that the majority of South Carolinians—both male and female—want the option of single-gender education offered by The Citadel. But the federal government thinks it knows what's best for South Carolinians and is trying to destroy an outstanding educational environment that South Carolinians overwhelmingly support.

Tobacco regulation. The Food and Drug Administration is trampling on states' turf with its new proposals for regulating cigarettes and chewing tobacco. Perhaps its silliest demand is that all advertising label cigarettes as ''a nicotine-delivery device.'' The fact is, Congress has not given the FDA power to regulate tobacco except in limited instances. Everything else is up to the states—at least, it's supposed to be. We know the laws in South Carolina, and we can enforce them without Washington's ''help.''

Garnishment of wages. The federal government is threatening to sue South Carolina for not complying with a federal law that authorizes the garnishment of wages of people who get behind on student loans. The problem is, the law contains no express provision applying its terms to state government. In fact, its language attempts to override state laws altogether. It provides no clear direction to state governments, but now we're faced with the possibility of defending South Carolina in a suit.

Motor Voter. South Carolina is one of seven states to challenge the ''Motor Voter'' law that allows people to register to vote when they obtain a driver's license. The issue is not easy and accessible registration; we already have that in place. The issues are the rights of sovereign states and unfunded federal mandates. The federal government demanded that South Carolina spend a million dollars to expand its voter registration program—without giving the state a dime. Then, when we began to implement the program, the Justice Department demanded that the state contact all the people who theoretically could have registered while we were in litigation. And it ordered a monthly report on our progress. This micro-management of state business by the federal government should be an outrage to all U.S. citizens.

In closing, the legislation you are proposing promises a meaningful solution to the federal government's continued disregard of the 10th Amendment. Count me in as an enthusiastic supporter of the bill, and let me know of anything I can do to promote its passage.

With kindest personal regards,

CHARLES MOLONY CONDON,
Attorney General.

STATE OF HAWAII,
DEPARTMENT OF THE ATTORNEY GENERAL,
Honolulu, HI, March 4, 1996.

HON. TED STEVENS,
U.S. Senator, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: As the Attorney General for the State of Hawaii, I am writing to express my strong support for the Tenth Amendment Enforcement Act of 1996 (''TAEA'').

There have been far too many instances in which federal laws impede, interfere with, or nullify state legislative or administrative actions to the detriment of the interests of the people of Hawaii. This has occurred in large part because the federal courts have given much congressional legislation very broad preemptive scope, in many cases far beyond what it appears Congress itself intended. These preemption rulings have prevented the states from enforcing and implementing needed state policies in areas of traditional state concern, while at the same time failing to serve any significant federal interests.

In my fourteen month tenure as Attorney General of Hawaii, examples of important state policies which were frustrated by preemption rulings made by the federal courts include the striking down of Hawaii's employment disability discrimination laws as applied to airline pilots, see *Aloha Islandair* v. *Tseu*, Civ. No. 94–00937 (D. Haw. 1995), appeal filed, C.A. No. 95–16656 (9th Cir.), the overturning of state labor department discretion to bar preexisting condition limitations in state-wide employee health care plans, *Foodland Super Market* v. *Hamada*, Civ. No. 95–00537 (D. Haw. 1996), appeal filed (9th Cir.), and the nullification of a state law merely asking the State's two major newspapers, granted the privilege of doing business under a joint operating agreement with antitrust immunity, to turn over their tax returns to the state Attorney General, for subsequent disclosure to the United States Justice Department, in order to assess the economic consequences of, and the newspapers' continued need for, the antitrust immunity, see *Hawaii Newspaper Agency* v. *Bronster*, Civ. No. 95–00635 (D. Haw. 1996), appeal filed, C.A. No. 96–15142 (9th Cir.).

Enactment of the TAEA would be a significant step in reversing this disturbing trend, and would help restore state direction over areas of predominant, if not exclusive, state concern. Under the TAEA (Section 6), preemption would only occur when Congress has explicitly stated that a given area is preempted. This would curtail the potentially unlimited sweep of the ''implied preemption'' doctrine, and ideally result in a more narrowly construed ''express preemption.''

Although certain provisions of the TAEA may pose procedural difficulties, or raise some questions of interpretation, I support the overall effect of, and goals behind, the TAEA, and specifically endorse Section 6, which would do much to minimize unwarranted preemption of state actions. I would, however, broaden the language of Section 6(a) to clarify that federal law shall not preempt ''State or local government law, ordinance, regulation, or action,'' unless the statute explicitly declares an intent to preempt. This should ensure that all types of state action, including, for example, state discretionary administrative actions not commanded by any rule or statute, are not preempted without express congressional statement of intent to do so.

Thank you for your support of these critical state interests.

Very truly yours.

MARGERY S. BRONSTER,
Attorney General.

STATE OF COLORADO, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, March 15, 1996.

Re Tenth Amendment Enforcement Act

HON. TED STEVENS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS: I am writing to express my strong support for the proposed Tenth Amendment Enforcement Act of 1996. The proposal is an important part of the continuing effort to return to the States matters which properly belong within their control.

Every state has a vast number of examples of federal laws and regulatory actions which have interfered with state powers and objectives. I will mention just a few examples from Colorado.

The federal government has been especially intrusive into state affairs in the area of the environment. The country faces many environmental problems, from our quality problems to hazardous waste cleanups. The states are diligently working to solve these problems, while taking into account local needs and concerns. Federal interference with state efforts often results in less protection to the environment and less experimentation by the states.

For example, in 1994, Colorado passed legislation which was intended to encourage businesses to perform voluntary audits of their environmental compliance and to promptly correct any violations found. In exchange for these voluntary efforts, state regulators will not impose penalties for the violations. This program, which will be of great benefit to the environment, is severely hampered by the federal Environmental Protection Agency's refusal to give the same assurances, that is, to refrain from prosecuting companies that voluntarily report and correct violations.

Another example of EPA hindering state efforts at experimentation concerns Colorado's attempts to put in place a unique water quality testing program. Colorado was one of the first states to attempt to employ a different biomonitoring test. Rather than encouraging these efforts, EPA continuously rejected Colorado's regulation implementing the program until the state rule was drafted to be word-for-word like a comparable federal regulation.

Another example in the area of the environment concerns air quality. Our state has been developing strategies to deal with air quality issues for years. But our problems and solutions are unique since Colorado is a high elevation state. A federal ''one size fits all'' approach does not work here. The Environmental Protection Agency's answer—a centralized emissions testing program—has created large implementation costs and reduced state flexibility in addressing pollution problems. Even though Colorado drivers will expend hundreds of millions of dollars in testing costs over the next few years, State officials have no practical alternatives if the program does not work or if better solutions are discovered.

Another example of federal intrusion into matters of state concern arose recently in Colorado with regard to the Medicaid program. As you know, Congress' 1993 change to the Hyde Amendment made federal funds available for abortions terminating pregnancies resulting from rape and incest, but did not require that States pay for any abortions. However, an official at the federal Health Care Financing Administration wrote a letter concluding that states must pay for the disputed abortions. Based solely upon this letter, and without any change in federal statutes or regulations, several federal appellate courts have required States to pay for these procedures, notwithstanding state laws to the contrary.

Colorado state officials are in an impossible dilemma because our state constitution forbids the use of public funds to pay for these procedures. To avoid violating the state constitution but still be consistent with federal mandates, state officials must either (1) withdraw from the Medicaid program and forfeit hundreds of millions of dollars in federal funds, thereby denying thousands of low income Colorado residents access to needed medical care or (2) face contempt citations from federal judges. This problem could have been avoided if federal officials clearly understood their own responsibility to protect state prerogatives.

The federal ''motor voter'' law presents a different type of intrusion. This law doesn't treat States just like the private sector, it actually imposes special burdens simply because they are States. As the Supreme Court recognized in *Oregon* v. *Mitchell*, 400 U.S. 112

(1970), it is peculiarly the right of States to establish the qualifications of voters in state elections. In the absence of a constitutional violation such as an outright denial of the right to vote, the States should have control over voter registration. This sort of unfunded mandate is simply not justified, particularly since even though this law unquestionably interferes with the States' internal affairs, it has not appreciably increased turnout at the polls.

The Tenth Amendment Enforcement Act helps turn the tide in favor of State prerogatives. Particularly noteworthy is the proposal's focus upon agency rulemaking. This is important in two respects. First, many of the most intrusive instances of federal preemption come not by virtue of congressionally-enacted legislation, but through extensive regulations promulgated by administrative agencies and expanding upon the congressional authorization.

Second, statutes seeking to limit subsequent congressional enactments are of limited efficacy, since each subsequent Congress is not bound by the acts of its predecessors. However, focusing upon the regulatory process does not present this problem. My only suggestion would be to include a review or sunset provision requiring every agency to ensure that all of its current rules comply with this new requirement by some date certain, or risk having them invalidated. This would ensure that agencies review the numerous existing federal regulations currently impinging upon Tenth Amendment values—which is, after all, what led to this proposal.

I appreciate your willingness to carry this proposal forward, and encourage you to continue your efforts to restore a proper balance in our federal system.

Sincerely,

GALE A. NORTON,
Colorado Attorney General.

By Mr. WELLSTONE (for himself and Mr. WYDEN):

S. 1630. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

THE VICTIMS OF ABUSE INSURANCE PROTECTION ACT

• Mr. WELLSTONE. Mr. President, I am very pleased to be joined by Senator RON WYDEN today in introducing the Victims of Abuse Insurance Protection Act, legislation that will outlaw discrimination by insurance companies against the victims of domestic violence in all lines of insurance.

With this legislation, we are trying to correct an abhorrent practice by many insurance companies—the denial of coverage to battered women. It is plain, old fashioned discrimination. It is profoundly unjust and wrong. And, it is the worst of blaming the victim. Denying women access to the insurance they require to foster their mobility out of an abusive situation must be stopped.

There are many stories of women who have been physically abused and have sought proper medical care only to be turned away by insurance companies who said they were too high risk to insure.

In Minnesota, three insurance companies denied an entire women's shelter insurance because, ''as a battered women's shelter, we were high risk.'' The Women's Shelter in Rochester, MN, was told that it was considered uninsurable because its employees are almost all battered women.

Another shelter in rural Minnesota purchased a car so that women and children in danger who were trying to leave an abusive situation could use this anonymous vehicle and thus the abuser could not track their automobile to find them. The shelter could not find a company to provide them with automobile insurance once the companies knew of the risks surrounding battered women.

A woman in Iowa named Sandra was denied life insurance after the company found out that she had been beaten up twice. In one incident, she had been so badly beaten by an ex-boyfriend that her cheekbones were splintered, and one of her eyes had to be put back in its socket. Her mother, Mary, was the one who originally applied for the life insurance policy, explaining

I didn't ask for a lot of coverage. I just wanted to apply for thousand dollar coverage, just enough that if something happened, God forbid, that we could at least bury her.

Mary was angry about the denial, so she wrote to State officials and the Iowa Insurance Commissioners Office tried to intervene on their behalf. In four separate letters, the insurance company officials stated they denied the coverage because of a history of assaults. In one letter they defended their decision by citing numerous documents which showed that people involved in domestic violence incidents are at a higher risk of death and injury than others, and, therefore, not a good risk.

There are so many stories about victims of domestic abuse being denied fire insurance, homeowners insurance, life insurance, and health insurance—denied because they were victims of a crime. Domestic violence is the leading cause of injury to women, more common than auto accidents, muggings, and rapes by a stranger combined. It is the No. 1 reason that women go to emergency rooms.

This bill goes a long way toward treating domestic violence as the crime that it is—not a voluntary risky behavior that can be easily changed and not as a preexisting condition. Insurance company policies that deny coverage to victims only serve to perpetuate the myth that victims are responsible for their abuse.

In order to address the practice of insurers using domestic violence as a basis for determining whom to cover and how much to charge with respect to health, life, disability, homeowners and auto insurance, this legislation prohibits insurance companies from discriminating against victims in any of the following ways: Denying or terminating insurance; limiting coverage or denying claims; charging higher premiums; or terminating health coverage for victims of abuse in situations where coverage was originally issued in the abuser's name, and acts of the abuser would cause the victim to lose coverage.

This legislation also keeps victims' information confidential by prohibiting insurers from improperly using, disclosing, or transferring abuse-related information for any purpose unrelated to the direct provision of health care services.

Mr. President, insurance companies should not be allowed to discriminate against anyone for being a victim of domestic violence. We may never know the full extent of the problem, but it is grossly unfair practice and should be prohibited.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1630

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 ''Victims of Abuse Insurance Protection Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term ''abuse'' means the occurrence of one or more of the following acts between household or family (including in-laws or extended family) members, spouses or former spouses, or individuals engaged in or formerly engaged in a sexually intimate relationship:

(A) Attempting to cause or intentionally, knowingly, or recklessly causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) The term ''abuse-related medical condition'' means a medical condition which arises in whole or in part out of an action or pattern of abuse.

(3) The term ''abuse status'' means the fact or perception that a person is, has been, or may be a subject of abuse, irrespective of whether the person has sustained abuse-related medical conditions or has incurred abuse-related claims.

(4) The term ''health benefit plan'' means any public or private entity or program that provides for payments for health care, including—

(A) a group health plan (as defined in section 607 of the Employee Retirement Income Security Act of 1974) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act) that provides health benefits;

(B) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;