

have passed muster. In addition, for a limited experiment it might be possible to design subsidy programs that would mimic tax relief.

Administering a refundable tax credit would pose formidable difficulties for some states, particularly those that do not have a personal income tax. In all states, the logistics of providing a credit with reasonable accuracy on a timely basis would be challenging. So, too, would deciding how to address such administrative problems as households that live in one state yet work in another. Advocates for tax credits say they have solutions to these and similar challenges, just as supporters of single-payer approaches or employer mandates claim to have answers to challenges facing those approaches. For instance, some maintain that the employment-based tax withholding system could serve as a vehicle for refundable credits or equivalent subsidies and would make individual enrollment practical. Whether or not they are right is of course disputed by their critics. The beauty of a "put up or shut up" federalism initiative is that it offers a chance for advocates to offer such solutions in practice instead of in theory.

Using "managed federalism" to build support? Deciding how many states could qualify for experiments is an open political and technical question. One approach would be to limit it to a few states. This would limit costs but has little else to be said for it. Accordingly, we would favor opening the program to all states wishing to accept a federal offer. Nevertheless, we recognize that some lawmakers would be reluctant to vote for a process of federal-state innovation unless they were sure that certain "generic" or "standard" approaches were included—especially if the number of states in the program were to be limited. In particular, we believe that our proposal can win congressional support only if liberals and conservatives alike are fully convinced that the approaches each holds dear will receive a fair and full trial in practice.

While we believe that any state initiative that meets approval should be welcomed, political considerations thus might require that no state's proposal would be approved unless a sufficient range of acceptable variants was proposed. For example, strong advocates of market-based or single-payer approaches might find the federalism option acceptable only if each was confident that favored approaches would be tested.

Adequate data collection. To determine whether a state was actually making progress toward a goal, accurate and timely data would be needed. These data would include surveys of insurance coverage, with sufficient detail to provide state-level estimates. Such surveys would be essential to show whether the states were making progress in extending health insurance coverage. They are vital to the success of the whole approach because payments to states (apart from modest planning assistance) should be based on actual progress in extending coverage, not on compliance with procedural milestones.

Congress should also assure that states report on use of health services, costs, health status, and any other information deemed necessary to judge the relative success of various approaches to extending coverage. Only a national effort could ensure that data are comparable across states. States' cooperation with data collection would be one element of the determination of whether a state was in compliance with its covenant and was therefore eligible for full incentive payments. The experience with state waivers under welfare before enactment of the 1996 welfare reform clearly illustrates the power

and importance of such data collection. The cumulative effect of the reports showing the effectiveness of welfare-to-work requirements in reducing rolls, increasing earnings, and raising recipients' satisfaction transformed the political environment and made welfare reform inescapable.

Rewarding progress. Congress would design a formula under which states would be rewarded for their progress in meeting the agreed federal-state goals of extending insurance coverage. As experience with countless grant programs attests, haggling over such formulas can become politics at its grubbiest, with elected officials voting solely on the basis of what a particular formula does for their districts. Even without political parochialism, designing a formula that rewards progress fairly is no easy task. For one thing, states will be starting from quite different places. The proportion of states' uninsured populations under age sixty-five during 1997–1999 ranged from 27.7 percent in New Mexico and 26.8 percent in Texas to 9.6 percent in Rhode Island and 10.5 percent in Minnesota and Hawaii. Designing an incentive formula to reward progress amid such diverse conditions is both an analytical and a political challenge. Moreover, the per capita cost of health care varies across the nation, which further complicates the assessment of progress. The cost of extending coverage depends on the geographic location, income, and health status of the uninsured population. Having financial access may be hollow in communities where services are physically unavailable or highly limited. Extending coverage may require supply-side measures to supplement financial access.

We believe that the only way to design such a formula is to remove the detailed design decisions from congressional micromanagement. We suggest that Congress be asked to adopt the domestic equivalent of "fast-track" trade negotiation rules or base-closing legislation. Under this arrangement, Congress would designate a body appointed in equal numbers by the two parties, to design an incentive formula that Congress would agree to vote up or down, without amendments. Such a formula would have to recognize the different positions from which various states would start. Any acceptable formula would have to reward both absolute and relative reductions in the proportions of uninsured people. Whether financial incentives would be offered for other dimensions of performance and how performance would be measured constitute additional important challenges.

Sources of funding. Bleak budget prospects could cause one to give up on this or any other attempt to extend health insurance coverage broadly. But as recent history amply illustrates, the political and budgetary weather can change dramatically and with little notice. What funding approach would be desirable if funds were available? Under our proposal, the federal funding would be intended for several broad purposes: (1) A large portion of the money would be used to help states actually fund approaches to be tested. (2) Some funding (perhaps with assistance from private foundations) would provide national support and technical assistance to states. A model to consider for such support is the Health Resources and Services Administration (HRSA) State Planning Grants program, which both funds state planning activities and provides federal support and technical assistance. (3) Some funds would cover the cost of independent performance monitoring. (4) Some funds would be set aside to reward states for meeting the goals in their agreed-upon plan. Congress might consider an automatic "performance bonus" system similar to the mechanism used in welfare reform. Congress could also consider

withholding the periodic release of part of a state's grant pending a periodic assessment by the independent monitor of the degree to which the state is accomplishing the objectives specified in its covenant. Only those states willing to offer proposals designed to achieve the national goals would be eligible for a share of the funding or for the menu of federal policy tools. A state could decline to offer a proposal and remain under current programs.

Federalism enables the states to undertake innovative approaches to challenges facing the United States. Federal legislation often grants states broad discretion in designing even those programs for which the federal government bears much or most of the cost. In health care as well as education or welfare, states have been the primary innovators. But the federal government limits, shapes, and facilitates such innovation through regulation, taxation, and grants. Such a partnership is bound to be marked by conflict and tension as state and federal interests diverge.

A creative federalism approach of the kind we propose would change the dynamics of discovering better ways to expand insurance coverage, just as a version of this approach triggered a radical change in the way states addressed welfare dependency. By actually testing competing approaches to reach common goals, rather than endlessly debating them, the United States is far more likely to find the solution to the perplexing and seemingly intractable problem of uninsurance.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 471—RECOGNIZING THAT, DURING NATIONAL FOSTER CARE MONTH, THE LEADERS OF THE FEDERAL, STATE, AND LOCAL GOVERNMENTS SHOULD PROVIDE LEADERSHIP TO IMPROVE THE CARE GIVEN TO CHILDREN IN FOSTER CARE PROGRAMS

Mr. COLEMAN (for himself, Ms. LANDRIEU, and Mr. CRAIG) submitted the following resolution, which was considered and agreed to:

S. Res 471

Whereas more than 500,000 children are in foster care programs throughout the United States;

Whereas, while approximately ¼ of all children in foster care programs are available for adoption, only about 50,000 foster children are adopted each year;

Whereas many of the children in foster care programs have endured—

- (1) numerous years in the foster care system; and
- (2) frequent moves to and from foster homes;

Whereas approximately 50 percent of foster care children have been placed in foster care programs for longer than 1 year;

Whereas 25 percent of foster care children have been placed in foster care programs for at least 3 years;

Whereas children who spend longer amounts of time in foster care programs often experience worse outcomes than children who are placed for shorter periods of time;

Whereas children who spend time in foster care programs are more likely to—

- (1) become teen parents;
- (2) rely on public assistance when they become adults; and
- (3) interact with the criminal justice system;

Whereas Federal, State, and local governments—

(1) share a unique relationship with foster children; and

(2) have removed children from their homes to better provide for the safety, permanency, and well-being of the children;

Whereas unfortunately, studies indicate that Federal, State, and local governments have not been entirely successful in caring for foster children;

Whereas Congress recognizes the commitment of Federal, State, and local governments to ensure the safety and permanency of children placed in foster care programs; and

Whereas every child deserves a loving family: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) May 2006 as “National Foster Care Month”; and

(B) that, during National Foster Care Month, the leaders of the Federal, State, and local governments should rededicate themselves to provide better care to the foster children of the United States; and

(2) resolves to provide leadership to help identify the role that Federal, State, and local governments should play to ensure that foster children receive appropriate parenting throughout their entire childhood.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3861. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, to amend the title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table.

SA 3862. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3863. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3864. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3865. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3866. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3867. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3868. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3869. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3870. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3871. Mrs. FEINSTEIN (for herself, Mr. DORGAN, Mr. BINGAMAN, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3872. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3873. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3861. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Local Law Enforcement Enhancement Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent

possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct “races”. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term “hate crime” has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe; the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.