ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call under rule XXII be waived with respect to the cloture vote on the motion to proceed to H.R. 36.

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

WOMEN'S HEALTH

Mr. REID. Mr. President, it is said you cannot make the same mistake twice because the second time it is a choice, it is not a mistake. I repeat: It is said you cannot make the same mistake twice because the second time you make it, it is a choice. On every issue, Republicans are choosing to employ the same failed strategy they have tried time and time again. They are making choices. Over and over again, they drag Congress and the American people through votes that are nothing more than publicity stunts, solely designed to boost their conservative records.

Today we stand in the midst of yet another show vote designed to honor the political wish lists of extremists. Once again, Republicans have decided to place a woman's health at the center of their ideological campaign. We have seen this tactic before. It does not work.

Americans are tired of the Republican attacks on the health of women. Earlier this year, Republicans manipulated a bill. The bill was to help victims of human trafficking. They turned it into a political football by attaching ideological abortion riders. They have tried to repeatedly cut off funds for Planned Parenthood, a critical safety net provider for women.

Now today, in the face of a government shutdown, they decide to waste the Senate's time on a 20-week abortion ban. Every Senator in this body knows this bill is going nowhere. This attack is a waste of time. The bill on its merits is no good. It will accomplish nothing. By holding today's vote, the Republican leader is pandering to the rightwing extremists in his party who are willing to take our government hostage, trying to score nothing more than political points.

The time for partisan politics is over. The Senate, our government, cannot afford to be subjected to meaningless attacks on the health of women. We will be in session for only 2 more days this week. The House will not convene today or tomorrow. On October 1 the government will run out of money. With or without the stamp of approval Republicans are so desperately seeking, on October 1 the government will be out of money.

Republicans should end their partisan attack on women and join Democrats in carrying out one of our primary responsibilities as elected officials, as Members of Congress, and that is to keep the government doors open. Actions speak louder than words. These partisan attacks on the health of women, led by Republicans and the leader specifically today, will not only push Congress to the brink of another government shutdown—we are there. It would show once again that Republicans would rather attack women's health than keep their obligation to the American people.

On Thursday we are going to be in a very difficult time squeeze. We are going to have another vote, abortion related, on Planned Parenthood, and then we are going to have to try to figure out a way to fund the government. This responsibility is on the Republicans. They control the House and the Senate. It is not our responsibility. We will help in any way we can. We have not held up anything procedurally. We do not intend to do that. We want to move forward and get the government funded. But we are at a crossroads here. I am not sure we can make it with the time set because of all of these unnecessary votes that have been scheduled by the Republican leader these last couple of weeks. I hope we can make it and not have to see the government shut down again. But, you know, we have seen that before. The American people have been to that rodeo before. Who has suffered? The American people.

I would hope the Republican leader has a plan to help us get out of this morass they have created. We will do everything we can within reason to make sure the American people are treated fairly in the upcoming spending bills, but we have to get there by October 1.

Will the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PAIN-CAPABLE UNBORN CHILD PROTECTION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 36, which the clerk will report.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 230, H.R. 36, a bill to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. will be equally divided between the leaders or their designees.

The assistant Democratic leader.

Mr. DURBIN. Mr. President, I would like to address the issue before the Senate. It relates to the divisive and controversial issue of abortion. It comes at an unusual moment in the history of the Congress.

This week, for the first time, the Pope will be addressing a joint session of Congress. It was 50 years ago when the first Pope visited the United States. The arrival of Pope Francis this week is a cause of great celebration to people from my State of Illinois and across this Nation because of their respect for his leadership of the Catholic Church. It calls to question, of course, the relationship between religion and our government.

This summer I finished a book called ''Mayflower,'' which told the story of the Pilgrims coming to the United States, settling in in our country, looking for a new opportunity but looking more than anything for freedom of religious belief. They were followed by scores and thousands of others who came for the same reason.

My mother was an immigrant to this country, brought here at the age of 2. Her mother brought her and her sister and brother to our shores for a variety of reasons. But there is one thing that sticks out in that journey. Up in my office I have something that my grandmother carried across the ocean from Lithuania to the United States. It was a Roman Catholic prayer book written in Lithuanian. It was contraband in 1911 in Lithuania for her to possess it because the Russians were in control and the Russians were imposing the orthodox religion and making it difficult to practice the Catholic religion. I never knew my grandmother, but she was one brave lady to bring three kids across the ocean and stick in her bag that prayer book which meant so much to her, that prayer book which she could use in the United States of America without the government telling her she could not.

We have tried to strike the right balance between religion and our democracy from the beginning. I believe our Founding Fathers got it right. They said three things in the Constitution about religion: first, that each of us would have the freedom to worship as we choose or to choose not to worship; second, that the government would not choose a religion and that we would not have an official government religion; and third, that there would be no religious test for public office in America.

I thought those were settled principles, but this Presidential campaign suggests otherwise. We had the outrageous suggestion by a Republican Presidential candidate this last weekend that a Muslim should never serve as President of the United States. I would think that a man of his background and learning would at least take the time to understand our Constitution and the express provision which says that he is wrong, that there will never by a religious litmus test to serve in public office in the United States.

And now, this week on the floor of the Senate, we will have two votes on the issue of abortion. There was a time when this issue came before us frequently—not so much lately. It is a divisive and controversial issue; that is for sure. But this week the Republican Senate leadership has allowed two of their Presidential candidates to raise this issue on the floor of the Senate. It is no coincidence this issue comes before us the same week the Pope, the leader of the Catholic Church, will be addressing a joint session of Congress. It is more than a coincidence.

This particular bill relates to when a person can terminate a pregnancy. For 47 years, if I am not mistaken—maybe I have that calculation slightly wrong—we have had Supreme Court guidance on when the government can play a role in the decision about the termination of a pregnancy. Now there is an effort on the floor of the Senate to change that basic guidance from the Roe v. Wade decision. Each time we step into this question, into something which seems as clear as ''at 20 weeks we will draw a line and after that there cannot be a legal termination of pregnancy,'' we find we are walking into an area of uncertainty.

I remember meeting many years ago, when we were debating this issue, a woman from Illinois. She was from the town of Naperville. In 1996 she told me a harrowing story of how legislation such as the bill before us would have impacted her. She learned late in her pregnancy that the child she was carrying could not survive outside the womb. Her doctors diagnosed her baby with at least nine major anomalies, including a fluid-filled cranium with no brain tissue. Sadly, she also had underlying medical conditions—personal conditions—that complicated her pregnancy even more. Doctors were concerned that if she went through with the pregnancy at that point, she ran the risk of never having another baby. With tears in her eyes, she told me how she and her husband agonized over the news and eventually decided it was best for them and their other children to terminate that pregnancy.

If the bill before us today—the 20-week abortion bill—had been the law of the land back then, sadly it would have jeopardized and endangered her health.

Well, 18 years later she came back to see me. I learned she was able to do what was best for her family in terminating that pregnancy. That was her decision with her doctor and her husband. But she was given a second chance. Soon after, she became pregnant again. This time she was thankful to give birth to a healthy baby boy. When she came to see me, she told me about her son Nick. She said he had become a star football player and had a bright future ahead of him.

If this bill had been the law of the land, this woman in Illinois—and others like her—would not even have had the choice to terminate a pregnancy for her own health protection and for the opportunity to have another baby. That is the challenge we face when we try to spell out in law all of the medical possibilities, limiting opportunities and decisions to be made by individuals under the most heartbreaking circumstances.

This bill has other issues. The fact that the rape and incest exceptions, which have largely been built into the law to this point, would be changed dramatically by this law raises questions as well. There is a requirement, as I understand it, in this law that victims of incest would have had to report to a law enforcement agency that crime of incest before they would even be able to terminate a pregnancy under these circumstances. That is not even realistic—to think some young child in a household, who has been exploited by another member of the family, would think to go to a law enforcement agency and report that other member of her family before they could qualify to terminate a pregnancy in this circumstance.

That shows the extremes this bill goes to. I hope we will defeat this measure. I sincerely hope the other Republican Presidential candidate, who is going to try to shut down the government over the funding of Planned Parenthood later in the week, does not prevail either. We need to move on to find other issues—not divisive issues but issues we can build a bipartisan consensus on to make this a stronger country.

We need to address the issue of funding our government and to accept the responsibilities to move forward in a bipartisan fashion. This bill does not do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before we vote on whether to proceed to H.R. 36, I want to respond to a couple of arguments made by a Democratic Senator yesterday.

First, that Democratic Senator quoted Hal Lawrence of the American Congress of Obstetricians and Gynecologists for the proposition that a 20-week fetus is not viable. The American Congress of Obstetricians and Gynecologists, the group Dr. Lawrence represents, has long opposed this legislation.

According to the Senator I am confronting on this issue, Dr. Lawrence said the following on May 13, 2015:

In no way, shape or form is a 20-week fetus viable. There is no evidence anywhere of a 20-week fetus surviving, even with intensive medical care.

But as explained by the Washington Post Fact Checker of May 26 of this year, Dr. Lawrence's statement is simply incorrect when applied to H.R. 36. The bill uses a method of calculating fetal age that is based on the day that fertilization actually occurred. The legislation would protect the unborn beginning at 20 weeks after fertilization, which is the same as 22 weeks of pregnancy, also known as 22-week gestational age. Gestational age is a measure of calculating the unborn baby's age that relies on the date of the mother's last normal menstrual period.

It is well established that babies can survive at 22-week gestational age. As noted in the Washington Post, for example: ''That babies can survive at 22 weeks gestational age has been known for 15 years.''

Perhaps Dr. Lawrence was confused about what H.R. 36 would accomplish. The Washington Post Fact Checker article sets the record straight.

Second, the Senator I am referring to said earlier that abortions past 20-week fetal age are extraordinarily rare. Some jurisdictions with the most lax abortion policies don't even collect data on the stage of pregnancy when an abortion is performed, while other jurisdictions may have reporting requirements but are not really enforcing those reporting requirements. Because data on late-term abortions is not widely available, it is hard to know what hard evidence really exists to support the claim. We do know that several hundred doctors, and well over 200 facilities across the United States, offer abortions after 20 weeks of fetal age.

Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post article I earlier referred to.

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

[From the Washington Post, May 26, 2015]

SETTING THE RECORD STRAIGHT ON MEASURING FETAL AGE AND THE '20-WEEK ABORTION'

(By Michelle Ye Hee Lee)

''In no way, shape or form is a 20-week fetus viable. There's no evidence of a 20-week fetus surviving, even with intensive medical care.''—American Congress of Obstetricians and Gynecologists Executive Vice President Hal Lawrence, quoted in a news article, May 13, 2015

Several readers requested The Fact Checker to examine claims related to the Pain Capable Unborn Child Protection Act, recently passed by the House. This bill is commonly referred to as the ''20-week abortion ban.''

The abortion debate is fraught with rhetoric that cannot be easily fact-checked. But a reader pointed us to the quote above and asked whether a new study on the viability of 22-week fetuses can be applied to 20-week fetuses, when using a different method to count gestational age. To add to the confusion, states vary in their definitions for gestational age. The quote above is one example of several instances in recent media coverage that related to definitions of gestational age.

This is a technical, but important, part of the bill. The little-known difference between two methods of counting gestational age is contributing to inconsistent media coverage, and could mislead the public, parents and providers about the bill's provisions.

So what exactly is going on?

THE FACTS

The Pain Capable Unborn Child Protection Act bans late-term abortions after the midpoint of a woman's pregnancy, and before the fetus typically is considered viable to live outside of the womb. The age of viability has

been pegged at 24 to 28 weeks. Proponents argue an abortion ban at younger than 24 weeks, saying fetuses can feel pain before then—a claim based in complex science and disputed by the Royal College of Obstetricians and Gynaecologists. (Supporters point to various studies related to fetal development, compiled here.)

A new study published in the New England Journal of Medicine on May 7 examined how hospitals differ in whether and how they treat extremely premature babies, starting at 22 weeks. Proponents of the bill say this study, funded by the National Institutes of Health, shows that the babies who would be saved through the 20-week abortion ban could now be considered viable. Some media reports also echoed the same conclusions.

Sound confusing? The distinction is this: The bill defines the age of the fetus as ''post-fertilization age,'' calculated from the moment of conception. This is different from the widely-accepted definition used by medical professionals and the Centers for Disease Control and Prevention, counting the fetus age from the first day of the pregnant woman's last menstrual period (''LMP'').

Fertilization typically happens about two weeks after the first day of LMP. The idea is that it is difficult to know exactly when you became pregnant, but you know when you started your last period. That is why the bill's supporters say the 20-week age measured from fertilization essentially is the LMP-measured age of 22 weeks.

The bill's definition is a more technical and accurate measure, said Michael Woeste, House Judiciary Committee spokesman. He noted an excerpt in The Developing Human: Clinically Oriented Embryology, arguing that the LMP method is error prone partly because ''it depends on the mother's memory of an event that occurred several weeks before she realized she was pregnant'' and that ''the day fertilization occurs is the most accurate reference point for estimating age.''

Lawrence's quote at the top of this fact check comes from a statement during a recent media call. (The American Congress of Obstetricians and Gynecologists, or ACOG, opposed the bill.) He was referring to the 20-week LMP age, not the 20-week post-fertilization age.

The rest of his statement during the call explains his point further and how it ties in with the legislation (and also wrote an op-ed about it in Time):

''Now, I'd like to talk a bit about why supporters of a 20-week abortion ban are, quite simply, wrong. There is no medical milestone associated with 20 weeks. Gestation is a gradual process, and it can vary depending on the circumstances, such as the woman's health.

''But still, even accounting for this, the 20-week mark is just not notable from a fetal development standpoint. More than 40 years ago, the Supreme Court stipulated that abortion is legal until a fetus is viable. Well, in no way, shape or form is a 20-week fetus viable. There is no evidence anywhere of a 20-week fetus surviving, even with intensive medical care.

''Unfortunately, some advocates of abortion bans are pointing to a new study, just published last week, that they claim heralds 22 weeks as being the new point of viability. They suggest that we might someday reach viability at 20 weeks. It is essential that we address that now, before this becomes another myth about abortion that is accepted as reality.''

We spoke with the main authors of the study, Matthew Rysavy and Dr. Edward Bell of University of Iowa. They collected data for nearly 5,000 infants born between 22 and 27 weeks of gestation (using LMP method) and did not have abnormalities at birth. These babies are extremely pre-term, as full term is considered at 39 to 40 weeks, according to ACOG guidelines.

Researchers found that 22 percent of the babies born at 22 weeks received active treatment, and hospitals varied in their whether and how they gave treatment to babies born between 22 and 27 weeks. There were 78 babies born at 22 weeks who received aggressive treatment. Among them, 18 of them survived (23 percent) to toddler age. Seven (9 percent) of them did not have severe or moderate impairment by the time they were toddlers.

That babies can survive at 22 weeks is not a new finding; it has been known for 15 years, Rysavy said. The point of the study was to highlight differences in practices and outcomes between hospitals, he said. Many factors, including gestational age, influence how well a baby does: ''Our paper wasn't exactly intended for identifying which infants would do well.''

The Fact Checker asked if, using the ''post-fertilization'' age definition in the bill, their findings can carry over to babies at 20 weeks old from the point of conception. Bell and Rysavy said that would be ''terribly confusing'' to the public, pregnant women and even to politicians. Bell said the LMP method is used around the world, and that the time of conception accurately cannot be ascertained.

''You cannot redefine gestational age based on conception. . . . The new terms are politician terms. They have no relevance at all to medicine or biology. They're just going to confuse everybody,'' Bell said. ''They have the right to do that for the purpose of making laws, but to me, it just looks like an attempt to obfuscate and create confusion. We already have a well-established definition of the length of pregnancy that has worked just fine, for generations, has been used forever.''

Rysavy also sent us this diagram, of the American Academy of Pediatrics' terminology for age during the perinatal period:

ACOG recommends using LMP and updating the due date with other measures, such as ultrasounds, since women may have irregular cycles and there is variability in how long a fertilized egg becomes implanted in the uterus (thus beginning pregnancy). Lawrence, in a statement, said: ''The fact that federal legislation is basing restrictions on reproductive care based on a non-medical calculation of pregnancy is evidence of what happens when lawmakers try to legislate women's health.''

THE BOTTOM LINE

New research confirmed that 22-week fetuses, measured from the first day of the pregnant woman's last menstrual cycle, can survive. Babies born before that age did not survive. So, Lawrence is correct that 20-week fetuses, measured from the first day of the pregnant woman's last menstrual cycle, are not viable. He is incorrect when using the definition in the Pain Capable Unborn Child Protection Act.

The Fact Checker takes no stance on which definition should be used. However, we want to set the record straight for the public and the media. This is a technical point over how gestational age is calculated. But it is important, as it has contributed to some misleading headlines, lack of context in news coverage and general confusion in the public debate. It also has contributed to the rhetoric on both sides; the difference between the two definitions has not been clear in much of the news reporting.

In many way, the debate is similar to how budget figures can vary dramatically depending on the baseline that is used. Reporters need to specify exactly what method of measuring the pregnancy is being used, as the difference is not trivial.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am opposed to late-term abortions and would support legislation to ban them except in unusual circumstances. A carefully drawn, short list of exceptions to apply in those rare cases should have been included in this bill. Regrettably, the bill before us provides no exception for when the physical health of the mother is at risk of serious harm, the most glaring deficiency in this legislation.

Let me give just three examples of devastating conditions that could threaten the physical health of a pregnant woman. An extremely serious condition triggered by pregnancy in some women is preeclampsia, which tends to develop after the 20th week of pregnancy. This condition can lead to serious, long-term health consequences for a woman, including liver and kidney problems, vision disturbances, seizures and strokes.

Another example would be a woman diagnosed with cancer who requires chemotherapy and radiation but cannot be treated while pregnant. A massive infection, such as severe sepsis, is yet another case of a grave illness that could cause grievous harm for a pregnant woman and to her physical health.

Almost every country in Europe that limits late-term abortions allows for exceptions for the physical health of the mother. Like these European countries, States such as Alabama, Arkansas, Indiana, Louisiana, Mississippi, and others that ban late-term abortions provide an exception for the health as well as the life of the woman. But the bill before us does not.

I have advocated that we add language that would provide an exception when the woman is at serious risk of grievous injury to her physical health. This is an appropriately high standard to meet, but one that would allow a woman to terminate her pregnancy when the alternative is serious harm to her physical health.

Under this bill, a doctor who performs such an abortion after 20 weeks to prevent grievous physical injury to the pregnant woman would be subject to criminal penalties of up to 5 years in prison.

Do we really want to make a criminal out of a physician who is trying to prevent a woman with preeclampsia from suffering damage to her kidneys or liver or having a stroke or seizures? Do we want the threat of prison for a doctor who knows that his pregnant patient needs chemotherapy or radiation treatments? If a woman has the terrible misfortune to have a serious infection of amniotic fluid that threatens her physical health and her ability to have children in the future, do we want her doctor to be unable to perform an abortion because he faces the prospect of years in prison if he terminates her pregnancy?

The way the rape and incest exceptions to this bill are drafted is also problematic. I do not question the good motives of the sponsors of this bill, as I share their goal of prohibiting late-term abortions. My point, however, is that all of these language problems could be solved, and then we might well be able to enact a law that would accomplish the goal of ending late-term abortions except in those unusual cases where an exception is warranted. Therefore, I shall cast my vote in opposition to this well-meaning but flawed bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. SCOTT. Mr. President, I am a proud pro-life Senator, and I stand on the floor of the Senate today with a gnawing feeling in the pit of my stomach. It is a feeling that comes with the knowledge that over the past 40 years more than 50 million Americans have not had the chance to have their feet touch the soil of our country. That is why I am thankful for the opportunity we have this week here in the Senate—an opportunity to celebrate life and to protect life, God's most amazing gift of all.

I am proud to have joined my colleague and senior Senator from my State, LINDSEY GRAHAM, in introducing this version of the pain-capable legislation in the Senate.

The studies are very, very clear that this legislation can save more than 18,000 lives each and every year. That is right, 18,000 lives each and every year. We aren't talking about anything other than the results of sound science. And because of that sound science, we know that at approximately 5 months babies can feel pain. We know that if a baby were to need prenatal surgery at that age, they would be given anesthesia. Why? Because that little life—that little life—feels pain.

Yesterday, Senator BLUNT gave name after name after name of babies born around 5 months who have gone on to live healthy and full lives. This is not about pro-choice or pro-life. It is simply about protecting ten fingers, ten toes, and one beating heart, and bringing the amazing gift of life.

In our world, out of nearly 200 nations, only seven allow abortions on demand after 20 weeks—only seven out of 200 nations. Who is among the seven nations? China, North Korea, Vietnam, and the United States. Really?

So while I may stand here today with a gnawing in my stomach, I also stand with hope—hope that we can take a massive step forward in protecting life—18,000 lives a year—by passing this important legislation.

America is truly a great nation. So let's improve our reputation and not lower our expectations because, as John Winthrop said nearly 400 years ago, ''We shall be as a city upon a hill, the eyes of all people are upon us.''

Mr. President, I ask unanimous consent that all time spent in a quorum call before the 11 a.m. vote be equally charged to each side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, we are about a week away from the deadline to keep the Federal Government open. Our National Highway System, which at one time was a matter of great pride, will soon run out of money. The nominations of 16 consensus judicial nominees that came out of committee with bipartisan support are languishing on the Senate floor. We're not allowed to have a vote on the Senate floor about them even though, in many cases, they are courts with judicial emergencies. There is still strong support in the Senate for passing meaningful immigration reform as we did 2 years ago by a 2-to-1 margin, Republicans and Democrats. Now, those are just a few of the pressing issues that the Senate should have been working on this month. Instead, the Senate Republican leadership has wasted 2 weeks on political show votes. And with a government shutdown looming, Senate Republicans plan to use this week to continue their relentless attack on women's health care.

Republicans brought us to this brink just 2 years ago, and, once again, they are trying to use Americans' access to health care as leverage in a fight over funding the Federal Government. This time, though, Republicans also seem intent on holding hostage the constitutional rights of women as part of this political exercise. Frankly, what I hear when I go home is the American people, including women across this country, have had enough.

It is incredible to me that, in 2015, we are debating Federal funding for one of the Nation's largest and most trusted providers of basic health care. For nearly 100 years, Planned Parenthood has provided women's health care and has enjoyed the leadership and support of great Americans like the civil rights leader, Rosa Parks, who was a member of the organization's board of advocates.

Over 90 percent of the services Planned Parenthood provides are preventative, including annual health exams, cervical and breast cancer screenings, and HIV screenings for millions of American women, men, and young people. It is these preventive services and only these preventive services that are paid for with Federal funds.

Republicans are focused on abortion services that are not paid for with Federal dollars and are otherwise only a very small part of what Planned Parenthood does. Republicans say it is because of recently released videos that purport to show wrongdoing on the part of Planned Parenthood. But these surreptitiously recorded videos were heavily edited in a misleading way and generated by an organization formed with an agenda to end safe and legal abortion in our country.

In reality, this partisan debate is nothing more than an opportunity for Senate Republicans to wage their personal opposition to a woman's decision to access safe and legal abortions in this country. They are entitled to their own beliefs. But missing from these arguments are the stories of women across this country whose health and lives are at stake when politicians play doctor and tell women they cannot make their own health care decisions. That is exactly the situation we face with the bill the Senate will vote on today, which puts women's health at risk by imposing a nationwide ban on abortions at 20 weeks or more and criminalizing the doctors who care for them.

The bill before us is as unconstitutional as it is extreme. Federal courts have repeatedly struck down similar State 20-week bans as unconstitutional. Just last year, the U.S. Supreme Court refused to review a Ninth Circuit Court of Appeals decision permanently blocking Arizona's 20-week-ban law. And this bill makes no exception where the health of the woman is at risk. The exceptions it does include are severely limited. It is only if a woman's health has deteriorated to the point at which she might die is she allowed to have an abortion under the bill's exception for a woman's life.

The bill's so-called rape exception is, in reality, an overwhelming bureaucracy requiring survivors to jump through hoop after hoop, such as filing police reports or going to mandatory counseling. We should not be forcing these survivors to relive their trauma again and again before they can access abortion services. How many incest victims do you think are going to be able to do that, going through all these bureaucratic hoops? Doctors providing safe abortion care who fail to comply with all of the bill's requirements would face up to 5 years of jail time.

Now, it has all these dangerous provisions, but you know what is even more shocking? This bill has had no committee process in the Senate. There have been no Senate hearings on this bill, not one single Republican chairman of any committee in the Senate has held a hearing. There has been no debate in the Judiciary Committee. We've not had a chance to hear from women and doctors about the care this bill would criminalize. I know last Congress, the current majority leader, who is a friend of mine, repeatedly urged the Senate to follow ''regular order'' on all legislation. On this bill, there was no regular order. It was brought straight to the floor. This is not a political point; it is about what process in this body represents. It gives Senators the opportunity to grapple with

the real impact of legislation like this. That is what was lost here.

In Vermont, I witnessed the devastating effect of restricting women's access to safe and legal abortion. I say this, Mr. President, because I am the only Member of the U.S. Senate who has ever prosecuted somebody in an abortion case. When I was a young prosecutor in Vermont, I was called to a hospital to see a young woman who nearly died from hemorrhaging caused by a botched abortion. She was unable to obtain a safe abortion in my state because it was illegal. I prosecuted the man who had arranged for her unsafe and illegal abortion that nearly killed her.

Don't talk about hypotheticals. I saw the tragic impact that the lack of safe legal abortion care had on women and families in my state, and so I talked to doctors about challenging Vermont's law. In that case, Beecham v. Leahy, the conservative Vermont Supreme Court called out the hypocrisy of a statute whose stated purpose was to protect women's health, rightly asking, ''Where is that concern for the health of the pregnant woman when she is denied the advice and assistance of her doctor?'' One year before Roe v. Wade, the Vermont Supreme Court, all members of it were Republicans, ruled that protecting women's health required access to safe and legal abortion services, ensuring that women in our state would no longer be subjected to back alley abortions. We should not forget that this history was once reality for so many women in our Nation. That is why I supported our Vermont Supreme Court's decision that we should not deny women's health by denying access to safe and legal abortion services.

As we consider the bill before us today, we should also remember what Beecham v. Leahy and, a year later, when Roe made clear which should be crystal clear for all of us here today in 2015, abortion is an extremely difficult and personal choice. And if we truly want to reduce abortions—as I do, and I suspect most of us do, maybe all of us do—we should be making sure that family planning services are universally available. We should support organizations like Planned Parenthood that can provide family planning services, especially in rural areas and elsewhere where they might not be available, because that, in itself, will lower the number of abortions.

I oppose the bill pending before us. I hope that Senators on both sides of the aisle will do the same. And this Senate, which I love, ought to turn away from show votes and start leading responsibly so that we can avoid yet another government shutdown with billions upon billions of dollars that would be wasted.

Now, some want a shutdown because they think it might help their campaigns or their press availability. None of them are going to tell the press when they have that shutdown how many billions of dollars of taxpayers' money they waste by doing it. So let us remember again, the Vermont Supreme Court, at that time a very conservative Supreme Court, in the case of Beecham v. Leahy, when they called out the hypocrisy of a statute whose stated purpose was to protect women's health, said, ''Where is that concern for the health of the pregnant woman when she's denied the advice and assistance of her doctor?''

Let's stop the show voting; let's stop playing for whatever group we want to raise money from for a campaign or for the Presidency by forcing a shutdown. And let's think about the taxpayers of this country which are going to try to force a shutdown, then let's put a dollar figure on it and say how much the grandstanding cost. It will cost into the billions and billions of dollars and makes this great nation look foolish around the world.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 230, H.R. 36, to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes.

Mitch McConnell, Joni Ernst, Mike Lee, Mike Rounds, Chuck Grassley, Tim Scott, Patrick J. Toomey, John Boozman, David Perdue, Johnny Isakson, James M. Inhofe, James E. Risch, Steve Daines, Roy Blunt, Roger F. Wicker, John Thune, James Lankford.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 36, an act to amend title 18, United States Code, to protect pain-capable unborn children, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Washington (Mrs. MURRAY), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

The yeas and nays resulted—yeas 54, nays 42, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—54

Alexander	Enzi	Moran
Ayotte	Ernst	Paul
Barrasso	Fischer	Perdue
Blunt	Flake	Portman
Boozman	Gardner	Risch
Burr	Graham	Roberts
Capito	Grassley	Rounds
Casey	Hatch	Rubio
Cassidy	Heller	Sasse
Coats	Hoeven	Scott
Cochran	Inhofe	Sessions
Corker	Isakson	Shelby
Cornyn	Johnson	Sullivan
Cotton	Lankford	Thune
Crapo	Lee	Tillis
Cruz	Manchin	Toomey
Daines	McCain	Vitter
Donnelly	McConnell	Wicker

NAYS—42

Baldwin	Heinrich	Nelson
Bennet	Heitkamp	Peters
Blumenthal	Hirono	Reed
Booker	Kaine	Reid
Brown	King	Sanders
Cantwell	Kirk	Schatz
Cardin	Klobuchar	Schumer
Carper	Leahy	Shaheen
Collins	Markey	Stabenow
Coons	McCaskill	Tester
Durbin	Menendez	Udall
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murphy	Wyden

NOT VOTING—4

Boxer	Murray
Murkowski	Warner

The PRESIDING OFFICER (Mr. FLAKE). On this vote, the yeas are 54, the nays are 42.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

VOTE EXPLANATION

● Mr. WARNER. Mr. President, today the Senate voted on the Pain-Capable Unborn Child Protection Act, H.R. 36. While I was unable to vote today, I would have opposed this bill, which would have amended the Criminal Code to prohibit any person from performing an abortion after 20 weeks. As the father of three daughters, I believe that a woman's health, not politicians in Washington, should drive important medical decisions. It is critical that we as a nation continue to have a meaningful and respectful dialogue about an issue we all care about deeply, and I do not believe that this bill would have advanced that dialogue.●

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I move to proceed to the motion to reconsider the vote on the motion to invoke cloture on the motion to proceed to H.R. 2685.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MCCONNELL. I move to reconsider the vote on the motion to invoke cloture on the motion to proceed to H.R. 2685.

The PRESIDING OFFICER. The question is on agreeing to the motion.