

I appreciate very much the leadership Chairman BAUCUS has provided. I thank him and Senator ROCKEFELLER for what they did to reach a bipartisan agreement because they gave as much as Senator HATCH and I gave as we were negotiating—the four of us—for this bipartisan agreement.

I also extend a sincere thanks to Senator HATCH, who is on the floor with me, for being a part of this effort. Senator HATCH was the main Republican sponsor of this bill 10 years ago, creating the State Children's Health Insurance Program. His commitment to the ideals and fundamentals of the program is steadfast, and the program is better for it.

When we began the debate on CHIP, I wrote down some principles I want to refer to—principles I gave my staff that I believed in that I thought were accomplishable goals in this reauthorization. I probably wrote these down—well, anyway, I will refer to them. But I wrote these principles down in my own handwriting and handed them to my staff and said this is how I think we ought to proceed with the negotiations on the CHIP bill. I am not going to go through and read it line by line, but this is what I wrote down sometime back in February, and I am going to refer to some of these without holding this paper up again.

Here are some highlights of these principles I wrote down entitled “Principles on SCHIP and How They Compare to The Bill.”

It cannot be a middle-class entitlement, I said. This bill is not an entitlement. It must be paid for. This bill is paid for.

Another principle I wrote down is that it must be focused on families below 200 percent of Federal poverty level. This bill is focused on those low-income families.

Another principle: Kids should be covered before adults. This bill clearly makes that a requirement.

Another thing I said is the program should be capped—not an open-ended entitlement to States. The program continues to be capped in this bill.

I am here to say that my principles remain intact in this compromise document; therefore, I support the compromise bill and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Vermont is recognized.

CHIP

Mr. SANDERS. Madam President, before he leaves the floor, let me congratulate Senator GRASSLEY for his very fine work on this legislation, and Senator HATCH as well. It has been a true bipartisan effort. I want to take this discussion in a little different direction. I strongly support the SCHIP program. I happen to believe it is a disgrace that the United States of America remains the only country in the in-

dustrialized world which today does not guarantee health care to all of its people. I just came back the other day from a trip to Costa Rica, and this small, poor country manages to cover all of its people. Yet, in our country, we have 47 million Americans who have no health insurance, and we have some 9 million children who have no health insurance.

I always find it ironic that the American people seem to get from the White House what they don't want, and they don't get what they do want. The American people want to end the war in Iraq as soon as possible, a war which will soon be costing us, if you can believe it, \$750 billion—three-quarters of \$1 trillion—which even in Washington is a lot of money. For the war in Iraq, for Halliburton contracts, we seem to have an endless supply of money. The American people don't want it, but that is what they are getting.

On the other hand, the American people do want health insurance for their children. The American people strongly support—and the polls are very clear about this—the SCHIP program. The American people would like all of the children in this country to be covered. That is what they want, but that is what they are not getting.

What this bill, in fact, does do, which is very good—and I mentioned a moment ago my congratulations to Senator GRASSLEY and Senator HATCH for their efforts—is it takes us somewhere. It provides health insurance for 5 million more children, which is clearly a significant step forward, and I will strongly support this legislation.

It is interesting to me that from the White House the main argument, it appears, for opposition to this particular piece of legislation, and the reason they are threatening to veto it, one of the key reasons is this is an expansion of “government health care”—government health care. Let me read to my colleagues to whom it might be of interest, and to the American people, a poll on the economy done a few weeks ago by CBS News, from September 14 to September 16. This is the CBS poll.

Question No. 1: Which do you think would be better for the country: Having one health insurance program covering all Americans that would be administered by the government—administered by this terrible government—and paid for by taxpayers, or keeping the current system where many people get their insurance from private employers and some have no insurance? So CBS asked: Do you want a government-administered program covering all people or do you want the current system? The response from the American people was 55 percent believe in one health insurance for all Americans administered by the government; 29 percent want to maintain the current system.

We hear a lot of discussion from the White House about how terrible “government health care” is, and yet what the polls show by an almost 2-to-1 ma-

jority is that the American people would like a health insurance system guaranteeing health care to all people administered by the Government and paid for out of the tax base.

When I go back to Vermont, I find strong support for the Medicare Program, I find strong support for the Medicaid Program. Veterans want to see a significant increase in VA health care, which is, in fact, a 100-percent controlled Government program. In fact, Mr. Nicholson, who is head of the Veterans' Administration, former head of the Republican Party, says—and I think he is quite right—that the Veterans' Administration provides some of the very best quality health care in the United States of America, and they have been honored by national organizations who have looked at health care quality and have awarded distinction to the Veterans' Administration, which is, by the way, a 100-percent Government-run health care system. We have federally qualified health systems, health care programs all over America which time and time again are acknowledged to be tremendously successful. They are supported in a very strong, bipartisan way here in the Congress. They provide health care to millions of Americans—Government health care. So I think we should perhaps end this bogeyman mentality of Government health care—how terrible an idea it is. In fact, the American people want more Government health care in this country.

Our health care system has serious problems. In fact, it is in the midst of disintegrating. We have 47 million Americans today who have no health insurance, and that number, since President Bush has been in office, has gone up by over 7 million. The cost of health care is soaring. More and more people are not only uninsured, they are underinsured. Despite all of that, our country continues to spend twice as much per capita on health care as any other Nation on Earth. Meanwhile, despite all of that spending, despite all of the people who are uninsured, our health status measures—including infant mortality and life expectancy and the kind of work we do in disease prevention—ranks very low compared to other developed countries. We spend more, we get less value, we have more and more people uninsured, our health care system is disintegrating, and it is high time, in my view, that the United States ends the national disgrace of being the only country in the industrialized world that does not provide health care to all people.

Not only are more and more people uninsured; this system is even incapable of providing the doctors we need, especially in rural America. In cities we have doctors who are specialists earning millions of dollars a year, but somehow this system can't get doctors into rural America, into primary health care, into internal medicine. We lack dentists all over this country. We have a major nursing crisis, such that

we are depleting the health care systems of the Philippines and other countries, because we are not educating our own nurses. So we have some major problems.

In terms of the SCHIP program, it is hard for me to understand—it is hard for me to begin to understand—how this President can be threatening to veto this legislation. We hear in the Congress a whole lot about family values. Well, if taking care of our children is not a family value, then I don't know what a family value is. It is clear also that providing health insurance to our children is what is cost effective. Forget the suffering involved. Forget the children who deal with illness they are not getting treated for because their parents don't have health insurance. Look at the cost-effective aspect of this. What kind of thinking is involved when we say: No, we can't provide health insurance for you, but when you get sick because you haven't gone to the doctor, oh, yes, we will operate on you and we will spend tens and tens of thousands of dollars to take care of you when you are in the hospital?

Let me conclude by saying that the time is long overdue for this country to get its priorities right. We should not continue spending hundreds of billions of dollars on a war the American people don't want. We should not, as the President and some in this institution want, give \$1 trillion in tax breaks to the wealthiest three-tenths of 1 percent by repealing the inheritance tax. One trillion dollars over 20 years, we have money to do that, but we don't have, apparently, \$35 billion to provide health insurance to 4 million children in this country. This Congress has to reorder and change the priorities established in the White House, and I believe that passing this SCHIP program will be a good step forward, a first step forward to be followed by much more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I won't take much time about SCHIP, only to say I hope our colleagues will vote for the SCHIP bill. It is a real bipartisan effort made by Democrats and Republicans over a long period of time with a lot of give by House Democrats and House Democratic leadership because they wanted a bill. I hope we pass that bill. I will identify my remarks to a large degree with the remarks of the distinguished Senator from Iowa who spoke earlier.

AMENDMENT NO. 3047

Madam President, I wish to discuss an amendment addressing the subject of hate crimes that I have filed on this national defense bill. I do not think that hate crimes legislation should be attached to this defense bill. The issue of hate crimes has nothing to do with the matter before us, our national defense.

Frankly, this Kennedy amendment has no relationship, as far as I am con-

cerned, to this very important bill intended to help our military, and it should not be included on this legislation. Yet, as long as my colleagues insisted on filing a politically problematic hate crimes amendment to this legislation, it was important that we have a balanced debate.

My amendment would provide Federal assistance to the States and localities in the prosecution and investigation of bias motivated violence. That is what we are talking about here: bias motivated violence.

I want to be absolutely clear. No one—nobody in this entire body or institution—believes for one second that such crimes are ever acceptable. Nobody in this body believes that. So those who want to make political points by suggesting that are plain wrong, and they should stop.

The question is: What is the proper role of the Federal Government in the prosecution of these crimes? This needs to be a matter that we keep in careful balance. Our States are the primary guarantors of our rights and liberties. As far as I can see, having watched it for years, the States have handled these crimes very well. In every case I can think of—there may be some exceptions, but I don't know of any—the State has handled these matters adequately and well and people have been prosecuted and convicted. Some have been put to death; others have been sentenced for life.

The States are the primary guarantors of our rights and liberties. I think we must respect the hard and decent work of the States as they secure equal justice under the law for all of our citizens in the respective States.

With due respect to my colleagues and good friends, Senators KENNEDY and SMITH, I do not think this amendment strikes the right balance. In fact, I think this amendment is not needed. It has plenty of difficulties. It is constitutionally very questionable.

And frankly, it should not be on this bill. If they want to bring it up, they can do it separately. It should not be on the bill because the President indicated that he is not going to put up with this type of legislation on this bill. This is not because of a lack of dedication on his part in prohibiting hate crimes. He is as dedicated as anybody in this body to targeting these crimes, and that includes the distinguished Senator from Massachusetts.

So I rise to oppose both hate crimes and the Kennedy hate crimes amendment. A conviction against bias-motivated violence does not justify supporting a proposal that is unwise, unnecessary, and unconstitutional.

This amendment would create a new Federal criminal felony, punishable by up to 10 years in prison, for willfully causing bodily injury because of a person's perceived race, color, national origin, religion, gender, sexual orientation, disability, or—get this—gender identity.

Senator KENNEDY made a specific point earlier today that this new fel-

ony is not related to Federal jurisdiction. He said such a requirement would be “outdated, unwise, and unnecessary,” but that requirement is grounded in the Constitution itself. With all due respect to my friend from Massachusetts, the Constitution is not outdated, unwise or unnecessary.

Not only does Congress lack authority to create such a freestanding hate crimes felony, the States are already handling this issue.

The Kennedy proposal would end up treating the less serious bias crimes too harshly, putting people who committed misdemeanors under State law in Federal prison, and treating the most serious bias crimes too harshly, with no death penalty even for the most heinous murders as in the case of James Byrd in Texas.

This bill goes further even than the Kennedy proposals of the past.

Let me mention a number of problems that I perceive with Senator KENNEDY's hate crimes amendment. First, as noted yesterday, the Kennedy amendment is different from the hate crimes bill offered in past Congresses. This amendment adds “perceived . . . gender identity” as a protected class. What does this concept mean? The Senate has held no hearings on the meaning of this phrase or how far this phrase would allow the courts to go. How far would some of the courts interpret this phrase? The bill's definition is vague; it raises more questions than it answers. Would this include wearing an earring? Would it include an assault of a man with long hair or a woman with short hair? What about a woman wearing long hair? Are all protected the same under Federal law? What about different kinds of clothing?

Clearly, there would be cases that fall safely within the drafters' intent, but can Senators be confident of what this language means? I do not think so. Do they want to pass a law to put judges or juries in charge of interpreting the meaning of clothing and personal style? Again, there have been no hearings in the Senate to give any guidance to Senators for this vote.

When the House passed this bill, the White House released a SAP promising a veto. To pass the Kennedy amendment is to jeopardize the Defense authorization bill altogether.

The Justice Department has also indicated it supports the concepts found in my alternative proposal.

There is no evidence that hate crimes go unprosecuted in the States. For example, as Dr. COBURN recently pointed out on the floor, the killers of Matthew Shepard—for whom this bill is named—were successfully prosecuted under State law. And recall that the killers of James Byrd in Texas several years ago were sentenced to death under State law. But there is no death penalty provided for in the Kennedy amendment. By the way, Senator KENNEDY cannot make the case that the States are inadequate in their handling of these crimes. I don't think he can

make the case the States are not doing a good job of handling these crimes. These kind of crimes are intra-State crimes. I do not think he can make the case there is a sufficient nexus of interstate commerce to justify what I consider to be the unconstitutional Kennedy amendment.

The Senator from Massachusetts stated earlier that "all hate crimes will face a Federal prosecution."

If that is true, then prepare for a massive federalization of basic criminal law, which is handled well by the States. Maybe 100 years ago you could find States not enforcing hate crime laws, but I do not think you will find that today in any State in this Union. There is not a person in the Senate who wants those crimes to go unpunished. But the States are handling them well. Why would we bring the almighty arm of the Federal Government into these matters?

There are also several reasons this bill is unconstitutional. Consider one: The Supreme Court held that certain of the criminal provisions of the Violence Against Women Act were unconstitutional because most crimes of violence against women were not interstate in nature. I have to admit I was a prime cosponsor, along with Senator BIDEN, of VAWA. I was somewhat disappointed in that decision, but that is the decision. That is our constitutional law. The Kennedy amendment would criminalize many physical and sexual assaults. The same constitutional issues are at stake.

Again, I decry hate crimes. I do not believe there should be evil discrimination, bias discrimination, in any way, shape or form. I have always stood up for the rights of those who have been discriminated against. I may have differed on some bills, as I do on this one. But I decry these types of acts. But to federalize hate crimes legislation and to make it not only burdensome but very intrusive on the State's work in this area, I think, is the wrong thing to do.

I hope my colleagues will consider some of these thoughts. I will speak in more detail tomorrow. But the fact of the matter is I think it is a real mistake, when the States are doing as good a job as they have been doing, when the very crimes they use to justify this bill were handled by the States and people were sentenced to long terms, or even to death, I think it is inadvisable for us to proceed on this amendment.

Last but not least, the President said he is going to veto the bill if Senator KENNEDY's amendment makes it in. I think it is wrong to put this amendment into this Defense Authorization Act. It has been wrong, as far as I am concerned, to have a lot of these amendments that have been brought up on the floor that have nothing to do with Defense authorization, or have everything to do with trying to score political points, at a time when we should have passed this bill 2 weeks ago and

gotten it on its way to the House of Representatives and then to the President, so our soldiers will have the benefits this bill provides for.

Adding hate crimes to it may lead to a veto of the whole bill. That would be just plain tragic, especially since we know of the President's suggestion that he will veto the hate crimes bill. So I am concerned about it. I understand Senator KENNEDY's motivation on this. He wants to get it on a bill that has to pass both Houses of Congress. But it ought to be on a bill related to hate crimes or related to criminal law, not something that can scuttle this important Defense authorization bill. I personally feel badly that so many of these days have gone by with amendments that have nothing to do with the defense of our country or our soldiers in Iraq and Afghanistan and elsewhere around the world.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Oregon is recognized.

CHILDREN'S HEALTH CARE

Mr. WYDEN. Mr. President, I hope tomorrow the Senate will pass urgently needed help for millions of America's children. I hope it will be done quickly because it is a moral abomination that millions of America's kids don't have health care. If the Senate acts quickly and the White House approves the legislation, it would then be possible to move forward on a bipartisan effort to more broadly address the extraordinary health care needs of all of our citizens.

The fact is, you don't get anything important done on health care, or other issues, unless it is bipartisan. Tomorrow, we will see a textbook case of bipartisanship on display on the floor of the Senate. Four members of the Senate Finance Committee on which I am proud to serve—Senators BAUCUS, GRASSLEY, ROCKEFELLER, and HATCH—and I see my friend from Utah on the floor. I salute him personally in my remarks because I know the Senator from Utah, the Senator from West Virginia, the Senator from Montana, and the Senator from Iowa spent hours and hours, day after day, working on the legislation to help our kids.

Bills such as this don't happen by osmosis; they happen because legislators of good faith, such as Senator HATCH, who, along with Senator KENNEDY and others, was a pioneer of this effort. Senator HATCH has addressed the major concerns. This is protecting private options for health care for children. He has been able to target the neediest youngsters. I am pleased he has addressed this waiver question and the remarks that the Senator has made and the distinguished Senator from Iowa has made, joining Senators BAUCUS and ROCKEFELLER. This is a textbook case, in my view, of how we address health care in a bipartisan way.

Frankly, one of the points I am going to make tonight in my remarks is that

I wish to have this issue addressed by the Senate quickly because, first, our kids need it so much and, second, because if we can get it done quickly, he and I, Senator GRASSLEY, and so many other colleagues on the Finance Committee still want to work in a bipartisan way to go further.

Mr. HATCH. Will the Senator yield?

Mr. WYDEN. Yes.

Mr. HATCH. I thank the Senator for his kind remarks, which come from somebody who I know takes health care very seriously and has proven himself to be one of the leaders in health care. I personally pay tribute to the other Members who have also worked so hard on the SCHIP bill; in particular, Senator KENNEDY. I remember back in the early days, when it was a lonely thing for Senator KENNEDY and I to go around the country talking about helping the poor kids, the only ones left out of the health care system. It took a leading liberal such as Senator KENNEDY and this poor, old beaten-up conservative to be able to do that.

I am grateful we were able to come up with a bipartisan bill that the House was kind enough to work with us on. That was one of the rare bipartisan efforts this year that I would like to see more of in the Congress.

I sure hope somehow or another we can get the CHIP bill not only authorized but passed and signed into law so these 10 million kids have a future from a health care standpoint.

In any event, I did not mean to take so much of the Senator's time, but I wanted to thank him for his very kind and thoughtful remarks. His friendship is important to me. I personally congratulate him for his sensitive and very professional work on health care, not only in the House of Representatives but here as well.

Mr. WYDEN. I thank my friend. The fact that Senator HATCH and Senator KENNEDY, in particular, have prosecuted this cause of improving health care for our citizens has been so important. It is going to pay off, I hope, this week with resounding support for the children's health bill.

I want to spend a few minutes tonight talking about the possibility, with a strong victory for the cause of children's health, about the prospects of moving on from there. I wish to pick up on the remarks of the distinguished Senator from Iowa, Mr. GRASSLEY. He has been very gracious in terms of working with me and looking at the variety of options for broader reform. And I appreciate the conversation that Senator GRASSLEY had just a few days ago with the White House.

What a lot of us are saying to the White House is we think you have some valid points with respect to the broader issue of health care reform. I happen to think that Democrats have been spot on, absolutely correct on the coverage issue. We have to cover everybody because if we do not cover everybody, the people who are uninsured shift their