

that we can move forward with an informed, effective, and timely response.

#### PATIENTS FIRST ACT

Mr. BUNNING. Mr. President, I am disappointed the Senate did not vote to move to full consideration of S. 11, the Patients First Act of 2003, to address the national crisis our doctors, hospitals and those needing healthcare face today.

One of the top issues we all hear about from doctors in our States is how they are being squeezed financially by skyrocketing medical liability premiums. The Senate had a real opportunity to help remedy this problem by passing the Patients First Act, but unfortunately, we didn't even get a chance to fully consider and vote on this bill.

Not only is medical liability hurting doctors, but it is now starting to affect the quality and availability of care for patients. First, let me give a little background on the situation in Kentucky. I know many other States face the same situation.

In March of this year, Kentucky joined 17 other States on the American Medical Association's list of "crisis States." This means that the current liability system is affecting patient care.

Physicians across my State are facing some hard choices trying to figure out how to pay their rising premiums. Some are choosing to close their offices or retire early. Others are packing up and moving to other States with more sensible insurance regulations. Most concerning are reports of physicians no longer delivering babies because they cannot afford the liability insurance. This leaves expectant mothers in the lurch and creates huge, frightening gaps in critical medical coverage. In Kentucky, for example, Knox County hospital has stopped delivering babies which is forcing expectant mothers to travel to neighboring counties for care.

The Kentucky Medical Association conducted a survey last year on the effects of rising medical malpractice premiums. They found that 70 percent of the physicians in Kentucky saw their premiums go up. In the worst example, there was a \$476,000 increase for a six-physician orthopedic office that didn't have any settlements or judgements against it.

Recently, I received a letter from Catholic Healthcare Partners, a hospital system with about 30 hospitals and 8,900 affiliated physicians across the country. In Kentucky, they own several hospitals, including Lourdes Hospital in Paducah and Marcum & Wallace Memorial Hospital in Irvine.

According to Catholic Healthcare Partners, the hospital system's liability insurance premiums increased by 50 percent in 2001 and 70 percent in 2002. In fact, in the past 3 years, their premiums have increased by almost \$25 million. Unfortunately, Catholic

Healthcare Partners is the rule instead of the exception.

In May, the Joint Economic Committee published a study on the impact of medical liability litigation. The report said the total premiums for medical liability insurance more than doubled from 1991 to 2001 to reach \$21 billion. Hospitals and doctors simply cannot continue keeping their doors open and treating patients if their premiums continue to rise this rapidly.

For example, Appalachian Regional Healthcare is one of the largest rural health systems in the country and employs 150 physicians in its nine hospitals and other healthcare outlets. ARH provides services in both Kentucky and West Virginia, and employs most of the obstetricians and pediatricians in eastern Kentucky.

In January of this year, ARH made a decision to become completely self-insured. In 2001, the hospital system's key carrier for medical liability coverage dropped the hospital, and ARH couldn't find any other affordable coverage. For 2002, the bids for coverage the hospital received were \$12 million to \$13 million—which was more than the hospital system's net revenue and almost triple what they had paid the year before.

The hospital system is now building an insurance reserve in case there are any malpractice settlements against it. However, according to ARH representatives, they realize that even one single case could cripple the system and its physicians.

There is no doubt the system is broken. And for many Kentuckians, especially in our rural areas, there is no doubt skyrocketing insurance rates are making it harder for patients to get the quality care they need. The rising premiums not only take a toll on physicians and hospitals, but it means you, me, and everyone in this country is paying more for medical care. Very simply, individuals pay more for medical care because of the increases in premiums doctors face.

Although all of us are paying more, some people are making out like bandits—usually the trial attorneys. It hardly seems that you can turn on your television these days without seeing a commercial by one trial attorney or another looking for "injured" people. Some of these lawyers specialize in certain kinds of injuries while others aren't as picky and will take anyone involved in an accident. Most give a toll-free number, and many promise that "we won't get paid unless you get paid."

In a report by the Department of Health and Human Services released last year, it said the number of "mega-verdicts is increasing rapidly," particularly within specialty areas of medicine. The report goes on to say lawyers have an "interest in finding the most attractive cases" and they have "an incentive to gamble on a big 'win.'" Finally, the report says "lawyers have few incentives to take on the more dif-

ficult cases or those of less attractive patients."

Is this really the way we want our legal system to work? Are we really getting the best results with this type of legal system? The answer to both of these questions is no.

It seems like I have been voting for changes to our medical liability system since I have been in Congress, but we always seem to come up a few votes short. The Patients First Act places some commonsense controls on lawsuits against doctors. This will help bring some control over the rising medical liability premiums, and doctors in my State will be able to provide healthcare services.

For example, the bill places limits on noneconomic and punitive damages, but does not limit economic damages. The bill also limits the amount attorney's can collect from their clients depending on the size of the settlement. The bill requires lawsuits to be filed within 3 years of the injury, although this time limit is extended to children under the age of 6 who are injured.

Finally, the bill makes defendants liable for only their share of the injury that occurred and allows periodic payment of future damages. These changes could make a big difference in the availability and cost of healthcare in the United States and Kentucky. These changes could mean physicians in Kentucky thinking about leaving the state will be able to stay, and doctors thinking about leaving the profession will be able to continue practicing.

I am disappointed we did not have enough votes to proceed and fully consider the Patients First Act, however, I am hopeful we can come back and revisit this important issue soon, and give our doctors, hospitals, and especially those needing healthcare a more affordable system with better access.

#### CONFIRMATION OF DAVID CAMPBELL

Mr. LEAHY. Mr. President, yesterday, the Senate voted to confirm David Campbell to a lifetime appointment on the United States District Court for the District of Arizona. With this confirmation, we will fill the sole vacancy on that court—which is actually not even vacant yet. Mr. CAMPBELL is nominated to a new position that will become vacant on July 15. I have been glad to work with the Senators from Arizona to consider this nominee and provide bipartisan support. I congratulate the nominee and his family.

The Senate has now confirmed 133 judges nominated by President Bush, including 26 circuit court judges. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 33 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President

Bush. This total of 133 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997—the first 3 years they controlled the Senate process for President Clinton. In those 3 full years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 20 percent and the circuit court total by 40 percent with 6 months remaining to us this year. In truth, we have achieved all this in less than 2 years because of the delays in organizing and reorganizing the Senate in 2001. The Judiciary Committee was not even reassigned until July 10, 2001, so we have now confirmed 133 judges in less than 2 years.

In the first half of this year, the 33 confirmations is more than Republicans allowed to be confirmed in the entire 1996 session, when only 17 district court judges were added to the Federal courts across the Nation. In the first half of this year, with 9 circuit court confirmations, we have already exceeded the average of seven per year achieved by Republican leadership from 1995 through the early part of 2001. That is more circuit court confirmations in 6 months than Republicans allowed confirmed in the entire 1996 session, in which there were none confirmed; in all of 1997, when there were 7 confirmed; in all of 1999, when there were 7 confirmed; or in all of 2000, when there were 8 confirmed. The Senate is moving two to three times faster for this President's nominees than for President Clinton's, despite the fact that the current appellate court nominees are more controversial, divisive and less widely-supported than President Clinton's appellate court nominees were.

The confirmation of David Campbell to the District Court for Arizona illustrates the effect of the reforms to the process that the Democratic leadership has spearheaded, despite the poor treatment of too many Democratic nominees through the practice of anonymous holds and other obstructionist tactics employed by some in the preceding 6 years. David Campbell is the fourth Federal judge confirmed from Arizona for President Bush. Under Democratic control, the Senate confirmed Judge David Bury, Judge Cindy Jorgenson and Judge Frederick Martone to the District Court for the District of Arizona.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995-97 or the period 1996-99. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997 or the 110 vacancies that Democrats inherited in the summer of 2001.

We continue well below the 67 vacancy level that Senator HATCH used to call "full employment" for the Federal judiciary. Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in Federal courts to a historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as it did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

Mr. NELSON of Florida. Mr. President, yesterday the Senate voted on the nomination of David Campbell to serve as a U.S. District Judge for the District of Arizona.

I was unable to vote because I was returning to Washington, DC from official travel to Iraq in connection with my duties as a member of the Senate Armed Services Committee.

Had I been present, I would have supported Mr. Campbell's confirmation to the district bench. After reviewing his credentials, I believe Mr. Campbell is well prepared to serve in this important position and has the proper judicial temperament to fairly and justly apply the law.

#### IN REMEMBRANCE OF SENATOR STROM THURMOND

Mrs. DOLE. Mr. President, I rise to speak on the passing of a dear friend and a leader in this Chamber, Strom Thurmond.

Strom retired this year at the age of 100—after more than a half century of serving the people of South Carolina and our Nation as U.S. Senator, as Governor of South Carolina, and as a State legislator. Remarkably, his career in the Senate spanned the administrations of 10 presidents—from Dwight Eisenhower to George W. Bush.

His passing certainly will be felt by so many Members of this Chamber who had grown accustomed to the courtly gentleman from South Carolina. But his life leaves a lesson for us all—in compassion, civility, dedication, hard work, and respect.

Before he was elected to the Senate in 1954 as the only write-in candidate in history to win a seat in Congress, Strom Thurmond was elected county school superintendent, State senator, and circuit judge until he resigned to enlist in the Army in World War II. He

landed in Normandy as part of the 82d Airborne Division assault on D-day, and the story goes, flew into France in a glider, crash-landed in an apple orchard. He went on to help liberate Paris, and he received a Purple Heart, five battle stars, and numerous other awards for his World War II service.

My husband, Bob, and I were honored to have known Strom Thurmond for so many years and to count him among our friends. He and Bob shared a great deal of common history dating from their World War II days, and his Southern gallantry always had a way of making this North Carolinian feel right at home.

I first worked with Strom Thurmond when I served as Deputy Special Assistant to the President at the White House. Even then, he was an impressive Senator. President Reagan praised his "expert handling," as chairman of the Senate Judiciary Committee, of nominees to the U.S. Supreme Court. In fact, it was Strom Thurmond's skill as chairman that helped to shepherd through the nomination of Sandra Day O'Connor as the Nation's first female on the United States Supreme Court.

I always admired Strom Thurmond for his constant dedication to the people of South Carolina and the industries of that State. Bob Dole has joked that "Someone once asked if Strom had been around since the Ten Commandments." Bob said that couldn't have been true—if Strom Thurmond had been around, the 11th Commandment would have been "Thou shall support the textile industry." That industry still needs a lot of help. In fact, when President Reagan called Strom to wish him a Happy 79th birthday back in 1981, Strom Thurmond, with his constant attention to South Carolina interests, used the opportunity to talk to the President about the textile industry.

Indeed, South Carolina is full of stories of how the senior senator from South Carolina managed to cut through red tape to make sure that his residents got the things they needed. And whenever South Carolinians called—or anyone else for that matter—Strom Thurmond could always be counted on to show up: at a Fourth of July parade, a county festival, or a State fair, armed with his trademark Strom Thurmond key chains.

And North Carolinians developed a fondness for Strom Thurmond. He often flew into Charlotte before driving to his Edgefield, SC home. And he became so familiar in the airport that many of the workers there knew him—and he knew them, often stopping to share a kind word or a funny story.

And I was so honored that just before he went home for good, he came in his wheelchair, with Nancy's help, to visit me in my basement office and welcome me to the Senate.

Bob and I sent our heartfelt condolences to Strom's family: our dear friend Nancy and the children, and daughter, Julie, who worked with me