lines to obtain an abortion. This is not nearly as simple as it may sound. S. 403 is another direct attack on the reproductive rights of women. It turns its back on young women who do not inform their parents about their decision to obtain an abortion even if they face threats of personal harm. S. 403 would criminalize grandmothers, religious leaders, aunts and uncles, and doctors fighting for the health and well-being of young women. This bill would take us back to the time before Roe v. Wade where women did not have the right to control their own bodies and too often were forced to seek an abortion at any cost.

The supporters of S. 403 want us to believe that there is a significant problem with young women being transported involuntarily over State lines to receive unwanted abortions without their parents' consent. But this is not what this bill is about. The majority of young women involve their parents in a vital decision such as this. In fact, over 60 percent of young women involve their parents in their decision to have an abortion. For adolescents 14 years and younger, the number is 90 percent.

So what is happening in cases when young women choose not to involve their parents? Studies show that in one-third of the cases where young women do not involve a parent, they

fear family violence or being forced to leave the home. Research tells us that almost 50 percent of pregnant young women with a history of physical abuse report that they were hit during their pregnancy. Unfortunately, the person they were most often hit by was a family member.

The truth is adolescents that are most at risk for teen pregnancy are also the most likely to come from violent homes. Here, they often may not receive the parental guidance they need to make healthy decisions. Therefore, many experts tell us that teens at greatest risk for teen pregnancy also suffer the most from mandatory parental consent laws. These are young women that often do not have access to good parental support and guidance. They are likely to turn to other adult role models in their lives—grandmothers, aunts, cousins, or sisters for that guidance and support.

But S. 403 would send these people—grandmothers, aunts and religious figures—to prison for assisting young women in need. Mr. President, is this the way the Nation should be focusing on as a solution to teen pregnancy? Why don't we work together to reduce the numbers of unintended pregnancies and give people the social supports they need to make healthy choices? Why aren't the administration and the congressional majority talking about finding new pregnancy prevention programs that do not include jails?

Instead, this administration and the majority in Congress are initiating programs that are reversing the declines in abortion rates that we saw in the late 1990s. The Bush administration is more concerned with parental notification laws that we know hurt teens and would only affect a minority of cases than with actually preventing abortions. On their watch, abortion rates have stopped declining. In fact, according to government statistics, 90 percent of the States that attract the most out-of-State abortions actually have moderate to strict parental involvement laws. S. 403 will do nothing to keep young women from having to make a difficult choice—it will only make it harder for them.

The American Psychological Association has listed studies that show that parental notification laws increase adolescent stress and anxiety. They increase the likelihood of teenage pregnancy. Parental notification laws also make it more likely that teens will turn to extralegal and unsafe methods of abortion that could result in serious injury.

I wished we lived in a world where parents would always be involved in their children's health decisions. I would want any young woman in America contemplating abortion to trust her parents enough and feel safe enough to involve them in her decision. Unfortunately, that is not the reality that many of our young women face. They cannot go to their parents for fear of abuse and violence. This bill does nothing to protect these young women by including a strong judicial bypass, and does not take into consideration the difficult situations these young women face.

I cannot even list the numbers of groups that have come out in strong opposition of S. 403, but they include the American Civil Liberties Union, the American Academy of Pediatrics, the American Medical Women's Association, the National Organization for Women, the National Partnership for Women & Families, and the Republican Majority for Choice. I am joining those groups in opposition to S. 403.

S. 403 is another attempt at curtailing a woman's right to choose—in this case, young women, who are often the most vulnerable to violence and abuse from those that are supposed to be protecting them. I ask my colleagues to defeat S. 403.

Mr. CRAIG. Mr. President. I rise today in support of legislation protecting the most important relationship of all: that of parents and their children. The family is the fundamental, crucial and indispensable building block of our civilization, and parents are at its center. Yet, when it comes to one of the most important decisions in life, children are being kept from the guidance of their parents. I am talking, of course, about the decision whether or not to have an abortion.

The American people believe that parents should be involved in deciding whether their daughter should undergo an abortion. Statistics consistently show this, and the Supreme Court has upheld this. As the Court noted in the decision of H.L. v. Matheson: ''the medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature.'' In the case of Parham V. J.R. the Court said ''[t]he law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions.''

Convinced of the soundness of this reasoning, at least 48 States have enacted laws requiring consent of or notification to at least one parent, or authorization by a judge, before a minor can obtain an abortion. Unfortunately, this wise policy is being undermined.

Thousands of children every year are taken across State lines by people other than their parents to secure secret abortions. As we speak, abortion providers across the Nation, operating in States with no parental consent or notification laws, are taking out advertisements in phonebooks outside of the State where they operate in order to attract underage patients in neighboring States with different laws. They are doing this in my home State of Idaho. They are doing this in Pennsylvania, blatantly trumpeting the fact that their clinics, outside of Pennsylvania, do not require parental notification as Pennsylvania does. In essence, these abortion providers are encouraging people to circumvent one State's parental notification law by crossing the border into another for a secret abortion.

The tragedy is that thousands of nonrelated adults take this suggestion every year in successful attempts to circumvent the law. In one highly publicized case, a 12-year-old girl living in a State with a constitutionally upheld parental notification law became pregnant by an 18-year-old man. The man's mother took her for an abortion in a neighboring State with no parental notification requirement. The mother's actions were discovered, and she was convicted of interfering with the custody of a child. A prominent proabortion legal defense organization appealed the conviction on the grounds that she merely ''assisted a woman to exercise her constitutional rights'' and as such was herself protected from prosecution by the Constitution. This reasoning cannot stand.

To say that, because the Court in Roe v. Wade declared most abortions constitutionally protected during the first trimester, that therefore minors have an absolute right to abortion without so much as notifying their parents, and that third parties—whatever their motives—have the right to transport them across State lines for a secret abortion, is to stand constitutional protections on their head. It is to strip children of the natural protection of their parents. There is hardly another circumstance warranting the need for parental guidance and judgment more than when a young daughter becomes pregnant and is considering an abortion. For the sake of our children and our families, this must stop. As a Nation, we loosen our precious family ties at our peril.

I must also note that Idaho is unable to enforce parental notification and consent laws that have passed the State legislature and have been signed into law by the Governor. Nearly 20 other States are in the same situation. These laws are all enjoined due to lawsuits brought by organizations intent on imposing their flawed understanding of the United States Constitutional protections on the American people, and judges willing to support it. It is my hope that this litigation will be resolved and that the right of elected officials to make and enforce laws under their jurisdiction will be upheld.

I strongly support and am cosponsoring the Child Custody Protection Act. Children must receive parental consent for even minor surgical procedures. Children must receive parental consent to take an asprin from their school nurse. I want to make it a Federal offense to transport a minor across State lines with intent to avoid the application of a State law requiring parental involvement in a minor's abortion, or judicial waiver of such a requirement. The profound, lasting physical and psychological effects of abortion demand that we help states guarantee parental involvement in the

abortion decision. That means, at a minimum, seeing to it that outside parties cannot walk around State parental notification and consent laws on a whim or as a means to hide illegal activity. We can no more afford to allow State laws to be ignored than we can afford to allow family ties to be further undermined. For the sake of our families, I urge my colleagues to defend both by supporting the Child Custody Protection Act.

Mr. MCCONNELL. Mr. President, I rise today in support of parents' most basic right and responsibility: to be actively involved in their children's lives, particularly in times of crisis. For that reason I wholeheartedly support S. 403, the Child Custody Protection Act.

I was an original co-sponsor of this bill when my good friend from Nevada, Senator ENSIGN, introduced it in 2005. S. 403 will make it a Federal offense to transfer a minor across State lines to obtain an abortion in order to evade a parental notification or parental consent law in the State in which the minor resides.

I am sure that my colleagues on both sides of the aisle will agree with me that every abortion is a tragic occurrence. The weight of such a decision falls heavily on any woman, particularly a minor. That is exactly the time that a child should be able to rely on a parent's counsel. And that is exactly the time a parent has a responsibility to be a parent, and get involved in their child's life.

Let me stress that S. 403 will not impose any new law or requirement on any State. Nor does it alter or supersede any existing State laws. All that this bill will do is reinforce state laws that are already in effect, and prevent them from being evaded by miscreants who would transport a minor across State lines for an abortion and cut the parents out of their child's life at such a crucial time.

This bill will promote the health of pregnant teens by ensuring that their parents—the people best equipped to make major medical decisions, answer questions about medical history, and help their child through the physical and emotional recuperative process—are present. And the bill also contains an exception if an abortion is necessary to save the life of the minor.

There is already a national consensus in America that a parent should be involved when a minor girl faces such an important decision. Forty-five States have enacted laws recognizing the need for responsible adults to give guidance to minors in decisions about abortion. And 37 States have parental notification or parental consent laws, including Kentucky, which has the latter. What we are doing here is an entirely appropriate Federal role: reinforcing the States' power to pass and enforce laws which are entirely constitutional. When I say that the State law in question must be constitutional, that is also provided for in the bill. S. 403 will only reinforce a State law if that law has passed constitutional muster.

Some critics will claim that this bill will grant too much influence to parents in their children's lives, and that young girls ought to be able to go and get an abortion without talking to their mom or dad. I am a little surprised at that line of thinking. I think that, generally, it is a good thing for kids to talk to their parents and ask them for help when they need it. But in any event, we have laws that give parents a say in what their kids do for matters far less serious than abortion.

Twenty-seven States currently require parental consent—not just notification, but consent—before a child under age 18 can get a tattoo. And 27 States require parental consent before a child under age 18 can get a body piercing. So if the opponents of this bill had their way, a 14-year-old girl could evade State law to get an abortion—but not a tattoo.

Perhaps thousands of underage girls get taken across State lines for abortions every year. Studies have shown that the majority of these girls have male partners older than 20. Many of these men are committing statutory rape. These girls are in trouble and need the advice of a mom or a dad to help them out of their desperate situations. This Senate ought to take the side of the parents over the side of the criminals.

Throughout my career, I have consistently stood for protecting the unborn and promoting a culture of life. I don't like that people are spiriting young girls away from their parents to get them to have abortions, and evading State law to boot. If this law means fewer abortions in America, I will celebrate that.

But I want to stress to my colleagues who may take an opposing view that the central issue of the Child Custody Protection Act is parental rights. Parents ought to have the right to be heard at such a pivotal moment in the children's lives, and States ought to have the expectation that their duly passed laws ensuring just that are enforced.

What opponents of this bill forget is that no parent wants anyone to take their children across State lines—or even across the street—without their permission. This is a fundamental right, and the Congress is right to uphold it in law.

Not one girl should have to make a decision—or worse, be forced into a decision that she will regret for the rest of her life because her mom and dad weren't there to lean on. It is this Senate's responsibility to see that doesn't happen. I urge my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, to update our colleagues on what has been going on, we had three amendments still pending on this bill. Senator BOXER and I, and our staffs, with the leadership on both sides, have been working together. We think we have come up with a compromise amendment. It will be the Boxer-Ensign amendment. We will be making a unanimous consent request in a few moments.

I thank Senator BOXER and her staff for the way they have worked together with us, coming to an agreement. This is a good example of how people who fundamentally disagree—passionately—on an issue can actually find some common ground and work together at least on an amendment. That is what we have done today. I am very pleased with what the staffs have done and the compromise we have reached. It is very satisfying.

Let me spend a few minutes talking on the bill as the final details are being worked out. This is an important piece of legislation, not because of the huge numbers it will affect—I have had that question from reporters: How many girls actually get taken across State lines to get an abortion? Sadly, no one knows the answer to that because it is not reported.

As a matter of fact, right now when it happens, the parents have no rights to the information, so they cannot find out even after the fact. They find out by rumor or maybe their child ends up telling them later where they had it done. We had cases where they tried to get the information, but, frankly, the clinic would not release the information. We have no idea how many victims are out there—the records are not kept anywhere—or how often this happens.

I have tried to put myself in a situation that I would want my Senator representing me. I try to say, okay, I am an average person, how would I want my Senator representing me? I happen to be the father of a little girl. We have three kids. Our middle child is a little girl. She happens to be with me this weekend in Washington. In the coming years, as she matures as a young woman, I think about if some 20-year-old preyed on her when she was in her teenage years and got her pregnant and then somehow, because we had a parental consent law, which I hope we do someday in Nevada, and the 20-year old said: I won't date you anymore unless you get a secret abortion. He thinks: I will convince her somehow, manipulate a very vulnerable young woman. I will convince her that I won't see her anymore if she doesn't get the abortion—or whatever means needed to persuade her to get an abortion. If there is a parental consent law in my State, I will decide to go someplace else where they don't require it. In other words, he gets around the will of the people of the State of Nevada or any state that requires parental involvement.

In a case such as that, I would be totally devastated as a parent because I would not be able to help my daughter through this time because I would not even know about it. I would not know if she had a complication from the surgical procedure of abortion. I would not know—if she had a complication in the

middle of the night and she started bleeding—that I should be watching for something that could be going wrong. If she had a fever, I would probably say: Honey, we will get you some Advil or Tylenol. And maybe I would hold her for a little while. And she would be afraid to tell me what was going on and, without me knowing, that could develop into very serious complications overnight. Complications that could even be life threatening.

Well, I try to put myself in those kinds of situations as a Senator and say: How would I want to be represented? And this is how I would want it. I would want somebody to stand up and say: The rights of parents should be respected. That is what we are doing in this bill. But more than that, for the well-being of these teenage girls, the vast majority of them would be better off if the parents were involved.

Now, we realize there are cases where that is not the case, where there is an abusive parent. There are exceptions. That is part of the amendment compromise we are working to reach. I think it is a good compromise. In a situation—that has been brought up here on the floor many times where there has been a girl impregnated who is in her teenage years, we do not want to make unreasonable exceptions that make these laws ineffective.

There was an amendment that would have said: We will make an exception to allow the clergy to take a girl across State lines. They wanted an amendment that said the grandparents should have an exception. Well, let me address those two exceptions because they sound, on their face, reasonable. We have case after case after case of documentation where the clergy was actually the person who was impregnating the teenager. We have all read about the scandals with some of our clergy. Clergy are human beings and, just like any other, they can be flawed human beings. We know that. Just because they have a white collar on does not mean they are perfect human beings.

Some of those imperfections can be seen in cases of sexual abuse by members of the clergy with teenagers. For instance, there have been members of the clergy who have taken minor children across State lines to avoid parental consent laws. And because they are clergy—they are supposed to be this authority figure—the girl does not want to question them and she goes across State lines and has a secret abortion.

The exception that was going to be offered in one of the amendments would have allowed that member of the clergy, which was not defined, to be exempt from prosecution under this bill. I cannot support such an exemption.

Not only that, any one can become a member of the clergy. In fact, last night I asked my staff, because I had heard you could become a member on the internet fairly easily, and within 3 minutes she became an ordained minister. So, anybody could go on the Internet and officially be recognized as an ordained minister, officially by our courts. Leaving it open that a 20-something-year-old who has impregnated a teenager could become a minister and could still fall under the clergy exception.

Let me address the grandparent case. In the case of the grandparents, you have a situation where maybe there was incest in the family, and the grandparent feels they care about the child, and they want to help them. Most grandparents are loving, and they will want to help the child in that case. The Senator from California and others have made the case that they should not be prosecuted under this law because they took the child across State lines to get an abortion because they only thought they were trying to help.

Well, I would make the argument that if those grandparents cared about that child who was in a situation where they were in an abusive home—they were raped by their father—the grandparents should contact the authorities, get the authorities involved to stop the cycle of abuse. You would use the judicial bypass for such case. Judicial bypass would mean that you would not have to go across State lines if that was what the outcome would be, to have an abortion. You would have the judiciary, the authorities involved.

If the authorities were involved, you take that girl out of that abusive situation and protect her. If you allow for the grandparent exception and allow secret abortions, that is not going to happen. In too many cases, it is easier to get the abortion, and hide the problem, saving the family from embarrassment. If you go to the authorities, it may become public. That is why I think we need to not have the grandparent exception and the clergy exception.

So, Mr. President, we are still waiting for the amendment to come down in its final form. As soon as it does, we will be entering into a unanimous consent agreement. But let me wrap up because it has been a very good debate, with strong emotions on each side.

I think this is a bill Americans can come together on and find common ground. I have mentioned before there are good people on both sides of the abortion debate with deeply held beliefs. I believe life begins at conception and that child is a child and has a soul from the time they are conceived. That is why I believe that same child deserves protection throughout their life. I also know that people look at it differently on the other side, and they too have deeply held beliefs.

So Americans have been saying: Can't we at least find some middle ground? Can't we find some ground to at least make some reasonable restrictions on abortion and support parents rights? I believe we have brought forth a bill today that finds that common ground. Eighty percent of the American people support this legislation, and they do that because it is reasonable. From a protection of parents' rights perspective; from a protection of the girl's perspective; from going after some of these, literally, sexual predators, these 20-something-year-olds, who are taking these teenagers across State lines; from a law enforcement perspective; from a lot of different ways this is a reasonable piece of legislation. That is why I introduced it, why I support it so strongly, and why I am happy we are finally having this debate on the Senate floor.

I want to thank my colleagues, especially Senator BOXER, on the other side of the aisle for allowing the debate to happen, for bringing this thing to a final vote, where we can get passage on this bill and then go to a conference with the House and, hopefully, work out the differences between the House and the Senate. My hope and prayer is we can get this bill actually signed into law by the President this year.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from California.

Mrs. BOXER. Mr. President, again, for the benefit of our colleagues, we are waiting patiently to have the amendment we agreed on to come before us. Then we are hoping at the right time, Senator ENSIGN will make a unanimous consent request for a vote on an amendment we have agreed on, and then vote on final passage. So hopefully we will have that done very soon. As soon as it is done, I will yield the floor and allow the Senator, the good Senator from Nevada, to make his unanimous consent request.

The Senator from Nevada wants to protect our daughters. He is a dad of a daughter. I am a mom of a daughter. I want to protect our daughters. So let's not get confused on this point. We all want to protect our daughters. We all adore them. We want them to be safe, and we want them to get the help they need. We want them healthy. We want them well. We do not want them afraid.

But I do fear that this bill, the way it is drafted—and, yes, we are going to make a little bit of a correction on the incest part, but not as much as we should, but some—we are going to make some progress, and I am grateful for that. Basically, the way this bill is drafted, it is going to frighten our daughters because here is the way it works, folks: If you are a young woman in a parental notification State, you will take matters into your own hands because you are too frightened to go to your parents.

Now, we all hope all parents will be open and loving and caring and helpful and will be able to be approached when a young woman becomes pregnant and it is an unintended pregnancy. We would hope and pray that family, that loving family, will sit around and talk about what ought to happen here, what is the best thing for everybody. I am pro-choice. I am for whatever the family decides. If they decide that the best thing is to raise that child in the family, that is their choice. If they decide

it is best if the young woman exercises her right to choose, which is her right in this country—and has been since 1973—she has that right.

That is what we hope happens, that there will be these conversations. Of course, my friends on the other side of the aisle do not want a choice. They want to force her to have the child. They are against Roe v. Wade, but that is another debate. That is a debate we take to the people, and that is a debate that the pro-choice people win. They do not want Senator BOXER or Senator ENSIGN involved in that family discussion, saying: But, no, you must have this child. You must not have any rights to choose. They do not want that. People do not feel comfortable with it. They want to deal with this their own way, with their own God, with their own family, with their loving family members. But that is not before us.

What is before us is a very narrow bill that deals with a very narrow circumstance where there is a young woman who does not go to her parents, mostly because she is scared to death to go to them. For whatever reasons, in her mind, she is fearful: Will they—if she is from a violent home—beat her up? Will they hurt her? Will they verbally abuse her? Will they be disappointed? And that weighs on her.

So what we are saying with this bill to that girl in a parental notification State is: You are alone. You can't go to anyone else. You can't go to your grandma who you adore, you can't go to your grandpa, you can't go to your big sister, you can't go to your Aunt Susan, you can't go to your clergy who has taken care of you and looked after you.

So you can't go to your doctor. You can't do this because they could be sued and put in jail. That is what this bill does. Is that America? Rather than go to the people who she knows who adore her, love her, care about her, would counsel her, would help her and, perhaps, by the way, talk her into speaking to her parents or going with her to speak to her parents, this bill says: Go it alone, get in your car, get in an airplane, don't take anyone with you, don't tell anyone else, because that person can be sued and, worse, put in jail.

These are our kids. My God, what a situation. And somehow this is supposed to be a wonderful thing we are doing, a family-values thing we are doing. I don't think you can force families into these situations. We don't know enough to be able to do that. There will be unintended consequences. We will have suicides. We will have very serious problems.

As we wait around here in these last moments of this debate—and I am hopeful we can bring it to a close—let me say again that I thank Senator ENSIGN for coming my way, not quite halfway, on the issue of incest. Because the bill as written allowed a father who raped his daughter to have all kinds of parental rights: the right to sign an agreement that she could have an abortion, the right to take her over State lines, the right to sue a loving and caring adult who helped her.

I wish to show this chart which I have shown previously. Under this amendment we are hoping is coming to us momentarily, we will stop a father who has raped his daughter from suing the trusted adult who helped his daughter end the resulting pregnancy. So in the case of incest, if the child goes to grandma, the incestuous father cannot sue grandma.

Then, at the end, Senator ENSIGN was not willing to take these three provisions which I will debate. He did take my last provision.

We now stop a father who has raped his daughter or any other family member who has committed incest against a minor from transporting her across State lines to obtain an abortion. That would be a crime.

The three things that are not done, which is why I think this amendment falls short: we haven't stopped a father who has raped his daughter from exercising parental consent rights; we haven't stopped all criminal prosecution or jail time for a trusted adult who helped a victim of incest; and we haven't stopped all civil suits against a trusted adult who helped a victim of incest. But we have taken care of two issues. For that I am grateful because this bill will become law. It will be sent to the President, who will sign it. Unlike his veto on the stem cell bill, which he should have signed, because that bill would help our families, help our children with juvenile diabetes, help grandmas and grandpas with Alzheimer's, Parkinson's, help our youngsters who were paralyzed—he vetoed that. He will sign this one.

This is a political bill. It did come to us in 1998 just before the election. Let's face facts. We know when it came.

My friend from Nevada is right when he says people support parental notification. They do want to believe we could all to go our parents with these problems. But let me tell you what they don't want. They don't want to give incest predators any rights whatsoever. They would want to make an exception in this bill for rape victims so that if you are a victim of rape and you were too scared to tell your parents, you could go to your grandmother, but not under this bill. A victim of rape, you are too scared to tell your parents because of the circumstances—maybe it was date rape, maybe you just can't explain it. Maybe you are frightened to death. You go to your grandma. She could be sued by the parents and she could be put in jail by the Federal Government. Send your grandma to jail. That is what we are doing here today. Why? Because she loved her granddaughter, because she was there for her granddaughter, and because by stepping in, she may have really saved a tragedy from occurring.

I don't believe the American people want us to be this radical. I think they would have wanted us to do more exceptions to this bill. Seventy percent of the American people oppose abortion laws that put people in jail. I don't believe Americans think that stopping an abortion is worth causing a teen a lifetime of paralysis, infertility, or worse. This bill, if it does get signed into law, and I say it will, and unless it is overturned by the courts, which I think it might be, but if it isn't, it basically will put these young women in a situation where they feel the world is closing in on them. That is not right.

I will close my debate and urge a ''yes'' vote on the Boxer-Ensign amendment that will go part way toward solving the predator incest issue. Then I would urge a ''no'' vote on the underlying bill because of all the problems it creates that we have not been able to address.

I thank the staffs on both sides. We have had a long and difficult day, emotional issues for us all. Yet we have handled it in such a way that I am hopeful that momentarily we will have a unanimous consent request to resolve the procedures governing the rest of the evening.

I yield back my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll. Mr. ENSIGN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ENSIGN. Mr. President, I ask unanimous consent that Senator BOXER be recognized in order to offer an amendment; provided further that there be 5 minutes for Senator BOXER and——

Mrs. BOXER. I only need 30 seconds.

Mr. ENSIGN. That we have 1 minute for Senator BOXER, 1 minute for Senator ENSIGN, and following that time, the Senate proceed to a vote in relation to the Boxer amendment. I further ask that following that vote, the bill be read a third time and the Senate proceed to a vote on passage of the bill with no further intervening action or debate.

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

AMENDMENT NO. 4694

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. ENSIGN, proposes an amendment numbered 4694.

Mrs. BOXER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To punish parents who have committed incest)

On page 4, line 5, strike the period and insert '', unless the parent has committed an

act of incest with the minor subject to subsection (a).''.

On page 5, after line 12 insert the following:

''§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

''Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both.''

Mrs. BOXER. I thank Senator ENSIGN. I had an amendment to solve this incest predator problem. He came to me almost halfway. We didn't quite get there, but it is a start. Again, for the benefit of my colleagues, two out of five provisions I wanted are in this amendment. This amendment stops a father who has raped his daughter from suing the trusted adult who helped his daughter end the resulting pregnancy, and it stops a father who has raped his daughter or any other family member who has committed incest against a minor from transporting her across State lines. This is an improvement. The reason we want to have a vote on it is because we hope it is a strong statement going into the conference on this bill. Again, we still need to fix many more provisions of this bill.

I believe, at the end of the day, it doesn't make our teenagers any safer. It will make them fearful. It will make them feel alone. I think the bill is unconstitutional. I hope we have some ''no'' votes to send a message that this bill needs a lot more work.

I thank Senator ENSIGN and his staff and my staff. It has been a tough day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, to wrap up, I encourage a ''yes'' vote on the Boxer-Ensign amendment.

I thank my staff and Senator BOXER's staff and particularly name Pam Thiessen and Alexis Bayer on my staff for the great work they have done on this bill and Chris Jaarda for some of the number crunching he did on the bill as well.

I hope we get a strong bipartisan vote on final passage. To alert our Members, these will be two votes, and then we will be completely done with this bill.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. ENSIGN. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Without objection, the yeas and nays may be requested on final passage.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4694.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. COBURN).

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 215 Ex.]

YEAS—98

Akaka	Domenici	McConnell
Alexander	Dorgan	Menendez
Allard	Durbin	Mikulski
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Frist	Nelson (NE)
Biden	Graham	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brownback	Harkin	Roberts
Bunning	Hatch	Rockefeller
Burns	Hutchison	Salazar
Burr	Inhofe	Santorum
Byrd	Inouye	Sarbanes
Cantwell	Isakson	Schumer
Carper	Jeffords	Sessions
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Cochran	Kohl	Specter
Coleman	Kyl	Stabenow
Collins	Landrieu	Stevens
Conrad	Lautenberg	Sununu
Cornyn	Leahy	Talent
Craig	Levin	Thomas
Crapo	Lieberman	Thune
Dayton	Lincoln	Vitter
DeMint	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden
Dole	McCain	

NOT VOTING—2

Coburn Feinstein

The amendment (No. 4694) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 216 Ex.]

YEAS—65

Alexander	Burr	Craig
Allard	Byrd	Crapo
Allen	Carper	DeMint
Bayh	Chambliss	DeWine
Bennett	Coburn	Dole
Bond	Cochran	Domenici
Brownback	Coleman	Dorgan
Bunning	Conrad	Ensign
Burns	Cornyn	Enzi
Frist	Landrieu	Santorum
Graham	Lott	Sessions
Grassley	Lugar	Shelby
Gregg	Martinez	Smith
Hagel	McCain	Stevens
Hatch	McConnell	Sununu
Hutchison	Murkowski	Talent
Inhofe	Nelson (FL)	Thomas
Inouye	Nelson (NE)	Thune
Isakson	Pryor	Vitter
Johnson	Reid	Voinovich
Kohl	Roberts	Warner
Kyl	Salazar	

NAYS—34

Akaka	Feingold	Murray
Baucus	Harkin	Obama
Biden	Jeffords	Reed
Bingaman	Kennedy	Rockefeller
Boxer	Kerry	Sarbanes
Cantwell	Lautenberg	Schumer
Chafee	Leahy	Snowe
Clinton	Levin	Specter
Collins	Lieberman	Stabenow
Dayton	Lincoln	Wyden
Dodd	Menendez	
Durbin	Mikulski	

NOT VOTING—1

Feinstein

The bill (S. 403), as amended, was passed, as follows:

S. 403

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 ''Child Custody Protection Act''.

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

''CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

''Sec.

''2431. Transportation of minors in circumvention of certain laws relating to abortion.

''§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

''(a) OFFENSE.—

''(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

''(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the minor, in a State other than the State where the minor resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

''(b) EXCEPTIONS.—

''(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

''(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the minor or other compelling facts, that before the minor obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides.

''(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action, unless the parent has committed an act of incest with the minor subject to subsection (a).

''(e) DEFINITIONS.—For the purposes of this section—

''(1) a 'law requiring parental involvement in a minor's abortion decision' means a law—

''(A) requiring, before an abortion is performed on a minor, either—

''(i) the notification to, or consent of, a parent of that minor; or

''(ii) proceedings in a State court; and

''(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

''(2) the term 'parent' means—

''(A) a parent or guardian;

''(B) a legal custodian; or

''(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

''(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

''(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.

''§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

''Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

''117A. Transportation of minors in circumvention of certain laws relating to abortion ..... 2431''.

Mr. FRIST. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I congratulate Chairman ENSIGN for managing this bill, an important bill that we have passed and that the House has passed, and now it is time for us to go to conference. I thank leadership and the managers on both sides because we were able to address a very important issue and had appropriate amendments under an agreement that was reached, and conclusion was passage as we just heard by 65 to 34 on this bill.

With regard to that, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 748, the House companion measure; provided that all after the enacting clause be stricken and the text of S. 403, as amended, if amended, be inserted in lieu thereof; the bill then be read a third time and passed, and the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees with a ratio of 7 to 5.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, on behalf of myself and other Senators, I will object to the appointment of conferees at this point. This is an issue which has been debated for a short time here on the floor and never went through the Senate Judiciary Committee for consideration. It is our belief that at this point in the session asking for a conference committee is premature.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, the objection is heard. And I will say that I am disappointed. This bill passed the House of Representatives on April 17, 2005, and just passed this body 65 to 34 expressing the will of the Senate. Routinely, we would go to conference with the House and the Senate bill and move forward. I understand that objection is made. I am very disappointed that is the case. I hope we can get to conference just as soon as possible. I do hope that the objection we heard tonight does not represent obstruction in taking this bill to conference, because that would be the normal course. But we will address this in the future.

Again, I am disappointed that we are being stopped from going to conference tonight.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PRIME MINISTER MALIKI'S VISIT

Mr. KENNEDY. Mr. President, Iraq Prime Minister Maliki's visit to the United States comes at an important time. All Americans want Iraq's new government to succeed. The principal measure of success will be whether the tide of violence recedes and full-scale civil war is avoided. But for that to happen, the new government must deal quickly, decisively, and effectively with the principal threat to stability—the deadly influence of the militias—especially in Baghdad.

It is time for the new government to move beyond vagaries and develop a viable strategy to deal with the militias and prevent Iraq from descending into full-scale civil war. He needs to begin implementing a credible plan to disarm, demobilize, and reintegrate the militias into the security forces. He must obtain a real commitment from the political parties to assist in disbanding and disarming the militias.

As the new violence in Lebanon demonstrates, political parties cannot govern with one hand and terrorize civilians with militias with the other hand. It did not work with Hezbollah in Lebanon, it cannot work with Hamas, and it will not work in Iraq.

Militias are the engines of civil war, and there is no role for them in a legitimately functioning government of Iraq. Iraq's future and the lives of our troops are close to the precipice of a new disaster. The timebomb of full-scale civil war is ticking, and our most urgent priority is to defuse it.

America, too, must be honest about the situation in Iraq. President Bush, the Vice President, and Secretary Rumsfeld continue to deny that Iraq is in a civil war. But the increasing sectarian violence, the ruthless death squads, and the increasingly powerful role of the privately armed militias tell a very different story.

We cannot ignore this major danger. President Bush needs to consider the cold, hard facts and prepare a strategy to protect our troops who are at risk of getting caught in the middle of an unwinnable sectarian civil war. Such planning is not an admission of defeat; it is responsible and necessary to protect the lives of our men and women in Iraq who are serving with great courage under enormously difficult circumstances.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 14, 1995, in Atlanta, GA, Quincy Taylor, a high school student, was found dead behind a convenience store from gunshot wounds to the chest. Taylor frequented and sometimes worked at a popular gay bar known for featuring cross-dressing entertainment. According to police, the killer knew the victim and was motivated solely by his sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend

them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

PRESIDENTIAL SIGNING STATEMENTS

Mr. LEAHY. Mr. President, yesterday we were reminded, again, of the lawlessness of the Bush-Cheney administration as it continues its abuse of ''signing statements'' as part of a systematic pursuit of power without the checks and balances inherent in our constitutional democracy. A most distinguished task force of the American Bar Association has now released a unanimous report highly critical of this President's practice as ''contrary to the rule of law and our constitutional system of separation of powers.'' I thank the distinguish panel of conservatives and moderates, or Republicans and Democrats for their thoughtful report.

Let me be clear, this is not some academic debate without consequences. I have been seeking to draw attention to this surreptitious power-grab for at least 4 years, since this President's unusual signing statement following enactment of the Sarbanes-Oxley bill in 2002 to reign in corporate abuses that cost so many Americans their livelihoods and their retirement savings through Enron and other scandals. The President signed the bill but had secret ''reservations.'' That is when I first realized the President's unorthodox, unwise and unsound practice of signing a bill while crossing his fingers behind his back. We have seen it over and over again as this President insists on the equivalent of an unwritten line-item veto that would undermine the checks and balances of our constitutional separation of powers and that the Supreme Court correctly determined was unconstitutional.

Later this week, the President will be signing the reauthorization and revitalization of the Voting Rights Act, passed by the House with 390 votes and unanimously last week by the Senate. In the past I could have gone to the White House to witness the bill signing knowing that our three branches of government were all operating within their proper authority. That is the way we have operated for more than 200 years. But this year, with this President, that is not the way any longer. After the bill signing, after the celebration, after the bipartisan plaudits and after the President takes credit for the civil rights advances that our bill is intended to represent—after all this—we will have to wait to see whether there is a belated presidential document, a so-called ''signing statement.'' Only then will we see if the President will seek to create a gloss that Congress did not intend, or modify a provision of law more to his liking, or declare some provision of law something he and his administration will not enforce. That is wrong. That is the opposite of the rule of law. And no one—not even the President—is above the law.

The Constitution places the lawmaking power, ''All legislative Powers'' in the Congress. That is an article I power. A check on the congressional power is the requirement that ''before [a bill] becomes a Law'' it must be presented to the President. Section 7 of article I of the Constitution provides: ''If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated.'' Of course the Constitution then contemplates congressional power to override a presidential objection or veto. That is our system, that is our law. The President has the option to veto—in fact after 5 years in office, he finally exercised that power last week when he vetoed the stem cell research legislation. I disagreed with his decision to veto that bill, but it was within his constitutional power to do it. He does not have the power to issue a decree that he will pick and choose which provisions of laws to follow in statements issued after Congress passes a law. What this President is doing is wrong.

Last month, the Senate Judiciary Committee held a hearing on the use of these signing statements by the Bush-Cheney administration. I noted that we are at a pivotal moment in our Nation's history, where Americans are faced with a President who makes sweeping claims for almost unchecked Executive power. This President's use of signing statements is unprecedented, although presaged by the work of Samuel Alito at the Meese Justice Department during the Reagan Presidency—now Justice Alito on the Supreme Court. This administration is now routinely using signing statements to proclaim which parts of the law the President will follow, which parts he will ignore, and which he will reinterpret. This is what I have called ''cherry-picking'' and it is wrong.

This President's broad use of signing statements to try to rewrite the laws passed by the Congress poses a grave threat to our constitutional system of checks and balances. During his 5 years in office, President Bush has abused his bill signing statements to assign his own interpretations to laws passed by Congress.

According to a review of these statements conducted by The Boston Globe, President Bush has employed signing statements to ignore or disobey more than 750 provisions enacted by the Congress since 2001, more than all previous Presidents in the history of our Nation combined. According to scholarly research that number now tops 800 provisions of law.

I have alluded to the President's signing statement in 2002 in connection with the Sarbanes-Oxley law designed to combat corporate fraud. The President used his signing statement to attempt to narrow a provision protecting corporate whistleblowers in a way that would have afforded them very little protection. Senator GRASSLEY and I wrote a letter to the President stating that his narrow interpretation was at odds with the plain language of the statute, and the administration reluctantly relented on this view but only after much protest.

We also witnessed the President's fondness for signing statements earlier this year, when after months of debate and negotiations in Congress, the President issued a signing statement for the USA PATRIOT ACT reauthorization language in which he stated his intentions not to follow the reporting and oversight provisions contained in that bill. I noted this abuse at the time. When I voted against that reauthorization, I explained it was because I did not have confidence that the oversight provisions we succeeded in incorporating into the law would be respected. What little doubt was left by the self-serving signing statement was erased last week when the Attorney General of the United States refused to commit to following the law.

This President has also used signing statements to challenge laws banning torture, on affirmative action and prohibiting the censorship of scientific data. In fact, time and again, this President has stood before the American people, signed laws enacted by their representatives in Congress, while all along crossing his fingers behind his back. And, while this President used to boast—until his veto of stem cell research legislation—that he was the first modern President to have never vetoed a bill, he has cleverly used his signing statements as a de facto line-item veto to cherry-pick which laws he will enforce in a manner not consistent with our Constitution.

Under our constitutional system of government, when Congress passes a bill and the President signs it into law, that should be the end of the story. At that moment the President's constitutional duty is to ''take Care that the Laws be faithfully executed.'' That is the article II power, the executive power, to ''execute'' the laws, it is not a legislative power. So when the President, including this President, takes the oath of office and swears on the Bible, he does so, in the words of the Constitution, ''Before he enter on the Execution of his Office,'' and swears that he will ''faithfully execute'' the office of President and ''preserve, protect and defend the Constitution of the United States.'' I remind this President and this administration that the Constitution has more than one article and that ''All legislative Power'' is vested in Congress, not some ''unitary executive.''

When the President uses signing statements to unilaterally rewrite the laws enacted by the people's representatives in Congress, he undermines the rule of law and our constitutional

checks and balances designed to protect the rights of the American people.

This President's abuse of signing statements is all the more dangerous because he has packed the courts with judges willing to defer to him and presidential authority. I have noted that Justice Alito helped develop this device. I could not help but note that Justice Scalia, who is famous for not consulting legislative history, reached out in his dissent in the recent Hamdan decision to reference a recent Presidential signing statement.

These signing statements are a diabolical device but this President will continue to use and abuse them, if the Republican Congress lets him. So far, this Congress has done exactly that. Whether it is torture, warrantless eavesdropping on American citizens, or the unlawful detention of military prisoners, this Republican-led Congress has been willing to turn a blind eye and rubberstamp the questionable actions of this administration, regardless of the consequences to our Constitution or civil liberties.

VOTING RIGHTS ACT

Mr. CRAPO. Mr. President, I rise today to express my support for the Voting Rights Act, VRA. Unfortunately a longstanding medical appointment kept me from casting my vote in favor of this legislation last week and I want there to be no question as to my support for the VRA. For over 50 years, the VRA has protected the cornerstone of democracy: the right to vote. Congress enacted the VRA in response to evidence that some States and counties had denied many citizens access to the ballot because of their race, ethnicity, and language-minority status. The creators of this law were convinced, as am I, that a strong America is one that reflects the feelings and opinions of all Americans. That means that everyone has the right to vote.

Provisions of the VRA prohibit election laws that would deny or abridge voting rights based on race, color, or membership in a language minority. The act allows citizens to challenge discriminatory voting practices and procedures and prohibits the use of any test or device as a condition of voter registration. Such provisions seem like common sense today, but they were not always so widely supported. We must recommit today not to return to the mistakes of yesterday. I am pleased that the Senate approved the reauthorization of this critical act. It correctly ensures that every citizen has a stake and a voice in our country's future.

INSTABILITY IN SOMALIA

Mr. FEINGOLD. Mr. President, I am deeply troubled by reports in the press that the Islamic courts in Somalia are advancing on the internationally recognized Transitional Federal Government, TFG, and are apparently ignoring recently signed cease-fire agreements. It is imperative that the Islamic courts recognize the TFG as the official governing body of Somalia and that it abide by the cease fire agreed to on June 22, 2006, in Khartoum. The Islamic courts must work in good faith to strengthen the TFG and actively commit to the development of a more inclusive and representative government of Somalia.

For this to happen, the international community, including the United States, needs to be fully engaged. The United States, in particular, must develop a comprehensive strategy for Somalia that utilizes all facets of its power and capabilities and must ramp up its diplomatic efforts throughout the region and the international community to bring this crisis to an end. Unfortunately, it can't do that if it doesn't have the resources or the people in place to deal effectively with the complexity of this problem. The U.S. Government needs to appoint a senior envoy for Somalia to pull together a strategy and to engage full time with international and regional partners in addressing this crisis. It also needs more staff and more resources to work with to help execute this strategy and to contribute to international efforts to bring about lasting peace throughout the region. The administration should work closely with Congress to identify what additional resources are needed for Somalia, given the recent escalation of tension there.

That said, it is important to realize that efforts to both establish long-term peace and to eradicate terrorist networks and safe havens in Somalia are complimentary. The U.S. Government must recognize that long-term stability in Somalia is our best weapon against terrorist networks, extremist organizations, and the conditions that allow them to seek safe haven there. We must look at poverty reduction programs, economic development efforts, support for democratic institutions, anticorruption efforts, and education as the core elements of a new Somalia strategy.

As we learned in Afghanistan, we cannot ignore the conditions that breed extremist and terrorist organizations. Accordingly, it is essential to recognize that any attempt to address instability in Somalia must address a range of root causes or facilitating conditions: a weak and dysfunctional central government, extreme poverty, corruption, conflict, disease, and drought.

It is imperative that the U.S. Government begin playing a leadership role in helping stabilize Somalia and the region and that it do so immediately. We need a comprehensive approach to engaging with regional actors, the international community, and the U.N. to find a permanent solution to this crisis. Such an approach will contribute to stability throughout the Horn of Africa and to our national security.

NATIONAL KOREAN WAR VETERANS ARMISTICE DAY

Mrs. CLINTON. Mr. President, on Thursday, July 20, 2006, I introduced S. 3700, which would honor the valiant efforts of our Korean war veterans, who risked their lives fighting against communism on the Korean peninsula. As we honor the 53rd anniversary of the Korean War Armistice, I am proud to reintroduce this legislation recognizing Korean War Armistice Day. The Korean War Veterans Recognition Act of 2006 would include National Korean War Veterans Armistice Day among the days when the American flag should especially be displayed. Earlier this year, Representative SUE KELLY reintroduced similar legislation into the House.

National Korean War Veterans Armistice Day is July 27, which recognizes that negotiators signed an armistice agreement at Panmunjom on July 27, 1953. This led to North Korea's withdrawal across the 38th parallel and allowed the Republic of South Korea to be free from attempts to force communism upon its people.

This year, as we commemorate the 53rd anniversary of the signing of the Korean War Armistice, it is important that we take a moment to reflect upon the sacrifices our men and women of the U.S. Armed Forces have made in brave service to our Nation since its inception. I am pleased to introduce this legislation to respectfully honor and pay tribute to the tremendous courage and sacrifice demonstrated by the men and women who served in the Korean war. As U.S. soldiers continue to fight for freedom around the world, we must remember the sacrifice and valor of their brethren who helped protect and promote American values on the Korean peninsula over a half century ago.

CELEBRATE AMERICA CREATIVE WRITING CONTEST

Mr. KENNEDY. Mr. President, I ask unanimous consent that the five poems, the winner and runner-up entries for the Celebrate America Creative Writing Contest about the contribution of immigrants to America, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MY MOM ''THUY''

(By Jasminh Duc Schelkopf)

INTERNATIONAL SCHOOL OF INDIANA 2006
NATIONAL CONTEST GRAND PRIZE WINNER

My mother's name is Thuy. She was born in Saigon, South Vietnam. Her father was a 3-star Lieutenant General for the South Vietnam military and her family had almost everything that you could possibly think of before the civil war of Vietnam. However, when they lost their country, they lost everything. After the war, all they had left was their hope and beliefs.

In 1975, North Vietnam won the war. When my mother was only 12 years old (8th Grade), she and her brother and sister were forced to go to Canada. The rest of her family was

then scattered around the world in places like France, Australia, Canada and the U.S.A. They all had a very tough time there because they had no support and no money as new immigrants.

For 7 years after the war, my mother went to school and worked during the evening to help out my grandfather. My mother attended college for only 2 years because she needed a full time job to support her family. She also went to beauty school, graduated, and worked for the family. Then, having lived in Canada for 10 years, my mother realized there was a better future for her in the U.S.A.—''The Land of Opportunity.'' She decided to move to Pennsylvania in 1985.

My mother began hard work at a beauty shop near Philadelphia and she worked hard everyday. Her dreams were to ''ONE DAY'' create her own salon and reach her many dreams. Due to her talents, she developed many clients and made a lot of friends. She saved as much money as she could and even avoided eating out or going to the movies or doing anything fun that might cost money.

Then her dream of ''ONE DAY'' had come true when she met my dad, John Bruce Schelkopf. My dad was a very bright young man who was full of energy. With my dad's knowledge and skills and my mom's talent, they opened a small beauty salon in Pennsylvania. During this time my Mom also finished her college degree and got her Bachelor's Degree in Business. My mother also sponsored my grandparents from Canada to the United States. My parents then got married in 1995 to begin a family.

My mother's dreams came true because she always viewed life as ''half of a full glass'' and because she found the U.S.A. to truly be the ''land of opportunity.'' My mother often says to me, ''You can do it if you believe in yourself and always try your best.'' My mother is only one of the few million Vietnamese immigrants who settled in the United States. But that one particular Vietnamese immigrant is one special immigrant to me as she struggled to overcome many challenges, hard times, and obstacles in her way. She is a special immigrant who I am happy to call ''My Mom Thuy.''

Why I Am Glad America Is a Nation of Immigrants

(By Arjun Kandaswamy)

FINDLEY ELEMENTARY SCHOOL—2006 NATIONAL CONTEST RUNNER-UP

Imagine America without pizza and Top Ramen. Imagine America without a booming economy. Imagine a world where everyone wore the same boring style of clothes. That would be reality if America did not have immigrants.

Pizza, tandoori, lasagna, dumplings or tortillas would not be a part of our vocabulary or among our favorite foods if it were not for immigrants. Although we don't realize it, many foods we have grown to enjoy were greatly influenced by other cultures. For example, Top Ramen is a popular and addicting food. Although it's an American brand, it was greatly influenced by Manchurian noodles brought over by Chinese immigrants. Despite the fact that Top Ramen has flavors like Cajun chicken it all started with Manchurian noodles. Immigrants not only make our plates colorful and interesting, but also aid our economy in a huge way.

Our economy is flourishing because of one thing. Immigrants. Immigrants do countless things to help our economy. For starters, immigrants fill jobs. Immigrants are willing to take up jobs that others may not want to. They take minimum wage, which is a lot compared to what they earn in their homeland. Immigrants often work harder in the jobs that they take up because they really want to stay in this country. Because of this keeping a job is important. Wealthier immigrants usually start their own businesses which is sometimes a restaurant serving their customary dishes. In addition in areas such as high-tech a lot of immigrants have started their own companies and created a lot of new jobs. Most importantly, immigrants raise the bar of America by being hard-working and tough competitors.

Since immigrants live in America they pay taxes, property, sales, and income. Property taxes for the land they live on, sales tax for the items they buy and income tax for the amount of money they make. With over 90 percent of America's population as immigrants, that's a lot of money the government receives.

Immigrants create or bring new art forms and music that enrich our lives. Be it Jazz, Rap, classical music, or varieties of instrumental music from their native lands. Children of African immigrants founded jazz and Rap. Some of the sports that we could not live without were founded by immigrants, like basketball which is part of the American lifestyle.

Have you ever seen everyone walking around in Levi's and a t-shirt? Thanks to immigrants we won't be seeing that. Immigrants add a variety to our closet. Other styles have been Americanized into a popular fashion, like bandanas. Bandanas originated in the Caribbean and are found everywhere in America, from a dog's neck to a person's head.

Immigrants have done so many great things for us. They give us a ''taste'' of the world; they strengthen our economy. America should march on forward and continue the tradition of it's forefathers of as a land of immigrants envisioned by them.

A Nation of Difference

(By Kimya Khoshnan)

ARROYO VISTA ELEMENTARY SCHOOL—2006 NATIONAL CONTEST RUNNER-UP

On the airplane I sat,
As my heart thundered in my chest.
The silent tears falling into my lap.
Why did this have to happen?
And of all the people in the world,
Why me?
Would I be the only one in my school,
To have another language?
I ponder these questions for a while,
And then breathe a deep sigh.
I had left everything in Japan,
And had to start all over again.
A new life, a new me.
I would have to learn how to stay strong.
I think more,
Then my ears begin to pop.
The airplane groans,
As it reaches its final destination,
California,
And my new life has begun.

As my parents and I enter our house,
My hopes rise a bit.
It is pretty but my house in Japan was better.
But my hopes sink farther than ever,
As my father leads us to the back.
I see that we have rented,
The very small two-bedroom house,
With only a kitchen and a bathroom,
Behind that luxurious castle.
I feel jealous,
Then angry.
I had left my room bigger than a classroom,
For this!

As my first day of school approaches,
My stomach is filled with fear and dread.
I absolutely know that no one will like me.
My backpack slung over my shoulders,
My head raised up high,
I try to be optimistic,
But I know optimism will not help in reality.
I slowly enter my classroom,
And make my way toward the teacher.
I quietly say hello.

She looks up and says,
''Oh, hello there!
Vhy, you must be the new student!
What's your name?''
I am utterly surprised by her odd accent.
Do all Americans speak this way?
''Toshiko,'' I whisper.
''Vell Toshiko welcome to our class!
Class say hello to Toshiko!''
''Hi'' the class responded.
''Now Toshiko come sit here next Chieko.''
I was suddenly alert of my surroundings,
Chieko,
Why that was a Japanese name!
Could it be?
I could not find out for sure until recess.

Recess came and I ran over to Chieko,
Asking if she was Japanese,
When she replied yes,
My spirits soared.
I was so happy not to be the only one!
I asked how she felt being the only foreigner,
As she chuckled at my question,
I began to feel confused.
She replied, ''What do you mean?
Everyone here is a foreigner!''
I looked around me,
And sure enough,
Nobody was the same.
I suddenly started to laugh,
I thought I looked like a fool,
Braying away like a donkey.
As I finally stopped, Chieko asked me,
Why I was laughing.
I told her my story,
And we have been best friends ever since.

As I reflect upon the past,
I realize that if,
California was not a state of immigrants,
My life probably would have been,
As horrible as I imagined it.
But since it is,
My family and I have been thriving
And we shall honor our freedom,
Forever.

Immigration, Past, Present, Future

(By Marissa Lynch)

BROWN MIDDLE SCHOOL—2006 NATIONAL CONTEST RUNNER-UP

Last summer, my Grandpa and I visited Ellis Island and the Statue of Liberty. As I looked up at her torch against the baby blue sky, my grandpa read aloud the words at the base of the statue:

Give me your tired, your poor,
Your huddled masses yearning to
Breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tossed to me
I lift my lamp beside the golden door

He told me that those great words were written by an intelligent lady name Emma Lazarus. We talked about what the words mean. From 1892 to 1954, 12,000,000 people passed through the Statue of Liberty and Ellis Island to start a new, better life in America. He told me his family came from three different places so he is called ''mixed ancestry''. We talked about why people moved here and what they did when they got here. Many moved here for freedom and peace. We decided that each came with their own stories, hopes and dreams. Once they arrived, they could become anything—doctors, athletes, artists, astronauts, teachers and more!

My other Grandpa told me that his parents came to America at age 19. They moved because of a war in their country, Greece, and

they were driven out by the Turks. They worked at a restaurant in Newark, New Jersey. At Ellis Island, there was a big board with names of people that passed through there. I noticed their name on the wall!

I'm glad our country is full of immigrants because if no one was brave enough to leave family, friends, and their belongings behind, this country would not be as fascinating as it is. Many people call our country a big mixing pot because people all over the world come to live here. The people mix and blend together like food in a mixing pot. Yet, everyone has their own way of life and their own culture. Everyone is a little different. It is good to be different. Everyone stands out in a crowd!

Do you think that immigration is just in history books and doesn't happen any more? If you do, you are wrong. Today, many people still come to America, like me. I was adopted from South America, just like lots of kids. We came to America with our new families! My mom and dad tell me about the exciting day I became an American citizen. A flag was flown over the United States Capitol for me! I have this flag and a certificate which says:

''This is to certify that the accompanying flag was flown over the United States Capitol on August 26, 1998, at the request of the Honorable John Edward Porter, Member of Congress. This flag was flown for Marissa Rose Lynch in celebration of her receiving U.S. citizenship.''

When I look at my flag, it makes me proud to be a part of a new generation of immigrants.

WHY I AM GLAD AMERICA IS A COUNTRY OF IMMIGRANTS

(By Esteban Ochoa)

ST. CLEMENT'S PARISH SCHOOL—2006 NATIONAL CONTEST RUNNER-UP

I am glad that the United States of America is a country of immigrants because you never feel lonely; you just have to look into a crowd to find someone with your same background. When you think you are alone and without friends, you just have to look around and you will find a friend.

When I first transferred from Mexico to my current school in Texas, I did not know how to speak English. I felt alone and confused, but before long, I found that many people in my class spoke Spanish, and I soon made many friends, who eventually helped me learn English and do very well in school.

My case is not different from the story of most of the people who have come to this country from other parts of the world. Having millions of people from hundreds of countries, races, religions and economic backgrounds has created a society unlike any other in this planet.

With diversity comes cultural, economic, and spiritual richness. It is evident everywhere you look, in its food, in its music, in its clothing, and in its churches, just to mention a few examples. This Country has served as refuge for many people who came to the U.S.A. looking for opportunities and in many cases after having suffered extreme hardships.

Those are some of the reasons why I like that America is a country of immigrants. Just when you think that you do not fit in, and that you are alone in this cold world, you can still find variety, alternatives and, consequently, hope in the most unexpected situations.

ADDITIONAL STATEMENTS

COLORADO'S BIG THOMPSON FLOOD OF 1976

● Mr. ALLARD. Mr. President, today I honor those who lost their lives as well as those who survived Colorado's Big Thompson Flood of 1976.

Thirty years ago, more than 1 foot of rain fell in a matter of hours, causing a flash flood in Big Thompson Canyon. One hundred and forty-four people were killed, and over $30 million in property damage occurred. We remember those who died in this natural disaster and also the survivors who had to rebuild their lives, working as a community to start over again. Next week, outside of my hometown of Loveland, CO, survivors of this tragedy will gather to commemorate the Big Thompson Flood. Though I cannot be with them in this ceremony, my thoughts and prayers are with them, and I speak on the Senate floor today as a tribute to this special event.

I ask that the following letter, which I wrote for the commemoration ceremony of the Big Thompson Canyon Flood of 1976, be printed in the RECORD.

The material follows:

JULY 31, 2006.

DEAR FAMILIES AND FRIENDS OF THE VICTIMS OF THE 1976 BIG THOMPSON CANYON FLOOD: I very much wanted to join you today as you gather to remember the 30th Anniversary of one of Colorado's worst natural disasters.

As we look back thirty years, we recall the shock and devastation that took place in this canyon. Joan, myself and our two daughters, who were very young children at the time, will never forget the Big Thompson Flood and the days that followed. We arrived at home just after the flood tore through the canyon and towards Loveland. We were overwhelmed by the destruction we saw as we later viewed the damage.

A number of our friends and clients who lived in the canyon were ravaged by the flash flood and brought their animals to my hospital for care. As the Loveland city health officer at that time, I also remember well the many health issues we faced together as a community. The memories will remain forever with each one of us who experienced this flood or witnessed its devastating effect on so many lives.

Today, we can see the positive results of the communities in the canyon working together to rebuild their lives and their property. Joan's and my thoughts are with you today as we remember the people who lost their lives and the ones who survived and rebuilt.

Today I am entering this letter in the Congressional Record as a tribute to the living and non-living victims of this natural disaster.

Sincerely,

WAYNE ALLARD,
U.S. Senator.●

A TRIBUTE TO WILLIAM OKONIEWSKI

● Mr. BIDEN. Mr. President, this spring, William Okoniewski, one of Wilmington's best, passed away after a long career as a photographer. He was known throughout the community as the guy who shot all the pictures at weddings, high school graduations, communions, and confirmations.

If you had the Okoniewski Studio logo in the corner of a photo, you knew it was quality work. This was before the era of digital cameras, when our standards were different.

A couple of generations of Delawareans came to admire Bill, and his family. He and his wife of 64 years, Ceclia, had six children, and you could find him coaching winning track teams throughout the 1960s and 1970s.

At his funeral, when his son Stephen read a letter, it reminded me of just why we call Bill's generation the ''greatest generation.''

The letter was from Art Slote, who on January 9, 1945, was one of five people rescued by Bill in the middle of the Battle of Herrlsheim, in France, near the German border.

In the letter, Mr. Slote said how he had searched for Bill for years, contacting the Army, the Red Cross, and every phone book, trying to locate the guy who saved his life. He finally found him in the late 1990s. He wrote:

I frequently ponder over what impels a man to act as your father did. He could have easily scurried to the rear to save his own skin, and nobody would have criticized him. But he didn't. I wonder if you or I would risk our lives in another's behalf. It must be built into your father's character and sense of morality.

Although slow to admit it, your father's personal bravery, his ability to set aside his fears in behalf of his wounded fellow soldiers, his natural compassion for others in trouble, his modesty in never talking to you about it make this a valor and heroic event.

There is a lesson in those words for all of us in this Chamber and for all Americans. Bill Okoniewski embodied everything that is uniquely American. He understood what it meant to be loyal to our country and to respect your fellow Americans.

He, and his generation, set the example. Today, he is the model for the brave men and women in uniform who are performing equally dangerous acts every day in Iraq and Afghanistan.

One day, and hopefully soon, they too will return home not only having served their country in time of war but going on to lead the kind of professional and family life that Bill lived for decades and decades.●

100TH ANNIVERSARY OF DOUGLAS, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today I wish to recognize a community in North Dakota that will be celebrating its 100th anniversary. On August 4, the residents of Douglas will gather to celebrate their community's history and founding.

Douglas was founded in 1906 and was proudly named after the nearby Douglas Creek. The creek's name honored Major Douglas, who was stationed at Fort Stevenson in the 1870s. In 1906, Douglas's post office was established under the stewardship of Arthur C.

Bates. Douglas was incorporated as a village in 1908 with A.G. Burgeson as its first mayor.

Today, Douglas remains a small, proud community. Each year, the community gathers together and has picnics in the park. During the summer, many of its residents can be found on the banks of Lake Douglas catching up with friends and family.

To celebrate the 100th anniversary of its founding, the residents of Douglas will gather on the weekend of August 4th. There will be an all-school reunion to allow former classmates to reunite with each other, followed by a charity auction. A fireman's rodeo, lawnmower pull, and an event to honor veterans will keep the crowds entertained all weekend. The highlight of the celebration will be the parade, which will feature floats, musical performances, and a fireworks display.

Mr. President, I ask the Senate to join me in congratulating Douglas, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Douglas and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Douglas that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Douglas has a proud past and a bright future.●

TRIBUTE TO JAMES HEALY

● Mr. LAUTENBERG. Mr. President, I to pay tribute to a fine New Jerseyan and a great friend of my State, James Healy. News of Jim's untimely passing this past Friday at the age of 48 saddened all of us in the New Jersey delegation. His great personality and tremendous work ethic truly made him a pleasure to work with and an asset to his organization, the New Jersey Department of Transportation, NJDOT.

For nearly 20 years, Jim held several important posts within the department. Most recently, he served as the NJDOT's Federal liaison. Jim was an expert on Federal legislative, regulatory, and finance issues. He provided my office with valuable expertise and advice concerning subjects of great importance to New Jersey.

New Jersey is the most densely populated State in the Union, and the movement of people and goods through its travel corridors is of utmost importance, not just to New Jerseyans, but for the entire regional economy.

Jim guided the New Jersey delegation through Federal highway bill authorizations, which took years to accomplish. The most recent one, SAFETEA–LU, took 2 years to complete. Jim also worked closely with New Jersey members on aviation reauthorization bills, including the VISION–100 legislation passed in 2003.

He advocated for the State's priorities, including legislation to help preserve open spaces in New Jersey. My staff and I had the pleasure of working with him many times on these bills and he was always a consummate professional: well-informed, thorough in his work, and always extraordinarily helpful.

When a former NJDOT commissioner served as president of the American Association of State Highway and Transportation Officials, AASHTO, Jim served as liaison to AASHTO staff, where he helped coordinate and set national transportation policy goals.

Jim was an assistant professor at Fairleigh Dickinson University and was a 1979 graduate of William Paterson University, where he earned a Bachelor's Degree in Business Administration. He received his law degree in 1983 from Rutgers University in Newark, NJ.

Jim is survived by his parents, Philip and Hannah Healy of Wayne, NJ, and his brothers and sisters, Joseph Healy, Mary Jo Ridge, Kathleen Bianco, Teresa Hoey, and Joan Wielenta. My heart goes out to Jim's family during this difficult time.

I salute the life and memory of this great son of New Jersey, Jim Healy. May he rest in peace.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 9:47 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill and concurrent resolution, without amendment:

S. 310. An act to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada.

S. Con. Res. 60. Concurrent resolution designating the Negro Leagues Baseball Museum in Kansas City, Missouri, as America's National Negro Leagues Baseball Museum.

At 2:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1496. An act to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 233. An act to designate certain National Forest System lands in the Mendocino and Six Rivers National Forests and certain Bureau of Land Management lands in Humboldt, Lake, Mendocino, and Napa Counties in the State of California as wilderness, to designate the Elkhorn Ridge Potential Wilderness Area, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

H.R. 854. An act to provide for certain lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe.

H.R. 1307. An act to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 3082. An act to amend title 38, United States Code, to make improvements to small business, memorial affairs, education and employment programs for veterans, and for other purposes.

H.R. 3603. An act to promote the economic development and recreational use of National Forest System lands and other public lands in central Idaho, to designate the Boulder-White Cloud Management Area to ensure the continued management of certain National Forest System lands and Bureau of Land Management lands for recreational and grazing use and conservation and resource protection, to add certain National Forest System lands and Bureau of Land Management lands in central Idaho to the National Wilderness Preservation System, and for other purposes.

H.R. 3817. An act to withdraw the Valle Vidal Unit of the Carson National Forest in New Mexico from location, entry, and patent under the mining laws, and for other purposes.

H.R. 4301. An act to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

H.R. 4947. An act to expand the boundaries of the Cahaba River National Wildlife Refuge, and for other purposes.

H.R. 5025. An act to protect for future generations the recreational opportunities, forests, timber, clean water, wilderness and scenic values, and diverse habitat of Mount Hood National Forest, Oregon, and for other purposes.

H.R. 5057. An act to authorize the Marion Park Project, a committee of the Palmetto Conservation Foundation to establish a commemorative work on Federal land in the District of Columbia, and its environs to honor Brigadier General Francis Marion.

H.R. 5534. An act to provide grants from moneys collected from violations of the corporate average fuel economy program to be used to expand infrastructure necessary to increase the availability of alternative fuels.

H.R. 5865. An act to amend section 1113 of the Social Security Act to temporarily increase funding for the program of temporary assistance for United States citizens returned from foreign countries, and for other purposes.

The message further announced that the House agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 125. Concurrent resolution expressing support for the designation and goals of ''Hire a Veteran Week'' and encouraging the President to issue a proclamation supporting those goals.

H. Con. Res. 347. Concurrent resolution honoring the National Association of State Veterans Homes and the 119 State veterans homes providing long-term care to veterans that are represented by that association for their contributions to the health care of veterans and the health-care system of the Nation.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 203. An act to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4472) to protect children, to secure the safety of judges, prosecutors, law enforcement officers, and their family members, to reduce and prevent gang violence, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 854. An act to provide for certain lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe; to the Committee on Indian Affairs.

H.R. 1307. An act to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3082. To amend title 38, United States Code, to make improvements to small business, memorial affairs, education, and employment programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 3603. An act to promote the economic development and recreational use of National Forest System lands and other public lands in central Idaho, to designate the Boulder-White Cloud Management Area to ensure the continued management of certain National Forest System lands and Bureau of Land Management lands for recreational and grazing use and conservation and resource protection, to add certain National Forest System lands and Bureau of Land Management lands in central Idaho to the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3817. An act to withdraw the Valle Vidal Unit of the Carson National Forest in New Mexico from location, entry, and patent under the mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4301. An act to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4947. An act to expand the boundaries of the Cahaba River National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5025. An act to protect for future generations the recreational opportunities, forests, timber, clean water, wilderness and scenic values, and diverse habitat of Mount Hood National Forest, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5057. To authorize the Marion Park Project, a Committee of the Palmetto Conservation Foundation, to establish a commemorative work on Federal land in the District of Columbia, and its environs to honor Brigadier General Francis Marion; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 125. Concurrent resolution expressing support for the designation and goals of ''Hire a Veteran Week'' and encouraging the President to issue a proclamation supporting those goals; to the Committee on Veterans' Affairs.

H. Con. Res. 347. Concurrent resolution honoring the National Association of State Veterans Homes and the 119 State veterans homes providing long-term care to veterans that are represented by that association for their contributions to the health care of veterans and the health-care system of the Nation; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 233. An act to designate certain National Forest System lands in the Mendocino and Six Rivers National Forests and certain Bureau of Land Management lands in Humboldt, Lake, Mendocino, and Napa Counties in the State of California as wilderness, to designate the Elkhorn Ridge Potential Wilderness Area, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7633. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to the United Kingdom, Canada, France and Germany; to the Committee on Foreign Relations.

EC–7634. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to adding a class of certain workers of the Nevada Test Site, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–7635. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to adding a class of certain workers of the Pacific Proving Grounds, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–7636. A communication from the Secretary of Health and Human Services, transmitting, the report of a draft bill entitled ''United States Public Health Service Commissioned Corps Transformation Act of 2006'' received on July 18, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7637. A communication from the Acting Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Electronic Premium Filing'' (RIN1212–AB02) received on July 17, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7638. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Prescription Drug Marketing Act Pedigree Requirements; Effective Date and Compliance Policy Guide; Request for Comment'' (Doc. No. 1992N–0297, 2006D–0226) received on July 17, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7639. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Ear, Nose , and Throat Devices; Classification of Olfactory Test Device'' (Doc. No. 2006N–0182) received on July 17, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7640. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Exception From General Requirements for Informed Consent'' ((RIN0910–AC25)(Doc. No. 2003N–0355)) received on July 17, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–7641. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department of Commerce's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7642. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the Administration's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7643. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, the Administration's Semiannual Report of the Inspector General for the period October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7644. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to section 3(a) of the Government in the Sunshine Act, the Commission's annual report for calendar year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–7645. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–433, ''Pedestrian Protection

Bus Safety Amendment Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7646. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–434, ''Closing of Public Streets and Alleys in Squares 5318, 5319, and 5320 S.O. 04–14199, Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7647. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–435, ''Drug Offense Driving Privileges Revocation and Disqualification Amendment Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7648. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–436, ''Closing of a Public Alley in Square 2910, S.O. 05–0587, Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7649. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–437, ''People First Respectful Language Conforming Amendment Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7650. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–438, ''People First Respectful Language Modernization Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7651. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–439, ''Closing of Public Alleys in Square 749, S.O. 00–83, Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7652. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–440, ''Official Fruit of the District of Columbia Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7653. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–441, ''Washington Stage Guild Tax Exemption Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7654. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–442, ''Solid Waste Disposal Fee Temporary Amendment Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7655. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–444, ''Fringe Lot Real Property Exclusive Rights Agreement Extension Temporary Amendment Act of 2006'' received on July 21, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7656. A communication from the Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Commission Guidance Regarding Client Commission Practices Under Section 28(e) of the Securities Exchange Act of 1934'' (S7–13–06) received on July 21, 2006; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 5631. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes (Rept. No. 109–292).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 3508. A bill to authorize improvements in the operation of the government of the District of Columbia, and for other purposes.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs. *Stephen S. McMillin, of Texas, to be Deputy Director of the Office of Management and Budget.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SANTORUM:

S. 3720. A bill to amend the Food Security Act of 1985 to improve the protection of farm and ranch land; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. SALAZAR):

S. 3721. A bill to amend the Homeland Security Act of 2002 to establish the United States Emergency Management Authority, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 3722. A bill to authorize the transfer of naval vessels to certain foreign recipients; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3723. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. INOUYE, Mr. COCHRAN, and Mr. JOHNSON):

S. 3724. A bill to enhance scientific research and competitiveness through the Experimental Program to Stimulate Competitive Research, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SESSIONS (for himself, Mr. PRYOR, Mr. CORNYN, and Mr. SALAZAR):

S. 3725. A bill to reduce the disparity in punishment between crack and powder cocaine offenses, to more broadly focus the punishment for drug offenders on the seriousness of the offense and the culpability of the offender, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 3726. A bill to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the Treasury, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL:

S. 3727. A bill to amend title XVIII of the Social Security Act to provide for an adjustment to the reduction of Medicare resident positions based on settled cost reports; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. LUGAR, Mr. INOUYE, Mr. BROWNBACK, Mr. BIDEN, Mr. BUNNING, Mr. AKAKA, and Mrs. DOLE):

S. 3728. A bill to promote nuclear nonproliferation in North Korea; considered and passed.

By Mr. BAUCUS:

S. 3729. A bill to provide for the establishment of emergency wildland fire suppression funds; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAPO:

S. 3730. A bill to amend title XVIII of the Social Security Act to require the use of recovery audit contractors under the Medicare Integrity Program with respect to Medicare Secondary Payer claims and activities; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 666

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 707

At the request of Mr. ALEXANDER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 707, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 713

At the request of Mr. ROBERTS, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 843

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on

behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1276

At the request of Mr. CORNYN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1276, a bill to amend section 1111 of the Elementary and Secondary Education Act of 1965 regarding challenging academic content standards for physical education.

S. 1440

At the request of Mr. CRAPO, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2459

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2459, a bill to improve cargo security, and for other purposes.

S. 2460

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2460, a bill to permit access to certain information in the Firearms Trace System database.

S. 2465

At the request of Mrs. BOXER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2465, a bill to amend the Foreign Assistance Act of 1961 to provide increased assistance for the prevention, treatment, and control of tuberculosis, and for other purposes.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2590

At the request of Mr. COBURN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2590, a bill to require full disclosure of all entities and organizations receiving Federal funds.

S. 2616

At the request of Mr. SANTORUM, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2616, a bill to amend the Surface Mining Control and Reclamation Act of 1977 and the Mineral Leasing Act to improve surface mining control and reclamation, and for other purposes.

S. 2707

At the request of Mr. SUNUNU, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2707, a bill to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan.

S. 2787

At the request of Mr. CRAIG, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Arkansas (Mr. PRYOR) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 2787, a bill to permit United States persons to participate in the exploration for and the extraction of hydrocarbon resources from any portion of a foreign maritime exclusive economic zone that is contiguous to the exclusive economic zone of the United States, and for other purposes.

S. 3128

At the request of Mr. BURR, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3238

At the request of Mr. CORNYN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3238, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory.

S. 3519

At the request of Mr. BURNS, his name was added as a cosponsor of S. 3519, a bill to reform the State inspection of meat and poultry in the United States, and for other purposes.

S. 3613

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3613, a bill to designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the ''Major George Quamo Post Office Building''.

S. 3652

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3652, a bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions.

S. 3653

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3653, a bill to amend the Law Enforcement Pay Equity Act of 2000 to permit certain annuitants of the retirement programs of the United States Park Police and United States Secret Service Uniformed Division to receive the adjustments in pension benefits to which such annuitants would otherwise be entitled as a result of the conversion of members of the United States Park Police and United States Secret Service Uniformed Division to a new salary schedule under the amendments made by such Act.

S. 3696

At the request of Mr. BROWNBACK, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 3696, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

S. 3716

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3716, a bill to designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the ''Captain George A. Wood Post Office Building''.

S. RES. 312

At the request of Mr. LUGAR, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 312, a resolution expressing the sense of the Senate regarding the need for the United States to address global climate change through the negotiation of fair and effective international commitments.

S. RES. 407

At the request of Mr. MENENDEZ, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 407, a resolution recognizing the African American Spiritual as a national treasure.

S. RES. 510

At the request of Mr. MARTINEZ, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 510, a resolution designating the period beginning on June 28, 2006, and ending on July 5, 2006, as ''National Clean Beaches Week'', supporting the goals and ideals of that week, and recognizing the considerable value and role of beaches in the culture of the United States.

S. RES. 531

At the request of Mr. LIEBERMAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Iowa (Mr. HARKIN) were

added as cosponsors of S. Res. 531, a resolution to urge the President to appoint a Presidential Special Envoy for Sudan.

S. RES. 535

At the request of Mr. CONRAD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. Res. 535, a resolution commending the Patriot Guard Riders for shielding mourning military families from protesters and preserving the memory of fallen service members at funerals.

AMENDMENT NO. 4689

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 4689 proposed to S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

AMENDMENT NO. 4690

At the request of Mr. NELSON of Florida, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 4690 intended to be proposed to S. 3711, a bill to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. SALAZAR):

S. 3721. A bill to amend the Homeland Security Act of 2002 to establish the United States Emergency Management Authority, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise to introduce S. 3721, the Post-Katrina Emergency Management Reform Act of 2006. It contains a vital set of reforms and innovations for our emergency-management systems that are designed to save lives and ease suffering when disaster strikes. The crafting of this bill has benefited from the insights of my principal cosponsor, Senator LIEBERMAN, and from the support of our other cosponsor, Senator SALAZAR.

The Senate has already acted on one critical measure to apply the bitter lessons of Hurricane Katrina. The 87 to 11 vote on July 11, adding creation of the U.S. Emergency Management Authority to the Homeland Security appropriations bill, adopted a major element of today's bill. That was a great step forward.

The Senate Homeland Security Committee conducted an 8-month investigation with 23 hearings, more than 325 formal interviews, and a review of more than 838,000 pages of documents to ascertain why the response to Hurricane Katrina was so inadequate at all levels of government. The investigation revealed serious failures of leadership. It also revealed an urgent need for broad reforms ranging from communication-technology standards to the structure and missions of entire Federal agencies.

Some of the 88 recommendations that flowed from our investigation can be adopted by administrative action. The Post-Katrina Emergency Management Reform Act comprises important steps that only Congress can take. I will outline the five key components of our bill.

First, we strengthen FEMA and rename it as the United State Emergency Management Authority, or US–EMA, to signify a fresh start. We elevate US–EMA within DHS, restore its preparedness authority, and protect it from departmental reorganizations that could erode its budget and assets. These measures give the agency mission and asset protections like those of its DHS siblings, the Coast Guard and the Secret Service.

These statutory protections are important. Securing the integrity of FEMA preserves the cooperative benefits of its operating within easy reach of other DHS agencies. It also avoids the duplication, cost, and confusion for State and local officials that would come from carving FEMA out as a weak, stand-alone agency for natural disasters. Keeping FEMA where it was placed by the Homeland Security Act of 2002 avoids the need for DHS to recreate a similar terror-response capability.

Improving contact and coordination among Federal, State, and local agencies is essential. For that reason, our bill provides for regionally based, multi-agency Federal strike teams that will be ready to act and deploy in a region they will already know and understand before a disaster occurs.

The bill also provides continued funding for the interstate Emergency Management Assistance Compact that proved so valuable in marshaling aid for the gulf coast last year. It commits the US–EMA to work with States and localities to develop a standardized credentialing system that will help responders and selected private-sector personnel move quickly into disaster areas anywhere in the country, and it requires the US–EMA to offer technical assistance to State and local governments.

To help remedy the communications gaps revealed by Hurricane Katrina, we also improve the agency's organizational and technical communications systems. Our bill designates the Administrator of the US–EMA as the principal advisor to the President on emergency-management issues. Meanwhile, national and regional advisory councils will ensure that the US–EMA has open channels of communication with State and local officials, emergency responders, key private-sector and nongovernmental entities, and with representatives of people with disabilities.

On the equally important technical side, our bill consolidates several communications programs within a new Office of Emergency Communications within US–EMA. This office will devise a national emergency-communications strategy, administer grants for interoperable communications, and regularly assess the operability and interoperability of the communication systems that are essential for disaster response and that failed so widely during the Katrina catastrophe.

This US–EMA portion of the bill has received a great deal of attention. But it is only one part of this package of essential reforms.

The second part of our bill permits an enhanced Federal role in emergency management when major disasters require it. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, better known as the Stafford Act, authorizes a variety of Federal assistance measures to State and local governments when the President has declared a disaster.

Congress has amended the Stafford Act over time to make it more effective. Our bill continues that process of improvement by applying lessons learned from Katrina.

At the highest level, it directs the Federal Government to develop and maintain a national disaster-recovery strategy in coordination with the State and local governments which will lead each recovery. This fills a remarkable planning void in our current system, which focuses on response. When disaster overwhelms state and local governments and devastates large areas, recovery can be a long process requiring extended Federal assistance.

We increase the potential for more effective Federal aid in several ways. For example, the legislation enhances Federal agencies' ability to respond when the President uses his authority to direct their assistance in major-disaster response and recovery.

The bill requires a national-disaster housing strategy and authorizes making semipermanent housing units a part of Stafford Act assistance. In many cases, the modular ''Katrina cottages,'' for example, would be less costly, safer, more livable, more easily sited, and more durable than the notorious trailers FEMA purchased.

A new title VII for the Stafford Act gives the President discretion to offer increased Federal assistance when disaster overwhelms state and local governments. This discretionary—but limited—authority for catastrophes includes raising the cap on individual assistance, assisting victims with rent or mortgage costs, extending disaster-unemployment benefits, increasing community loans, and raising the reimbursement to communities for the cost of food, clothes, and other essential goods they distribute to victims.

Among other Stafford Act revisions, our bill clarifies that Federal mitigation efforts can extend to man-made hazards like the Mississippi River Gulf Outlet that funneled deadly storm-surge waters toward New Orleans. It establishes a missing-child location system and a database to help reunite families, a major problem in the aftermath of Katrina. And it requires that planning and training exercises, as well as evacuation and sheltering plans, give consideration to people with disabilities or special needs, or who are not fluent in English, or who have pets.

These improvements to the Stafford Act would be a major accomplishment by themselves. But the demonstrated need for reforms goes deeper still.

The third key element of our bill will provide more and better-trained emergency professionals. The US-EMA will establish a contingency cadre to meet surge workforce needs; implement a human-capital strategy to improve recruitment, development, and retention; and make quarterly reports to Congress on staffing levels. These actions should reduce the chronic workforce shortfalls—at times as great as 25 percent—that have hobbled FEMA in the past.

Looking to staffing quality across the full spectrum, our bill creates a National Homeland Security Academy. The academy will offer both classroom and distance-learning instruction and training to DHS, state, and local homeland-security professionals.

The fourth element in our reform bill will correct the confusion and lack of training on incident management and unified-command operations that frustrated a fully effective response to Katrina. Our bill mandates a comprehensive review of the National Response Plan, and requires that the DHS Secretary employ the NRP and the National Incident Management System to guide Federal actions in a natural or manmade disaster.

The Secretary is also directed to work with the US-EMA Administrator and with the National Advisory Committee to implement a national training-and-exercise program to ensure that vital knowledge and skills are in place and are kept sharp.

The fifth key aspect of our bill targets the waste, fraud, and abuse that outraged both our compassion for disaster victims and our sense of stewardship for taxpayer dollars. Based on the investigations by our committee, the GAO, and the DHS inspector general, I believe far more than a billion dollars has been lost to waste, fraud, and abuse in the aftermath of Katrina. The purchase of unusable mobile homes, long-distance moving and storage of unneeded ice, and abuse of debit cards indicate that DHS has lacked even rudimentary controls to safeguard tax dollars.

Our bill directs the Department to identify emergency-response requirements that can be contracted in advance with pre-screened vendors, so that vital commodities and services can be secured and delivered promptly. This simple change could curtail the waste of time and money as officials scramble to make ad-hoc purchase and distribution arrangements, often paying excessive prices. We also provide for a contingency corps of Federal contracting officers who can work in the field for an extended period following a disaster, so that response and recovery spending is better directed and controlled than with Katrina.

Our bill also faces the unfortunate reality that thieves and con artists will try to abuse even programs for disaster victims. Our bill imposes civil and criminal penalties for misrepresentation, requires fraud-awareness training for contracting officers and for the relief workforce, mandates systems to verify identities and addresses, and requires issuing explicit directions on legitimate uses of purchase cards.

Our bill is no single-issue, silver-bullet exercise but a careful and comprehensive program of improvement and innovation. It takes on each of the vital areas that our Hurricane Katrina investigation determined require action by Congress: reconstituting FEMA, updating and expanding the Stafford Act, improving emergency staffing, enhancing planning and preparedness, and reducing waste, fraud, and abuse.

Floods, earthquakes, storms, fires, and other natural disasters are abiding threats that exempt no one living on this planet. And the threat of man-made disasters has, perhaps permanently, forced itself into our plans for sustaining this great Nation.

Hurricane Katrina showed us in tragic terms that our mechanisms for disaster mitigation, preparation, response, and recovery urgently need many improvements. If we leave untouched the gaps, the confusions, and the missteps revealed during Katrina, we will see more unnecessary loss of life and prolonged misery. We do not know when the next great disaster will strike, or what form it will take. But we know it will come. We know what needs to be done. The Post-Katrina Emergency Management Reform Act gives us the tools to do it.

Mr. LIEBERMAN. Mr. President, I rise today to offer my support for and cosponsorship of this comprehensive piece of legislation that Chairman COLLINS and I are proposing based on our investigation into the failed preparations and response to Hurricane Katrina.

About 1 month ago, we introduced a bill to transform FEMA into the U.S. Emergency Management Authority to guarantee that our national emergency response system can handle a catastrophe—whether it is a hurricane the size and scope of Katrina or a terrorist attack. U.S. EMA would have special, protected status—much like the Coast Guard has within the Department of Homeland Security. The Senate overwhelmingly adopted that legislation by a vote of 87 to 11 as part of the Department of Homeland Security fiscal year 2007 Appropriations Act.

Today, we reintroduce that legislation backed up by additional reforms to improve emergency communications, planning, training, and to make necessary changes to the Stafford Act, which governs relief and emergency assistance to victims of disasters.

The Homeland Security and Governmental Affairs Committee, at the request of the Senate leadership, spent 7 months culling through hundreds of thousands of documents, interviewing hundreds of witnesses, and holding scores of hearings into the botched Government response to that catastrophic hurricane.

We found that at all levels, our Government was ill-equipped to deal with the massive human suffering all along the gulf coast that followed the storm's landfall, suffering that shocked and angered the American people who expect more from their government when fellow Americans are in need. These failings were the result of many things—negligence, lack of resources, lack of capability. But most of all they were the result of a failure of leadership—by the White House, DHS, FEMA, the Louisiana Governor's office, and the New Orleans mayor's office.

To this day, the Department of Homeland Security does not make sufficient distinction between everyday problems that States must deal with on a seasonal basis and the larger catastrophes which, as Katrina demonstrated, quickly overwhelm local and State authorities.

The legislation we are introducing today is an effort to get the Department of Homeland Security to understand that distinction better and to target its preparedness and response to cope better with normal disasters as well as with those rarer but truly catastrophic events. It addresses—to the extent possible—many of the Federal shortcomings exposed by our investigation. And it reflects many of the 88 recommendations the committee reached in its final report on the Katrina investigation.

Let me briefly summarize the bill. First and foremost, we are concerned about our first responders who rush into the middle of catastrophes to save lives. First responders must have the tools they need to protect and save our communities. Think back to September 11. Hundreds of firefighters lost their lives that day for many reasons. Among them was that their radio equipment was not compatible with the police force radios, making it more difficult to learn of the warnings others had that the Twin Towers were going to fall.

During Hurricane Katrina, first responders not only lacked compatible radio equipment, but they lost communication completely when power lines and sub stations were knocked out of operation.

Whether responding to a terrorist attack, natural disaster, fire, a missing

child, or a fleeing suspect, police, firefighters, emergency medical technicians, and other responders too frequently cannot share crucial, lifesaving information at the scene of a disaster.

Senator COLLINS and I introduced a bill, reported out of committee last year, to improve emergency communications, the Assure Emergency and Interoperable Communications for First Responders Act of 2005, S.1725. We have borrowed liberally from it. For example, today's legislation, like S.1725, would require the development of a national strategy for emergency communications; the establishment of an emergency communications research and development program; and dedicated funding for State and local communications and interoperability grants, authorized at $3.3 billion over 5 years.

We would also establish a new Office of Emergency Communications within U.S. EMA by combining existing offices at the Department of Homeland Security that deal with various aspects of emergency communications. Among the offices to be combined are SAFECOM within the Science and Technology Directorate and the National Communications System, which was under the Infrastructure Protection Office during Katrina. This office will make sure that DHS actually has someone in charge of leading the Department's splintered efforts to fix these persistent communications problems.

This legislation also makes changes to the Stafford Act and improves upon other recovery and assistance benefits for the victims of disaster. Among other things, we would require U.S. EMA to develop housing and recovery strategies; we would increase the assistance provided under the Hazard Mitigation Grant Program from 7.5 percent of funds paid out under title IV of the Stafford Act up to 15 percent, depending on the size of the disaster; and we would expand FEMA's authority so that in addition to providing temporary housing it could provide permanent or semipermanent housing, giving it greater flexibility to meet the needs of those affected by a disaster. Unlike FEMA, U.S. EMA would not have to reflexively rely on travel trailers to house victims when other types of housing make more sense.

Victims would be aided further under this legislation by elimination of the subcaps that limited the amount of specific assistance for repairs and home replacement during Katrina and by increased transportation benefits. We would clarify the statute by reinforcing Congress's intent to allow for the use of rental assistance to pay for utility costs and to provide treatment of mental health problems resulting from or aggravated by a disaster. And we would allow U.S. EMA to provide temporary residences to all parts of a household that necessarily must split following a disaster—because of multiple relocations or cases of domestic violence, for example.

If the President finds ''catastrophic damages'' to a locale hit by disaster, he would be able to provide even more assistance under our legislation. The President would be able to double the cap for individual assistance from $26,000 to $52,000, provide unemployment benefits for 52 weeks instead of 26 weeks, provide help with mortgage and rental assistance, and waive maximum limitations on the amount of assistance that can be provided under the Community Disaster Loan Program.

Other provisions in our bill call for increased planning for people with special needs, better ways to get disaster information to those who need it, and measures to assist with family reunification. We would also require government contractors to hire more local firms and local workers.

This legislation also has an extensive section dedicated to saving money for the taxpayers while preventing waste, fraud, and abuse. For example, we would require the U.S. EMA Director to establish an identity verification process to ensure that victims who apply for benefits under the Individuals and Households Program are who they say they are and are in true need. We would create a registry of contractors able to perform common postdisaster work and use advance, competitively awarded contracts for predictably required goods and services. And we would create a contingent of volunteer contracting officers from throughout the Federal Government to assist with additional contracting needs during emergencies.

Our bill would also require U.S. EMA to plan for a disaster far more extensively than it has previously. It requires the development of a national training and exercise program, involving both Federal and State officials, to prepare for natural and manmade disasters. And the U.S. EMA Administrator would have to review the National Response Plan and clarify overlapping or confusing law enforcement, search and rescue, and medical responsibilities.

Mr. President, we are approaching the 1-year anniversary of Katrina—August 29. Much has changed since that time. Certainly, the gulf coast is better prepared to meet a disaster this hurricane season. Yet many victimized by Hurricane Katrina, as well as those vulnerable to natural disasters or terrorist attacks elsewhere, still face uncertain futures.

We cannot forget those still struggling to rebuild their lives from the devastation wrought by Katrina almost a year ago. This legislation was designed to address specific problems exposed by Katrina, so as it moves through the legislative process, we must do all that we can to ensure that the President has the authority he needs to provide assistance to past victims, as well as to victims of future disasters. We must also make certain that, unlike FEMA, U.S. EMA has all of the resources it needs to lead a national preparedness effort and to respond to whatever occurs in a manner that the American people have a right to expect.

The committee's investigation found that FEMA had never been prepared for a catastrophic event but also that it had budget shortages that hindered its preparedness and impeded its performance. Scott Wells, FEMA's Deputy Federal Coordinating Officer in Lousiana, summed it up. He said, ''This was a catastrophic disaster. We don't have the structure; we don't have the people for catastrophic disaster. It's that simple . . . If you want a big capability, you've got to make a big investment. And there is no investment in response operations for a catastrophic disaster. It's not there.''

Clearly, if the Federal Government is to improve its performance in the next disaster, we must give it sufficient resources. This legislation takes an important step in that direction by providing a $49 million increase for FEMA's two key operating accounts in fiscal year 2008 and an additional $53 million in fiscal year 2009. However, I believe even more is necessary, and I will work to secure additional resources as U.S. EMA becomes a reality.

The Department of Homeland Security was established not to address average disasters—the hurricanes that reliably strike certain parts of the country each year or flooding from heavy rains. DHS was established to prevent, prepare for, and if necessary respond to horrific catastrophes that demand all the resources our Federal Government has to offer in times of need or when local and State governments are overwhelmed by what has befallen them.

This legislation is a reminder of that original purpose, an effort to get the Department of Homeland Security back to where Congress originally envisioned it should be. This bill will help the Department be as prepared for and able to respond to catastrophes as the American public expects it to be.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3723. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, today I join with my colleague Senator LIEBERMAN to introduce the Eightmile Wild and Scenic River Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System.

The National Wild and Scenic Rivers System was created by Congress in 1968 to create a ''Hall of Fame'' for exceptional rivers. Eligible rivers or river segments must meet two criteria; first,

the river corridor must be free flowing and, second, it must contain at least one outstanding remarkable resource deserving special recognition, such as a prominent natural, cultural, scenic, or recreational resource.

Over the course of the past few years, the National Park Service has responded to interest and inquiries from local advocates and town officials regarding a potential Wild and Scenic River designation for the Eightmile River located in south central Connecticut. While a local management plan has been developed, studies have shown that fifteen miles of the Eightmile River and its East Branch through the communities of Lyme, East Haddam, and Salem, CT, were already included on the National Park Service's Nationwide Rivers Inventory of potential Wild and Scenic River segments. Both segments have great recreational value and are included on the inventory for outstanding scenic, geologic, and fish and wildlife values. More than 80 percent of the Connecticut River watershed is still forested, including large tracts of unfragmented hardwood forests that are home to a diverse assemblage of plants and animals including bobcats, great horned owls, red foxes and roughly 180 other species of birds, plants, fish, and reptiles.

The impetus for gaining wild and scenic designation of segments of the Eightmile River originated locally in 1995 when local officials and citizens began working on protection efforts. A variety of local, State, and Federal watershed protection programs were considered, and a Wild & Scenic River study and designation were determined to be the best way to achieve the local vision of a protected watershed. It was found that six special ''resource values'' are present in the Eightmile River Watershed. These resource values are: Watershed hydrology, water quality, unique species and natural communities, geology, the watershed ecosystem, and the cultural landscape. Preserving and enhancing these values is the basis of the Eightmile River Management Plan and ultimately the pursuit of wild and scenic designation. Earlier this year I joined with residents of East Haddam, CT, to endorse the management plan.

Connecticut is a small State in area, but it is densely populated and it is essential that balance is achieved between conservation and economic growth. As one of the most diverse and thriving ecosystems in the lower Connecticut River Valley, it is essential that we work to preserve this river while all parties, local, State and Federal, are willing and able to support this ecosystem. The Eightmile River, like many other rivers in America, can still be stewarded for future generations of Americans as both a recreational treasure and an unblemished ecological haven.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3723

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 ''Eightmile Wild and Scenic River Act''.

SEC. 2. WILD AND SCENIC RIVER DESIGNATION, EIGHTMILE RIVER, CONNECTICUT.

(a) FINDINGS.—Congress finds that—

(1) the Eightmile River Wild and Scenic River Study Act of 2001 (Public Law 107–65; 115 Stat. 484) required the Secretary to complete a study of the Eightmile River in the State of Connecticut from its headwaters downstream to its confluence with the Connecticut River for potential inclusion in the National Wild and Scenic Rivers System;

(2) the segments of the Eightmile River that were assessed in the study continue to be in a free-flowing condition;

(3) the segments of the Eightmile River contain outstanding resource values relating to—

(A) cultural landscapes;

(B) water quality;

(C) watershed hydrology;

(D) unique species;

(E) natural communities;

(F) geology; and

(G) watershed ecosystems;

(4) the Eightmile River Wild and Scenic Study Committee has determined that—

(A) the outstanding resource values of those segments of the Eightmile River depend on the continued integrity and quality of the Eightmile River watershed;

(B) those resource values that are manifested throughout the entire watershed; and

(C) the continued protection of the entire watershed is intrinsically important to the designation of the Eightmile River under this Act;

(5) the Eightmile River Wild and Scenic Study Committee took a watershed approach in studying and recommending management options for the river segments and the Eightmile River watershed as a whole;

(6) during the study, the Eightmile River Wild and Scenic Study Committee prepared the Eightmile River Management Plan to establish objectives, standards, and action programs to ensure long-term protection of the outstanding values of the river, and compatible management of the land and water resources of the Eightmile River and its watershed, without Federal management of affected land not owned by the United States;

(7) the Eightmile River Wild and Scenic Study Committee—

(A) voted in favor of including the Eightmile River in the National Wild and Scenic Rivers System; and

(B) included that recommendation as an integral part of the Eightmile River Watershed Management Plan;

(8) the residents of the towns located adjacent to the Eightmile River and comprising most of its watershed, including Salem, East Haddam, and Lyme, Connecticut, as well as the boards of selectmen and land use commissions of those towns, voted—

(A) to endorse the Eightmile River Watershed Management Plan; and

(B) to seek designation of the river as a component of the National Wild and Scenic Rivers System.

(9) the General Assembly of the State of Connecticut enacted Public Act 05–18—

(A) to endorse the Eightmile River Watershed Management Plan; and

(B) to seek the designation of the Eightmile River as a component of the National Wild and Scenic Rivers System.

(b) DEFINITIONS.—In this Act:

(1) EIGHTMILE RIVER.—The term ''Eightmile River'' means segments of the main stem and certain tributaries of the Eightmile River in the State of Connecticut that are designated as components of the National Wild and Scenic Rivers System by the amendment made by subsection (c).

(2) MANAGEMENT PLAN.—The term ''Management Plan'' means the plan prepared by the Eightmile River Wild and Scenic Study Committee, with assistance from the National Park Service, known as the ''Eightmile River Watershed Management Plan'', and dated December 8, 2005.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by designating the undesignated paragraph relating to the White Salmon River, Washington, following paragraph (166) as paragraph (167); and

(2) by adding at the end the following:

''(168) EIGHTMILE RIVER, CONNECTICUT.—The following segments in the Eightmile River in the State of Connecticut, totaling approximately 25.3 miles, to be administered by the Secretary of the Interior:

''(A) The 10.8-mile segment of the main stem of the Eightmile River, from Lake Hayward Brook to the Connecticut River at the mouth of Hamburg Cove, as a scenic river.

''(B) The 8.0-mile segment of the East Branch of the Eightmile River from Witch Meadow Road to the main stem of the Eightmile River, as a scenic river.

''(C) The 3.9-mile segment of Harris Brook from the confluence of an unnamed stream lying 0.74 miles due east of the intersection of Hartford Road (State Route 85) and Round Hill Road to the East Branch of the Eightmile River, as a scenic river.

''(D) The 1.9-mile segment of Beaver Brook from Cedar Pond Brook to the main stem of the Eightmile River, as a scenic river.

''(E) The 0.7-mile segment of Falls Brook from Tisdale Brook to the main stem of the Eightmile River at Hamburg Cove, as a scenic river.''.

(d) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Eightmile River in accordance with the Management Plan and such amendments to the Plan as the Secretary determines to be consistent with this section.

(2) MANAGEMENT PLAN.—The Management Plan shall be considered to satisfy each requirement for a comprehensive management plan that is required by section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(e) COMMITTEE.—The Secretary shall coordinate the management responsibilities of the Secretary relating to the Eightmile River with the Eightmile River Coordinating Committee, as described in the Management Plan.

(f) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—Pursuant to sections 10(e) and 11(b)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e), 1282(b)(1)), the Secretary may enter into a cooperative agreement with—

(A) the State of Connecticut;

(B) the towns of—

(i) Salem, Connecticut;

(ii) Lyme, Connecticut; and

(iii) East Haddam, Connecticut; and

(C) appropriate local planning and environmental organizations.

(2) CONSISTENCY WITH MANAGEMENT PLAN.—Each cooperative agreement authorized by this subsection—

(A) shall be consistent with the Management Plan; and

(B) may include provisions for financial or other assistance from the United States.

(g) RELATION TO NATIONAL PARK SYSTEM.—Notwithstanding section 10(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(c)), the Eightmile River shall not—

(1) be administered as part of the National Park System; or

(2) be subject to laws (including regulations) that govern the National Park System.

(h) LAND MANAGEMENT.—

(1) ZONING ORDINANCES.—With respect to the Eightmile River, each zoning ordinance adopted by the towns of Salem, East Haddam, and Lyme, Connecticut, in effect as of December 8, 2005 (including provisions for conservation of floodplains, wetland and watercourses associated with the segments), shall be considered to satisfy each standard and requirement under section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)).

(2) ACQUISITION OF LAND.—The authority of the Secretary to acquire land for the purpose of managing the Eightmile River as a component of the National Wild and Scenic Rivers System shall be—

(A) limited to acquisition—

(i) by donation; or

(ii) with the consent of the owner of the land; and

(B) subject to the additional criteria set forth in the Management Plan.

(i) WATERSHED APPROACH.—

(1) STATEMENT OF POLICY.—In furtherance of the watershed approach to resource preservation and enhancement articulated in the Management Plan, the tributaries of the Eightmile River watershed specified in paragraph (2) are recognized as integral to the protection and enhancement of the Eightmile River and that watershed.

(2) COVERED TRIBUTARIES.—The tributaries referred to in paragraph (1) include—

(A) Beaver Brook;
(B) Big Brook;
(C) Burnhams Brook;
(D) Cedar Pond Brook;
(E) Cranberry Meadow Brook;
(F) Early Brook;
(G) Falls Brook;
(H) Fraser Brook;
(I) Harris Brook;
(J) Hedge Brook Lake Hayward Brook;
(K) Malt House Brook;
(L) Muddy Brook;
(M) Ransom Brook;
(N) Rattlesnake Ledge Brook;
(O) Shingle Mill Brook;
(P) Strongs Brook;
(Q) Tisdale Brook;
(R) Witch Meadow Brook; and
(S) all other perennial streams within the Eightmile River watershed.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. INOUYE, Mr. COCHRAN, and Mr. JOHNSON):

S. 3724. A bill to enhance scientific research and competitiveness through the Experimental Program to Stimulate Competitive Research, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, today, I introduce the EPSCoR Research and Competitive Act of 2006, and I am proud to have the bipartisan support of my colleagues, Senators SNOWE, INOUYE, COCHRAN and JOHNSON.

The Experimental Program to Stimulate Competitive Research, EPSCoR, at the National Science Foundation, NSF, is designed to help states that historically do not receive much NSF funding to compete more effectively for grants. NSF maintains it high standards, but it also provides help to States to meet such standards. Such an investment is fundamental to help promote our country's competitiveness nationwide. Twenty-six States are eligible for the EPSCoR program, and these States represent 20 percent of our population, 25 percent of our doctoral and research universities, and 18 percent of our academic scientists and engineers. The EPSCoR states also represent unique environments for scientific research with Hawaii and Alaska having unique features. Montana is a major area for paleontology. Six of the top ten energy producing States are EPSCoR States. It is common sense to invest in building research capacity in our EPSCoR States.

We also know that EPSCoR works. More than one-half of the researchers supported by NSF's EPSCoR program during the first 10 years later were successful in competing for non-EPSCoR funding. Also, 75 percent of new technology companies started by university research are based in the States where the original research was done. To strengthen our research and enhance competitiveness EPSCoR is a smart investment.

Within the American Innovation and Competitiveness Act of 2006, is a provision authorizing the EPSCoR program at $125 million, and stating that EPSCoR funding should increase in proportion with the overall NSF budget. This package was marked up by the Senate Commerce Committee on May 18, 2006 with bipartisan support.

Clearly, there is agreement that EPSCoR needs to be part of our national strategy for competitiveness. This legislation adds some specifics to that goal. The bill proposes that the Research Infrastructure Improvements Grant increase to $75 million. It seeks 20 percent of the EPSCoR budget for the co-funding program, an innovative initiative to help encourage each of the NSF directorates to collaborate and fund meritorious projects from the EPSCoR States. It encourages the NSF Director to develop creative ways to ensure that the EPSCoR States are part of the new major initiatives of the foundation, including cyber-infrastructure and major research instrumentation.

West Virginia has truly benefited from the EPSCoR program. Since 2001, competitive Federal research in West Virginia has risen from $35.8 million to $60.1 million which is a 68 percent increase. In 2005 alone, research created more than $147 million in economic activity and supported 4,432 jobs. EPSCoR has also been the catalyst for enhanced cooperation between West Virginia's leading universities, West Virginia University and Marshall University.

This legislation will add to the American Innovation and Competitiveness Act's goal of promoting competitiveness in the EPSCoR States which helps our entire country.

By Mr. KOHL:

S. 3727. A bill to amend title XVIII of the Social Security Act to provide for an adjustment to the reduction of Medicare resident positions based on settled cost reports; to the Committee on Finance.

Mr. KOHL. Mr. President, today I am introducing the Medicare Residency Program Fairness Act of 2006. This bill would provide for an adjustment to the reduction of Medicare resident positions based on settled cost reports. The reason I am introducing this bill is because unintended consequences of Section 422 of the Medicare Modernization Act of 2003 have resulted in a decrease of residents slots in Wisconsin's Fox Valley and potentially in other small urban and rural family medicine practices across the Nation.

For more than a year, I have been working with the University of Wisconsin School of Medicine and the Fox Valley Family Medicine Residency Program to urge CMS to restore funding for its residency training positions that was taken away as a result of an audit that incorrectly determined that the positions were not used. Now, a Final Mediation Agreement between Appleton Medical Center and United Government Services demonstrates that the positions were being used and that the program met the Medicare requirement for those positions. I believe it is only fair that Appleton Medical Center's residency positions be reinstated.

The Fox Valley Family Practice Residency Program is an important contributing member to the Fox Valley and surrounding community, providing health care services to some 10,000 families. This is exactly the type of program that we should be supporting, not reducing. My legislation will right this wrong and provide for the same opportunity for any other small urban or rural program that can demonstrate that its residency slots were erroneously de-funded by CMS. I ask that my Senate colleagues join me by supporting this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3727

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 ''Medicare Residency Program Fairness Act of 2006''.

SEC. 2. ADJUSTMENT TO THE REDUCTION OF MEDICARE RESIDENT POSITIONS BASED ON SETTLED COST REPORTS.

(a) IN GENERAL.—Section 1886(h)(7) of the Social Security Act (42 U.S.C. 1395ww(h)(7)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by adding at the end the following new subparagraph:

''(D) ADJUSTMENT BASED ON SETTLED COST REPORT FOR RURAL AND SMALL URBAN HOSPITALS.—In the case of a hospital located in a rural area (as defined in subsection (d)(2)(D)) or in an urban area that is not a large urban area (as so defined) for which—

''(i) the otherwise applicable resident limit was reduced under subparagraph (A)(i)(I); and

''(ii) such reduction was based on a reference resident level that was determined using a cost report that was subsequently settled, whether as a result of an appeal or otherwise, and the reference resident level under such settled cost report is higher than the level used for the reduction under subparagraph (A)(i)(I);

the Secretary shall apply subparagraph (A)(i)(I) using the higher resident reference level and make any necessary adjustments to the reduction described in subclause (II). Any such necessary adjustments shall be effective for portions of cost reporting periods occurring on or after July 1, 2005.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 422 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mr. FRIST (for himself, Mr. LUGAR, Mr. INOUYE, Mr. BROWNBACK, Mr. BIDEN, Mr. BUNNING, Mr. AKAKA, and Mrs. DOLE):

S. 3728. A bill to promote nuclear nonproliferation in North Korea; considered and passed.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3728

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 ''North Korea Nonproliferation Act of 2006''.

SEC. 2. STATEMENT OF POLICY.

(a) In view of —

(1) North Korea's manifest determination to produce missiles, nuclear weapons, and other weapons of mass destruction and to proliferate missiles, in violation of international norms and expectations; and

(2) United Nations Security Council Resolution 1695, adopted on July 15, 2006, which requires all Member States, in accordance with their national legal authorities and consistent with international law, to exercise vigilance and prevent—

(A) missile and missile-related items, materials, goods, and technology from being transferred to North Korea's missile or weapons of mass destruction programs; and

(B) the procurement of missiles or missile-related items, materials, goods, and technology from North Korea, and the transfer of any financial resources in relation to North Korea's missile or weapons of mass destruction programs,

it should be the policy of the United States to impose sanctions on persons who transfer such weapons, and goods and technology related to such weapons, to and from North Korea in the same manner as persons who transfer such items to and from Iran and Syria currently are sanctioned under United States law.

SEC. 3. AMENDMENTS TO IRAN AND SYRIA NONPROLIFERATION ACT.

(a) REPORTING REQUIREMENTS.—Section 2 of the Iran and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in the heading, by inserting ''**, NORTH KOREA,**'' after ''**IRAN**''; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Iran, or'' and inserting ''Iran,''; and

(ii) by inserting after ''Syria'' the following: '', or on or after January 1, 2006, transferred to or acquired from North Korea'' after ''Iran''; and

(B) in paragraph (2), by inserting '', North Korea,'' after ''Iran''.

(b) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) in section 1, by inserting '', North Korea,'' after ''Iran'';

(2) in section 5(a), by inserting '', North Korea,'' after ''Iran'' both places it appears; and

(3) in section 6(b)—

(A) in the heading, by inserting '', NORTH KOREA,'' after ''IRAN''; and

(B) by inserting '', North Korea,'' after ''Iran'' each place it appears.

SEC. 4. SENSE OF CONGRESS ON INTERNATIONAL COOPERATION.

Congress urges all governments to comply promptly with United Nations Security Council Resolution 1695 and to impose measures on persons involved in such proliferation that are similar to those imposed by the United States Government pursuant to the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note), as amended by this Act.

AMENDMENTS SUBMITTED AND PROPOSED—JULY 24, 2006

SA 4689. Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. CLINTON, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 4690. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 3711, to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes; which was ordered to lie on the table.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4691. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 3711, to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes; which was ordered to lie on the table.

SA 4692. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 3711, supra; which was ordered to lie on the table.

SA 4693. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 3711, supra; which was ordered to lie on the table.

SA 4694. Mrs. BOXER (for herself and Mr. ENSIGN) proposed an amendment to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

TEXT OF AMENDMENT—JULY 24, 2006

SA 4689. Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. CLINTON, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC. ___. TEEN PREGNANCY PREVENTION.

(a) EDUCATION PROGRAM FOR PREVENTING TEEN PREGNANCIES, AND OTHER ACTIVITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may make grants to States, local educational agencies, State and local public health agencies, and nonprofit private entities for the purpose of carrying out programs of family life education, including education on both abstinence and contraception for the prevention of teen pregnancy and sexually transmitted disease, and education to support healthy adolescent development.

(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to applicants that will carry out the programs under such paragraph in communities for which the rate of teen pregnancy is significantly above the average rate in the United States of such pregnancies.

(3) CERTAIN REQUIREMENTS.—A grant may be made under paragraph (1) only if the applicant for the grant meets the following conditions with respect to the program involved:

(A) The applicant agrees that information provided by the program on pregnancy prevention will be age-appropriate, factually and medically accurate and complete, and scientifically-based.

(B) The applicant agrees the program will—

(i) not teach or promote religion;

(ii) teach that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(iii) stress the value of abstinence while not ignoring those teens who have had or are having sexual intercourse, or teens at risk of becoming sexually active;

(iv) provide information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy;

(v) provide information about the health benefits and side effects of all contraceptives and barrier methods as a means to reduce the risk of contracting sexually transmitted diseases, including HIV/AIDS;

(vi) encourage family communication about sexuality between parent and child;

(vii) teach teens the skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical, and sexual advances and how not to make unwanted verbal, physical, and sexual advances;

(viii) teach teens how alcohol and drug use can affect responsible decisionmaking; and

(ix) educate both young men and women about the responsibilities and pressures that come along with parenting.

(4) ADDITIONAL ACTIVITIES.—In carrying out a program of family life education under paragraph (1), a State, agency, or entity may carry out educational and motivational activities that help teens—

(A) gain knowledge about the physical, emotional, biological, and hormonal changes of adolescence and subsequent stages of human maturation;

(B) develop the knowledge and skills necessary to ensure and protect their sexual and reproductive health from unintended pregnancy and sexually transmitted disease, including HIV/AIDS, throughout their lifespan;

(C) gain knowledge about the specific involvement of and male responsibility in sexual decisionmaking;

(D) develop healthy attitudes and values about adolescent growth and development, body image, gender roles, racial and ethnic diversity, and other subjects;

(E) develop and practice healthy life skills including goal-setting, decisionmaking, negotiation, communication, and stress management;

(F) promote self-esteem and positive interpersonal skills focusing on relationship dynamics, including friendships, dating, romantic involvement, marriage, and family interactions; and

(G) prepare for the adult world by focusing on educational and career success, including developing skills for employment preparation, job seeking, independent living, financial self-sufficiency, and workplace productivity.

(5) EVALUATION OF PROGRAMS.—The Secretary shall establish criteria for the evaluation of programs under paragraph (1). A grant may be made under such paragraph only if the applicant involved—

(A) agrees to conduct evaluations of the program in accordance with such criteria;

(B) agrees to submit to the Secretary such reports describing the results of the evaluations as the Secretary determines to be appropriate; and

(C) submits to the Secretary, in the application under paragraph (6), a plan for conducting the evaluations.

(6) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under paragraphs (3) and (5) and the plan under paragraph (5)(C), as the Secretary determines to be necessary to carry out this subsection.

(7) REPORT TO CONGRESS.—Not later than October 1, 2011, the Secretary shall submit to Congress a report describing the extent to which programs under paragraph (1) have been successful in reducing the rate of teen pregnancies in the communities in which the programs have been carried out.

(8) DEFINITIONS.—In this subsection:

(A) AGE-APPROPRIATE.—The term ''age-appropriate'', with respect to information on pregnancy prevention, means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(B) FACTUALLY AND MEDICALLY ACCURATE AND COMPLETE.—The term ''factually and medically accurate and complete'' means verified or supported by the weight of research conducted in compliance with accepted scientific methods and—

(i) published in peer-reviewed journals, where applicable; or

(ii) comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.

(C) HIV/AIDS.—The term ''HIV/AIDS'' means the human immunodeficiency virus, and includes acquired immune deficiency syndrome.

(D) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated for each of the fiscal years 2007 through 2011, an amount equal to the total amount appropriated for that fiscal year to carry out programs of abstinence education under—

(A) section 510 of the Social Security Act (42 U.S.C. 710);

(B) title XX of the Public Health Service Act (42 U.S.C. 300z et seq.); and

(C) section 501(a)(2) of the Social Security Act (42 U.S.C. 701(a)(2)).

(b) REAUTHORIZATION OF CERTAIN AFTER-SCHOOL PROGRAMS.—

(1) 21ST CENTURY COMMUNITY LEARNING CENTERS.—Section 4206 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7176) is amended—

(A) in paragraph (5), by striking ''$2,250,000,000'' and inserting ''$2,500,000,000''; and

(B) in paragraph (6), by striking ''$2,500,000,000'' and inserting ''$2,750,000,000''.

(2) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—Section 5401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241) is amended—

(A) by striking ''There are'' and inserting ''(a) IN GENERAL.—There are''; and

(B) by adding at the end the following:

''(c) PHYSICAL EDUCATION.—In addition to the amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated $73,000,000 for each of fiscal years 2007 and 2008 to carry out subpart 10.''.

(3) FEDERAL TRIO PROGRAMS.—Section 402A(f) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(f)) is amended by striking ''$700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years'' and inserting ''$883,000,000 for fiscal year 2007 and such sums as may be necessary for each of the 5 succeeding fiscal years''.

(4) GEARUP.—Section 404H of the Higher Education Act of 1965 (20 U.S.C. 1070a–28) is amended by striking ''$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years'' and inserting ''$325,000,000 for fiscal year 2007 and such sums as may be necessary for each of the 5 succeeding fiscal years''.

(c) DEMONSTRATION GRANTS TO ENCOURAGE CREATIVE APPROACHES TO TEEN PREGNANCY PREVENTION AND AFTER-SCHOOL PROGRAMS.—

(1) IN GENERAL.—The Secretary may make grants to public or nonprofit private entities for the purpose of assisting the entities in demonstrating innovative approaches to prevent teen pregnancies.

(2) CERTAIN APPROACHES.—Approaches under paragraph (1) may include the following:

(A) Encouraging teen-driven approaches to pregnancy prevention.

(B) Exposing teens to realistic simulations of the physical, emotional, and financial toll of pregnancy and parenting.

(C) Facilitating communication between parents and children, especially programs that have been evaluated and proven effective.

(3) MATCHING FUNDS.—

(A) IN GENERAL.—With respect to the costs of the project to be carried out under paragraph (1) by an applicant, a grant may be made under such paragraph only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant).

(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(4) EVALUATION OF PROJECTS.—The Secretary shall establish criteria for the evaluation of projects under paragraph (1). A grant may be made under such paragraph only if the applicant involved—

(A) agrees to conduct evaluations of the project in accordance with such criteria;

(B) agrees to submit to the Secretary such reports describing the results of the evaluations as the Secretary determines to be appropriate; and

(C) submits to the Secretary, in the application under paragraph (5), a plan for conducting the evaluations.

(5) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under paragraphs (3) and (4) and the plan under paragraph (4)(C), as the Secretary determines to be necessary to carry out this subsection.

(6) REPORT TO CONGRESS.—Not later than October 1, 2011, the Secretary shall submit to Congress a report describing the extent to which projects under paragraph (1) have been successful in reducing the rate of teen pregnancies in the communities in which the projects have been carried out. Such reports shall describe the various approaches used under paragraph (1) and the effectiveness of each of the approaches.

(7) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for each of the fiscal years 2007 through 2011.

SA 4690. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 3711, to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes; which was ordered to lie on the table.

At the end, add the following:

SEC. 6. SENSE OF THE SENATE REGARDING APPOINTMENT OF CONFEREES BY THE SENATE AND AMENDMENT BY THE HOUSE OF REPRESENTATIVES.

It is the sense of the Senate that—

(1) the Senate should not appoint conferees to conference with the House of Representatives with respect to this Act; and

(2) the House of Representatives should enact this Act without amendment.

TEXT OF AMENDMENTS

SA 4691. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 3711, to enhance the energy independence and security of the United States by providing for exploration, development, and production

activities for mineral resources in the Gulf of Mexico, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 21, insert after ''Treasury'' the following: '', from which the Secretary of the Treasury shall transfer to the Secretary such amounts as are necessary to carry out the payment in lieu of taxes program under chapter 69 of title 31, United States Code''.

SA 4692. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 3711, to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—OIL CONSERVATION

Subtitle A—National Oil Savings Plan and Requirements

SEC. 201. OIL SAVINGS TARGET AND ACTION PLAN.

Not later than 270 days after the date of enactment of this Act, the Director of the Office of Management and Budget (referred to in this subtitle as the ''Director'') shall publish in the Federal Register an action plan consisting of—

(1) a list of requirements proposed or to be proposed pursuant to section 102 that are authorized to be issued under law in effect on the date of enactment of this Act, and this Act, that will be sufficient, when taken together, to save from the baseline determined under section 105—

(A) 2,500,000 barrels of oil per day on average during calendar year 2016;

(B) 7,000,000 barrels of oil per day on average during calendar year 2026; and

(C) 10,000,000 barrels per day on average during calendar year 2031; and

(2) a Federal Government-wide analysis of—

(A) the expected oil savings from the baseline to be accomplished by each requirement; and

(B) whether all such requirements, taken together, will achieve the oil savings specified in this section.

SEC. 202. STANDARDS AND REQUIREMENTS.

(a) IN GENERAL.—On or before the date of publication of the action plan under section 201, the Secretary of Energy, the Secretary of Transportation, the Secretary of Defense, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the head of any other agency the President determines appropriate shall each propose, or issue a notice of intent to propose, regulations establishing each standard or other requirement listed in the action plan that is under the jurisdiction of the respective agency using authorities described in subsection (b).

(b) AUTHORITIES.—The head of each agency described in subsection (a) shall use to carry out this section—

(1) any authority in existence on the date of enactment of this Act (including regulations); and

(2) any new authority provided under this Act (including an amendment made by this Act).

(c) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the head of each agency described in subsection (a) shall promulgate final versions of the regulations required under this section.

(d) AGENCY ANALYSES.—Each proposed and final regulation promulgated under this section shall—

(1) be designed to achieve at least the oil savings resulting from the regulation under the action plan published under section 201; and

(2) be accompanied by an analysis by the applicable agency describing the manner in which the regulation will promote the achievement of the oil savings from the baseline determined under section 205.

SEC. 203. INITIAL EVALUATION.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director shall publish in the Federal Register a Federal Government-wide analysis of the oil savings achieved from the baseline established under section 205.

(b) INADEQUATE OIL SAVINGS.—If the oil savings are less than the targets established under section 201, simultaneously with the analysis required under subsection (a)—

(1) the Director shall publish a revised action plan that is adequate to achieve the targets; and

(2) the Secretary of Energy, the Secretary of Transportation, and the Administrator shall propose new or revised regulations under subsections (a), (b), and (c), respectively, of section 202.

(c) FINAL REGULATIONS.—Not later than 180 days after the date on which regulations are proposed under subsection (b)(2), the Secretary of Energy, the Secretary of Transportation, and the Administrator shall promulgate final versions of those regulations.

SEC. 204. REVIEW AND UPDATE OF ACTION PLAN.

(a) REVIEW.—Not later than January 1, 2011, and every 3 years thereafter, the Director shall submit to Congress, and publish, a report that—

(1) evaluates the progress achieved in implementing the oil savings targets established under section 201;

(2) analyzes the expected oil savings under the standards and requirements established under this Act and the amendments made by this Act; and

(3)(A) analyzes the potential to achieve oil savings that are in addition to the savings required by section 201; and

(B) if the President determines that it is in the national interest, establishes a higher oil savings target for calendar year 2017 or any subsequent calendar year.

(b) INADEQUATE OIL SAVINGS.—If the oil savings are less than the targets established under section 201, simultaneously with the report required under subsection (a)—

(1) the Director shall publish a revised action plan that is adequate to achieve the targets; and

(2) the Secretary of Energy, the Secretary of Transportation, and the Administrator shall propose new or revised regulations under subsections (a), (b), and (c), respectively, of section 202.

(c) FINAL REGULATIONS.—Not later than 180 days after the date on which regulations are proposed under subsection (b)(2), the Secretary of Energy, the Secretary of Transportation, and the Administrator shall promulgate final versions of those regulations.

SEC. 205. BASELINE AND ANALYSIS REQUIREMENTS.

In performing the analyses and promulgating proposed or final regulations to establish standards and other requirements necessary to achieve the oil savings required by this subtitle, the Secretary of Energy, the Secretary of Transportation, the Secretary of Defense, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the head of any other agency the President determines to be appropriate shall—

(1) determine oil savings as the projected reduction in oil consumption from the baseline established by the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2005'';

(2) determine the oil savings projections required on an annual basis for each of calendar years 2009 through 2026; and

(3) account for any overlap among the standards and other requirements to ensure that the projected oil savings from all the promulgated standards and requirements, taken together, are as accurate as practicable.

Subtitle B—Federal Oil Conservation Programs

SEC. 211. FUNDING FOR ALTERNATIVE INFRASTRUCTURE FOR THE DISTRIBUTION OF TRANSPORTATION FUELS.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund, to be known as the ''Alternative Fueling Infrastructure Trust Fund'' (referred to in this section as the ''Trust Fund''), consisting of such amounts as are deposited into the Trust Fund under subsection (b) and any interest earned on investment of amounts in the Trust Fund.

(b) PENALTIES.—The Secretary of Transportation shall remit 90 percent of the amount collected in civil penalties under section 32912 of title 49, United States Code, to the Trust Fund.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Energy shall obligate such sums as are available in the Trust Fund to establish a grant program to increase the number of locations at which consumers may purchase alternative transportation fuels.

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary of Energy may award grants under this subsection to—

(i) individual fueling stations; and

(ii) corporations (including nonprofit corporations) with demonstrated experience in the administration of grant funding for the purpose of alternative fueling infrastructure.

(B) MAXIMUM AMOUNT OF GRANTS.—A grant provided under this subsection may not exceed—

(i) $150,000 for each site of an individual fueling station; and

(ii) $500,000 for each corporation (including a nonprofit corporation).

(C) PRIORITIZATION.—The Secretary of Energy shall prioritize the provision of grants under this subsection to recognized nonprofit corporations that have proven experience and demonstrated technical expertise in the establishment of alternative fueling infrastructure, as determined by the Secretary of Energy.

(D) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds provided in any grant may be used by the recipient of the grant to pay administrative expenses.

(E) NUMBER OF VEHICLES.—In providing grants under this subsection, the Secretary of Energy shall consider the number of vehicles in service capable of using a specific type of alternative fuel.

(F) MATCH.—Grant recipients shall provide a non-Federal match of not less than $1 for every $3 of grant funds received under this subsection.

(G) LOCATIONS.—Each grant recipient shall select the locations for each alternative fuel station to be constructed with grant funds received under this subsection on a formal, open, and competitive basis.

(H) USE OF INFORMATION IN SELECTION OF RECIPIENTS.—In selecting grant recipients under this subsection, the Secretary of Energy may consider—

(i) public demand for each alternative fuel in a particular county based on State registration records indicating the number of vehicles that may be operated using alternative fuel; and

(ii) the opportunity to create or expand corridors of alternative fuel stations along interstates or highways.

(3) USE OF GRANT FUNDS.—Grant funds received under this subsection may be used to—

(A) construct new facilities to dispense alternative fuels;

(B) purchase equipment to upgrade, expand, or otherwise improve existing alternative fuel facilities; or

(C) purchase equipment or pay for specific turnkey fueling services by alternative fuel providers.

(4) FACILITIES.—Facilities constructed or upgraded with grant funds under this subsection shall—

(A) provide alternative fuel available to the public for a period not less than 4 years;

(B) establish a marketing plan to advance the sale and use of alternative fuels;

(C) prominently display the price of alternative fuel on the marquee and in the station;

(D) provide point of sale materials on alternative fuel;

(E) clearly label the dispenser with consistent materials;

(F) price the alternative fuel at the same margin that is received for unleaded gasoline; and

(G) support and use all available tax incentives to reduce the cost of the alternative fuel to the lowest practicable retail price.

(5) OPENING OF STATIONS.—

(A) IN GENERAL.—Not later than the date on which each alternative fuel station begins to offer alternative fuel to the public, the grant recipient that used grant funds to construct the station shall notify the Secretary of Energy of the opening.

(B) WEBSITE.—The Secretary of Energy shall add each new alternative fuel station to the alternative fuel station locator on the website of the Department of Energy when the Secretary of Energy receives notification under this subsection.

(6) REPORTS.—Not later than 180 days after the receipt of a grant award under this subsection, and every 180 days thereafter, each grant recipient shall submit a report to the Secretary of Energy that describes—

(A) the status of each alternative fuel station constructed with grant funds received under this subsection;

(B) the quantity of alternative fuel dispensed at each station during the preceding 180-day period; and

(C) the average price per gallon of the alternative fuel sold at each station during the preceding 180-day period.

SEC. 212. ASSISTANCE TO STATES TO REDUCE SCHOOL BUS IDLING.

(a) STATEMENT OF POLICY.—Congress encourages each local educational agency (as defined in section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26))) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) to develop a policy to reduce the incidence of school bus idling at schools while picking up and unloading students.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy, working in coordination with the Secretary of Education, $5,000,000 for each of fiscal years 2007 through 2012 for use in educating States and local education agencies about—

(1) benefits of reducing school bus idling; and

(2) ways in which school bus idling may be reduced.

SEC. 213. NEAR-TERM VEHICLE TECHNOLOGY PROGRAM.

(a) PURPOSES.—The purposes of this section are—

(1) to enable and promote, in partnership with industry, comprehensive development, demonstration, and commercialization of a wide range of electric drive components, systems, and vehicles using diverse electric drive transportation technologies;

(2) to make critical public investments to help private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation, industrial growth, and jobs in the United States;

(3) to expand the availability of the existing electric infrastructure for fueling light duty transportation and other on-road and nonroad vehicles that are using petroleum and are mobile sources of emissions—

(A) including the more than 3,000,000 reported units (such as electric forklifts, golf carts, and similar nonroad vehicles) in use on the date of enactment of this Act; and

(B) with the goal of enhancing the energy security of the United States, reduce dependence on imported oil, and reduce emissions through the expansion of grid supported mobility;

(4) to accelerate the widespread commercialization of all types of electric drive vehicle technology into all sizes and applications of vehicles, including commercialization of plug-in hybrid electric vehicles and plug-in hybrid fuel cell vehicles; and

(5) to improve the energy efficiency of and reduce the petroleum use in transportation.

(b) DEFINITIONS.—In this section:

(1) BATTERY.—The term ''battery'' means an energy storage device used in an on-road or nonroad vehicle powered in whole or in part using an off-board or on-board source of electricity.

(2) ELECTRIC DRIVE TRANSPORTATION TECHNOLOGY.—The term ''electric drive transportation technology'' means—

(A) vehicles that use an electric motor for all or part of their motive power and that may or may not use off-board electricity, including battery electric vehicles, fuel cell vehicles, engine dominant hybrid electric vehicles, plug-in hybrid electric vehicles, plug-in hybrid fuel cell vehicles, and electric rail; or

(B) equipment relating to transportation or mobile sources of air pollution that use an electric motor to replace an internal combustion engine for all or part of the work of the equipment, including corded electric equipment linked to transportation or mobile sources of air pollution.

(3) ENGINE DOMINANT HYBRID ELECTRIC VEHICLE.—The term ''engine dominant hybrid electric vehicle'' means an on-road or nonroad vehicle that—

(A) is propelled by an internal combustion engine or heat engine using—

(i) any combustible fuel;

(ii) an on-board, rechargeable storage device; and

(B) has no means of using an off-board source of electricity.

(4) FUEL CELL VEHICLE.—The term ''fuel cell vehicle'' means an on-road or nonroad vehicle that uses a fuel cell (as defined in section 3 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990).

(5) NONROAD VEHICLE.—The term ''nonroad vehicle'' has the meaning given the term in section 216 of the Clean Air Act (42 U.S.C. 7550).

(6) PLUG-IN HYBRID ELECTRIC VEHICLE.—The term ''plug-in hybrid electric vehicle'' means an on-road or nonroad vehicle that is propelled by an internal combustion engine or heat engine using—

(A) any combustible fuel;

(B) an on-board, rechargeable storage device; and

(C) a means of using an off-board source of electricity.

(7) PLUG-IN HYBRID FUEL CELL VEHICLE.—The term ''plug-in hybrid fuel cell vehicle'' means a fuel cell vehicle with a battery powered by an off-board source of electricity.

(c) PROGRAM.—The Secretary of Energy shall conduct a program of research, development, demonstration, and commercial application for electric drive transportation technology, including—

(1) high capacity, high efficiency batteries;

(2) high efficiency on-board and off-board charging components;

(3) high power drive train systems for passenger and commercial vehicles and for nonroad equipment;

(4) control system development and power train development and integration for plug-in hybrid electric vehicles, plug-in hybrid fuel cell vehicles, and engine dominant hybrid electric vehicles, including—

(A) development of efficient cooling systems;

(B) analysis and development of control systems that minimize the emissions profile when clean diesel engines are part of a plug-in hybrid drive system; and

(C) development of different control systems that optimize for different goals, including—

(i) battery life;

(ii) reduction of petroleum consumption; and

(iii) green house gas reduction;

(5) nanomaterial technology applied to both battery and fuel cell systems;

(6) large-scale demonstrations, testing, and evaluation of plug-in hybrid electric vehicles in different applications with different batteries and control systems, including—

(A) military applications;

(B) mass market passenger and light-duty truck applications;

(C) private fleet applications; and

(D) medium- and heavy-duty applications;

(7) a nationwide education strategy for electric drive transportation technologies providing secondary and high school teaching materials and support for university education focused on electric drive system and component engineering;

(8) development, in consultation with the Administrator of the Environmental Protection Agency, of procedures for testing and certification of criteria pollutants, fuel economy, and petroleum use for light-, medium- and heavy-duty vehicle applications, including consideration of—

(A) the vehicle and fuel as a system, not just an engine; and

(B) nightly off-board charging; and

(9) advancement of battery and corded electric transportation technologies in mobile source applications by—

(A) improvement in battery, drive train, and control system technologies; and

(B) working with industry and the Administrator of the Environmental Protection Agency to—

(i) understand and inventory markets; and

(ii) identify and implement methods of removing barriers for existing and emerging applications.

(d) GOALS.—The goals of the electric drive transportation technology program established under subsection (c) shall be to develop, in partnership with industry and institutions of higher education, projects that focus on—

(1) innovative electric drive technology developed in the United States;

(2) growth of employment in the United States in electric drive design and manufacturing;

(3) validation of the plug-in hybrid potential through fleet demonstrations; and

(4) acceleration of fuel cell commercialization through comprehensive development and commercialization of the electric drive technology systems that are the foundational technology of the fuel cell vehicle system.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $300,000,000 for each of fiscal years 2007 through 2012.

SA 4693. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 3711, to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes; which was ordered to lie on the table; as follows:

On page 12, strikes lines 1 through 7 and insert the following:

(B) 25 percent in a special account of the Treasury, which shall be used by the Secretary of the Treasury, subject to subsection (g), to make payments under sections 102 and 103 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393).

On page 18, after line 14, add the following:

(g) SECURE RURAL SCHOOLS PROGRAM PAYMENTS.—

(1) NO ADDITIONAL FUNDS.—Amounts made available under subsection (a)(2)(B) to make payments under sections 102 and 103 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) shall be used in lieu of the amounts made available for those purposes under section 102(b)(3) and 103(b)(2) of that Act.

(2) CONDITION ON AVAILABILITY.—Amounts made available for a fiscal year under subsection (a)(2)(B) shall be used for payments under sections 102 and 103 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) only if—

(A) title I of that Act has been reauthorized through at least the applicable fiscal year; and

(B) the authority to initiate projects under titles II and III of the Act has been extended through at least the applicable fiscal year.

SA 4694. Mrs. BOXER (for herself and Mr. ENSIGN) proposed an amendment to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; as follows:

On page 4, line 5, strike the period and insert '', unless the parent has committed an act of incest with the minor subject to subsection (a).''.

On page 5, after line 12 insert the following:

''§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

''Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both.''

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a legislative hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, August 3, 2006, at 10 a.m., in room SD–628 of the Dirksen Building.

The purpose of this legislative hearing is to receive testimony on S. 2589, to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to ensure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Clint Williamson or Steve Waskiewicz.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ms. SNOWE. The Chair would like to inform the Members of the Committee that the Committee will hold a markup on Thursday, July 27, 2006 at 10 a.m., in Russell 428A on ''The Small Business Reauthorization and Improvements Act of 2006.''

AUTHORITY FOR COMMITTEES TO MEET

AIRLAND SUBCOMMITTEE

Mr. COBURN. Mr. President, I ask unanimous consent that the Airland Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on July 25, 2006, at 9:30 a.m., in open session to receive testimony on the F–22A Multiyear Procurement Proposal in review of the Defense authorization request for fiscal year 2007.

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

AVIATION SUBCOMMITTEE

Mr. COBURN. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation's Aviation Subcommittee be authorized to meet on Tuesday, July 25, 2006, at 10 a.m. on the Joint Planning and Development Office (JPDO).

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COBURN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 25, 2006, at 10 a.m., to conduct a hearing on ''Regulation of Hedge Funds.''

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

COMMITTEE ON FINANCE

Mr. COBURN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, July 25, 2006, at 10:30 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''How Much Should Borders Matter?: Tax Jurisdiction in the New Economy.''

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

COMMITTEE ON FINANCE

Mr. COBURN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, July 25, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to hear testimony on ''CHIP at 10: A Decade of Covering Children.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COBURN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to hold an off-the-floor markup during the session on Tuesday, July 25, 2006, to consider the nomination of Stephen S. McMillin to be Deputy Director, Office of Management and Budget.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. COBURN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Tuesday, July 25, 2006, at 10 a.m. for a hearing entitled, Supporting the Warfighter: Assessing the DoD Supply Chain Management Plan.

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

NORTH KOREA NONPROLIFERATION ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3728, introduced earlier today.

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

The legislative clerk read as follows:

A bill (S. 3728) to promote nuclear nonproliferation in North Korea.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the

table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 3728) was ordered to be engrossed for a third reading was read the third time, and passed, as follows:

S. 3728

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 ''North Korea Nonproliferation Act of 2006''.

SEC. 2. STATEMENT OF POLICY.

(a) In view of —

(1) North Korea's manifest determination to produce missiles, nuclear weapons, and other weapons of mass destruction and to proliferate missiles, in violation of international norms and expectations; and

(2) United Nations Security Council Resolution 1695, adopted on July 15, 2006, which requires all Member States, in accordance with their national legal authorities and consistent with international law, to exercise vigilance and prevent—

(A) missile and missile-related items, materials, goods, and technology from being transferred to North Korea's missile or weapons of mass destruction programs; and

(B) the procurement of missiles or missile-related items, materials, goods, and technology from North Korea, and the transfer of any financial resources in relation to North Korea's missile or weapons of mass destruction programs,

it should be the policy of the United States to impose sanctions on persons who transfer such weapons, and goods and technology related to such weapons, to and from North Korea in the same manner as persons who transfer such items to and from Iran and Syria currently are sanctioned under United States law.

SEC. 3. AMENDMENTS TO IRAN AND SYRIA NONPROLIFERATION ACT.

(a) REPORTING REQUIREMENTS.—Section 2 of the Iran and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in the heading, by inserting '', **North Korea,**'' after ''**Iran**''; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Iran, or'' and inserting ''Iran,''; and

(ii) by inserting after ''Syria'' the following: '', or on or after January 1, 2006, transferred to or acquired from North Korea'' after ''Iran''; and

(B) in paragraph (2), by inserting '', North Korea,'' after ''Iran''.

(b) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) in section 1, by inserting '', North Korea,'' after ''Iran'';

(2) in section 5(a), by inserting '', North Korea,'' after ''Iran'' both places it appears; and

(3) in section 6(b)—

(A) in the heading, by inserting '', NORTH KOREA,'' after ''IRAN''; and

(B) by inserting '', North Korea,'' after ''Iran'' each place it appears.

SEC. 4. SENSE OF CONGRESS ON INTERNATIONAL COOPERATION.

Congress urges all governments to comply promptly with United Nations Security Council Resolution 1695 and to impose measures on persons involved in such proliferation that are similar to those imposed by the United States Government pursuant to the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note), as amended by this Act.

Mr. FRIST. Mr. President, the bill that we just passed, S. 3728, to promote nuclear nonproliferation in North Korea was introduced by myself, Senator BIDEN, and others.

As we all know, earlier this month, the North Korean regime defied the international community and launched seven long and medium-range missiles into the Sea of Japan. One of the missiles, the Taepodong-2, has a potential range of approximately 9,000 miles, placing the United States well within reach of attack by North Korea.

Kim Jong Il's regime took this dangerous and provocative action despite repeated warnings not to do so from the United States, its close neighbors and participants in the six-party talks, and many others in the international community.

The unanimous consent which was just approved focuses on this issue of nuclear nonproliferation in North Korea.

The North Korean missile launches reminded us yet again of the threat posed by Kim Jong Il's regime.

North Korea's pursuit of nuclear weapons and its possession of long-range missiles that could potentially strike our Nation is a grave threat to the security of the American people and to peace and stability in East Asia.

This combination of nuclear weapons and long range missiles is a threat that the United States should not tolerate.

Since November 2005, North Korea has boycotted the six-party talks aimed at ending the regime's illicit nuclear weapons program.

In an effort to revive this diplomatic track, the People's Republic of China 2 weeks ago sent a high-level delegation to Pyongyang to convince North Korea to return to the six-party talks.

North Korea remained intransigent and gave no indication of any willingness to allow diplomatic efforts to succeed.

The U.N. Security Council then decided to act.

On July 15, the United Nations Security Council sent a strong, unambiguous, and unified message to the North Koreans that their latest provocations are unacceptable.

The Security Council unanimously passed Resolution 1695. This resolution condemned unequivocally the North Korean missile launches.

In addition, the Security Council demanded that North Korea reestablish its moratorium on missile launches. It also requires all U.N. member states to do everything they can to prevent the procurement and transfer of missiles, missile-related items, materials, goods, technology, or financial resources to or from North Korea's missile and WMD programs.

As Ambassador Bolton stated:

The United States expects that the DPRK and all other UN Member States will immediately act in accordance with the requirements of this resolution.

However, soon afterwards, North Korea announced that it had no intention of abiding by the resolution's requirements—yet another act of defiance and brinkmanship.

North Korea's continued defiance of the international community leaves our Nation with no alternative but to act.

For all these reasons, I rise today to call up the North Korea Nonproliferation Act of 2006, which I originally introduced last week. This legislation will add North Korea to the list of countries currently covered by the Iran and Syria Nonproliferation Act.

Under this bill, the President would be required to submit a report to Congress every 6 months listing all foreign persons believed to have transferred to or acquired from North Korea materials that could contribute to the production of missiles, nuclear weapons, other weapons of mass destruction, and certain conventional weapons.

This legislation also authorizes the President to impose sanctions on all foreign persons identified on this list.

These sanctions include prohibitions on U.S. Government procurement from such persons and the issuance of U.S. Government export licenses for exports to such persons.

Ultimately, the bill will lead to U.S. sanctions on any foreign persons or foreign companies that transfer missile and WMD-related items, as well as certain advanced conventional weapons, to North Korea, or that buy such items from North Korea.

The U.S. is already doing this with respect to transfers of these items to and from Iran and Syria under the Iran and Syria Nonproliferation Act. The time has come for us to treat transfers of these items to North Korea no less seriously than we already treat transfers of these same items to Iran and Syria.

Of course, no transfers of missile and WMD-related items to or from North Korea should be taking place now that the Security Council has forbidden all such commerce with that country.

Experience teaches us, however, that detennined proliferators are likely to ignore these new U.N. sanctions, which is why this legislation is so criticaUy important. It will provide a partial remedy in such cases, and should deter violations of the new U.N. sanctions on North Korea.

The North Korea Nonproliferation Act of 2006 will reinforce Security Council Resolution 1695 and demonstrate that the United States is, indeed, doing all that it can to stop the transfer of these dangerous materials to and from North Korea.

The U.N. Security Council has spoken. The United States must now step up its efforts to fulfill its responsibility to protect the American homeland from the North Korean threat.

Section 4 of this bill calls on all other countries to consider measures similar to the ones that we will adopt pursuant to this law to reinforce Security Council Resolution 1695.

I would hope that, in particular, countries such as Japan that are especially threatened by North Korea's provocative actions will consider taking steps like those provided for under this legislation to deter the transfer by others to or from North Korea of sensitive items with weapons applications.

These items in the hands of Kim Jong Il pose a direct threat to the American people, the people of the region, and peace and security in East Asia.

If we are in earnest about protecting the American homeland, then it's imperative that we prevent the North Korean regime from acquiring these dangerous materials. I thank the cosponsors of this bill: Chairman LUGAR, as well as Senators INOUYE, BROWNBACK, BIDEN, BUNNING, AKAKA, and DOLE, as well as the rest of my Senate colleagues for their support.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 513, S. 2832.

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

The legislative clerk read as follows:

A bill (S. 2832) to reauthorize and improve the program authorized by the Appalachian Regional Development Act of 1965.

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

Mr. FRIST. Mr. President, I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2832) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2832

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 ''Appalachian Regional Development Act Amendments of 2006''.

SEC. 2. LIMITATION ON AVAILABLE AMOUNTS; MAXIMUM COMMISSION CONTRIBUTION.

(a) GRANTS AND OTHER ASSISTANCE.—Section 14321(a) of title 40, United States Code, is amended—

(1) in paragraph (1)(A), by striking clause (i) and inserting the following:

''(i) the amount of the grant shall not exceed—

''(I) 50 percent of administrative expenses;

''(II) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or

''(III) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses;''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), of the cost of any activity eligible for financial assistance under this section, not more than—

''(i) 50 percent may be provided from amounts appropriated to carry out this subtitle;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this subtitle; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this subtitle.''.

(b) DEMONSTRATION HEALTH PROJECTS.—Section 14502 of title 40, United States Code, is amended—

(1) in subsection (d), by striking paragraph (2) and inserting the following:

''(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized by this section, may be made for up to—

''(A) 50 percent of the cost of that operation;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or

''(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation.''; and

(2) in subsection (f), by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—

''(A) 70 percent; or

''(B) the maximum Federal contribution percentage authorized by this section.''.

(c) ASSISTANCE FOR PROPOSED LOW- AND MIDDLE-INCOME HOUSING PROJECTS.—Section 14503 of title 40, United States Code, is amended—

(1) in subsection (d), by striking paragraph (1) and inserting the following:

''(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—

''(A) 50 percent of that cost;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or

''(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost.''; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecoverable from the proceeds of a permanent loan made to finance the project shall—

''(A) not be made to an organization established for profit; and

''(B) except as provided in paragraph (2), not exceed—

''(i) 50 percent of those expenses;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.''.

(d) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Section 14504 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.''.

(e) ENTREPRENEURSHIP INITIATIVE.—Section 14505 of title 40, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.''.

(f) REGIONAL SKILLS PARTNERSHIPS.—Section 14506 of title 40, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any activity eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts appropriated to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.''.

(g) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 14507(g) of title 40, United States Code, is amended by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.''.

SEC. 3. DISTRESSED, AT-RISK, AND ECONOMICALLY STRONG COUNTIES.

Section 14526(a)(1) of title 40, United States Code, is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) in subparagraph (A), by striking ''and'' at the end; and

(3) by inserting after subparagraph (A) the following:

''(B) designate as 'at-risk counties' those counties in the Appalachian region that are most at risk of becoming economically distressed; and''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 14703 of title 40, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—In addition to amounts made available under section 14501, there are authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—

''(1) $95,200,000 for fiscal year 2007;

''(2) $98,600,000 for fiscal year 2008;

''(3) $102,000,000 for fiscal year 2009;

''(4) $105,700,000 for fiscal year 2010; and

''(5) $109,400,000 for fiscal year 2011.''.

SEC. 5. TERMINATION.

Section 14704 of title 40, United States Code, is amended by striking ''2006'' and inserting ''2011''.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2006.

CONDEMNING THE MURDER OF U.S. JOURNALIST PAUL KLEBNIKOV ON JULY 9, 2004, IN MOSCOW, AND THE MURDERS OF OTHER MEMBERS OF THE MEDIA IN THE RUSSIAN FEDERATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 526 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 526) condemning the murder of U.S. journalist Paul Klebnikov on July 9, 2004, in Moscow, and the murders of other members of the media in the Russian Federation.

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

Mr. FRIST. Mr. President, I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, the preamble be agreed to, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 526) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 526

Whereas, on July 9, 2004, United States journalist Paul Klebnikov was murdered by gunmen as he exited the Moscow offices of Forbes Magazine;

Whereas no person has been convicted of any offense in connection with the murder of Mr. Klebnikov;

Whereas Mr. Klebnikov is survived by his wife Helen and his 3 young children;

Whereas 12 journalists have been murdered in the Russian Federation since 2000 and Mr. Klebnikov was the first and only citizen of the United States among those journalists;

Whereas the Office of the Russian Prosecutor General arrested and tried Musa Vahaev and Kazbek Dukzov for the murder of Mr. Klebnikov;

Whereas Musa Vahaev and Kazbek Dukzov were acquitted on May 5, 2006, of the charges of murdering Mr. Klebnikov;

Whereas the Government of Russia has stated that the murder of Mr. Klebnikov was ordered by Khozh-Akhmed Nukhayev, a fugitive Chechen criminal gang leader, but has not publicly released any evidence of the complicity of Mr. Nukhayev;

Whereas it remains unclear who ordered the murder of Mr. Klebnikov or if any party will be convicted of that crime;

Whereas the attorneys that represented the Klebnikov family have alleged that numerous procedural violations occurred during the trial;

Whereas a group of investigative journalists from the United States has launched an independent inquiry into the death of Mr. Klebnikov;

Whereas the 2005 Country Reports on Human Rights Practices published by the Department of State indicated that the Government of Russia had continued to weaken the independence and freedom of expression of the media industry of Russia, particularly among the major national television networks and regional media outlets of that country; and

Whereas, on June 4, 2006, President Putin told a conference of the World Association of Newspapers that ''A progressive state requires a free press.'': Now, therefore, be it

Resolved, That the Senate—

(1) condemns—

(A) the murder of United States journalist Paul Klebnikov on July 9, 2004, in Moscow; and

(B) the murders of other members of the media in the Russian Federation;

(2) commends the Office of the Russian Prosecutor General for its continuing investigation of the murder of Mr. Klebnikov;

(3) urges the Government of Russia—

(A) to continue its inquiries to determine all parties involved in the murder of Mr. Klebnikov; and

(B) to bring those parties responsible for the murder of Mr. Klebnikov to justice;

(4) urges the Government of Russia to accept offers of assistance with the investigation of the murder of Mr. Klebnikov from—

(A) the United States; and

(B) other concerned governments;

(5) urges the Government of Russia, upon request, to extend appropriate assistance to investigative journalists who have started to conduct independent inquiries relating to the death of Mr. Klebnikov, to the extent that such assistance conforms with the privacy safeguards and the laws of Russia; and

(6) urges the Government of Russia to take appropriate action to protect the independence and freedom of—

(A) the media of Russia; and

(B) all visiting members of the media.

ORDERS FOR WEDNESDAY, JULY 26, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Wednesday, July 26. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of the motion to proceed to S. 3711, the Gulf of Mexico energy security bill, with the time until 10 a.m. to be equally divided between the two leaders or their designees; further, at 10, the Senate proceed to a vote on the motion to invoke cloture on the motion to proceed to S. 3711; further, that following the vote, the Senate will recess until 12 noon for the joint meeting with Prime Minister of Iraq.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning at 10 o'clock, we will be voting on the motion to invoke cloture on the motion to proceed to the Gulf of Mexico energy security bill. As has been pointed out over the course of the day, this bill is a very important issue which will open up to deep sea exploration over a billion barrels of oil and over 5 trillion cubic feet of natural gas, enough energy to supply 6 million homes for 15 years—a very important bill. It is bipartisan. We will be voting tomorrow morning on this motion to proceed. I do hope that cloture will be invoked and that we are then able to reach an agreement on when to start debate on the substance of that bill.

I remind Senators that after that 10 a.m. cloture vote, we will proceed to the Hall of the House of Representatives to hear the remarks of Prime Minister Maliki of Iraq.

Before we close, I again thank Senator ENSIGN for his tremendous leadership and work on this child custody protection bill. I thank all of our colleagues for working together in a bipartisan way to reach an agreement which allowed us to finish this bill in short order, in an organized way.

As my colleagues just heard, we feel strongly that we should proceed tonight in the usual fashion to go to conference. This bill passed by 65 to 34 tonight. We are expressing the strong support of this Senate.

The House, as I mentioned earlier, passed their child custody protection bill on April 27, 2005, and as is customary and is routine, we would go to conference. The Democrats have objected to going to conference. We will continue to try to go to conference over the next several days. I am deeply disappointed by that. I hope, as I said earlier, that this is not a sign that they are going to obstruct this bill at this point, at the level of conference, after this Senate has spoken overwhelmingly in support of this bill.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I

ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:27 p.m., adjourned until Wednesday, July 26, 2006, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 2006:

OVERSEAS PRIVATE INVESTMENT CORPORATION

DIANNE I. MOSS, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2007, VICE JOHN L. MORRISON, TERM EXPIRED.

INTERNATIONAL MONETARY FUND

MARGRETHE LUNDSAGER, OF VIRGINIA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS, VICE NANCY P. JACKLIN, TERM EXPIRED.

PEACE CORPS

RONALD A. TSCHETTER, OF MINNESOTA, TO BE DIRECTOR OF THE PEACE CORPS, VICE GADDI H. VASQUEZ, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate Tuesday, July 25, 2006:

THE JUDICIARY

JEROME A. HOLMES, OF OKLAHOMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.