that reform is not coming, or that anyone does not want reform. What it does mean is we need to take the time to get the health care reforms the American people want. That is what they expect, and we should do no less.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1390, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1390) to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Thune amendment No. 1618, to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

Brownback amendment No. 1597, to express the sense of the Senate that the Secretary of State should redesignate North Korea as a state sponsor of terrorism.

AMENDMENT NO. 1618

The ACTING PRESIDENT pro tempore. The time until noon will be equally divided and controlled between the Senator from South Dakota, Mr. THUNE, and the Senator from Illinois, Mr. DURBIN, or their designees on amendment No. 1618, offered by the Senator from South Dakota.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, amendment No. 1618 is a very simple amendment. It is tailored to allow individuals to protect themselves while at the same time protecting States rights.

My amendment would allow an individual to carry a concealed firearm across State lines if they either have a valid permit or if, under their State of residence, they are legally entitled to do so.

My amendment does not create a national concealed carry permit system or standard. My amendment does not allow individuals to conceal and carry within States that do not allow their own citizens to do so. My amendment does not allow citizens to circumvent their home State's concealed carry permit laws.

If an individual is currently prohibited from possessing a firearm under Federal law, my amendment would continue to prohibit them from doing so. When an individual with a valid conceal and carry permit from their home State travels to another State that also allows their citizens to conceal and carry, the visitor must comply with the restrictions of the State they are in.

This carefully tailored amendment will ensure that a State's border is not a limit to an individual's fundamental right and will allow law-abiding individuals to travel, without complication, throughout the 48 States that currently permit some form of conceal and carry.

Law-abiding individuals have the right to self-defense, especially because the Supreme Court has consistently found that police have no constitutional obligation to protect individuals from other individuals.

The Seventh Circuit explained this most simply in their 1982 Bowers v. DeVito decision where they said:

[T]here is no Constitutional right to be protected by the state against being murdered by criminals or madmen.

Responsible gun ownership by law-abiding individuals, however, provides a constitutional means by which individuals may do so, and responsible conceal and carry holders have repeatedly proven they are effective in protecting themselves and those around them.

Reliable, empirical research shows that States with concealed carry laws enjoy significantly lower crime and violent crime rates than those States that do not.

For example, for every year a State has a concealed carry law, the murder rate declines by 3 percent, rape by 2 percent, and robberies by over 2 percent.

Additionally, research shows that ''minorities and women tend to be the ones with the most to gain from being allowed to protect themselves.''

The benefits of conceal and carry extend to more than just the individuals who actually carry the firearms. Since criminals are unable to tell who is and who is not carrying a firearm just by looking at a potential victim, they are less likely to commit a crime when they fear they may come in direct contact with an individual who is armed.

This deterrent is so strong that a Department of Justice study found that 40 percent of felons had not committed crimes because they feared the prospective victims were armed. Additionally, research shows that when unrestricted conceal and carry laws are passed, not only does it benefit those who are armed, but it also benefits others around them such as children. In addition to the empirical evidence, there are anecdotal stories as well.

A truckdriver from Onida, SD—a long-haul trucker—10 years ago, on a trip to Atlanta, stopped at a truck stop in Georgia. He shared this story recently. It is a more dated story. But a strange man suddenly jumped on the hood of his truck, showed a gun, and started demanding all the cash this truckdriver had. Working on instinct, he pulled out the firearm he always kept in his cab and showed the gun to the perpetrator, who jumped off the hood and ran away as soon as he saw it.

That story, while one that may not make it into the crime statistics or the newspapers, is the type of story that demonstrates how my amendment will help individuals—law-abiding individuals, who travel from State to State either for work or for pleasure.

So it is very straightforward. The amendment, as I said, simply allows those who have concealed carry permits in their State of residence to be able to carry firearms across State lines, respectful of the laws that pertain in each of the individual States.

So it is not, as some have suggested, a preemption of State laws. There are a couple States where their individuals are precluded from having concealed carry, and in those States this amendment would not apply. Obviously, we are, as I said before, very respectful of States rights and State laws that have been enacted with regard to this particular issue.

But I might say, too, in my State of South Dakota, we have a national reciprocity understanding, national reciprocity concealed carry understanding, with all the other States in the country. So of the other 47 States where concealed carry is allowed, any of the residents of those States who have concealed carry permits can carry in the State of South Dakota. There are 10 other States that also fit into that category.

I believe if we check the records and look at the data, it is pretty clear the States that have enacted national concealed carry reciprocity agreements have not seen, as has been suggested by opponents of this amendment, any increase in crime rates.

I believe this is something that is consistent with the constitutional right that citizens in this country have to keep and bear firearms. We have, as I said, 48 States currently today that have some form of concealed carry law that allows their individuals in their States, residents of their States, to carry. This simply extends that constitutional right across State lines, recognizing that the right to defend oneself and the right to exercise that basic second amendment constitutional right does not end at State borders or State lines.

So, Mr. President, I hope my colleagues in the Senate will adopt this amendment. I think it is a commonsense approach to allowing more people across this country to have the opportunity to protect themselves when they are threatened. As I said before, the statistics bear out the fact that when that is the case, when people have that opportunity—States that have enacted concealed carry laws have seen actually crime rates, particularly violent crime rates, go down.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise in opposition to the Thune amendment. The Senator from South Dakota tells us this is a very simple amendment. He tells us his amendment is consistent with self-defense and the reduction of crime.

What the Senator from South Dakota cannot explain is why 400 mayors, the International Association of Chiefs of Police, the Major Cities Police Chiefs Association, and the bipartisan association known as State Legislators Against Illegal Guns oppose this so-called very simple amendment.

Here is why they oppose it. The Thune amendment provides that if a State gives a person a permit to carry concealed weapons, then that person is free to carry concealed weapons in 47 other States and the District of Columbia. Those other States would be required to let this visitor carry a concealed loaded weapon in their State, even if their laws in that State would not currently allow that person to carry a gun.

Let's be clear about the effect of this amendment. There are 36 States with laws governing who can carry concealed weapons, including which out-of-State permits that State will accept, if any. The States already have laws. Under the Thune amendment, those laws can be ignored. So if the Thune amendment becomes law, people who are currently prohibited from carrying concealed guns in those 36 States are free to do so.

It is absurd that we are considering this amendment today. We know nothing about the impact this amendment is actually going to have across America. How many Senators from the 36 States that already have laws governing concealed carry have had a chance to talk to their State law enforcement officials about this amendment and what it means?

Apparently, those who support this amendment want to move it very quickly. We scheduled a hearing—it is supposed to take place tomorrow—on this amendment before the Senate Judiciary Subcommittee on Crime. But the Senator from South Dakota did not want to wait for a hearing before the committee. He has asked the Senate to take up this measure today before the hearing date.

Here are some of the reasons this amendment is so troubling. As my colleagues know, we have a federalist system—a government in Washington, a national government, and in each State and the District of Columbia State government and local control. States have adopted different standards in their State with regard to who the State will permit to carry concealed weapons. Each State has considered this issue and decided what is safe for their residents. Elected representatives, elected by the people, have made that decision State by State.

Some States have very rigorous standards. If you want to carry a concealed weapon, for example, a number of States will not allow you to if you are an abuser of alcohol, if you have been convicted of certain misdemeanor crimes or if you have not completed a training course to show you know how to use a gun. The States have established that standard. If you want to go ''packin' '' in these States, you better not be a habitual drunkard; you better not be in a position where you have committed these misdemeanor crimes, and you have to prove by test and sometimes on the range that you can safely use this gun that you want to carry.

In Iowa, you cannot have a permit to carry a weapon if you are addicted to alcohol or if you have a history of repeated acts of violence.

In Pennsylvania, individuals convicted of certain misdemeanor crimes, such as impersonating a police officer, cannot have a concealed carry permit.

In South Carolina, any person who is a member of a subversive organization or a habitual drunkard cannot carry a handgun.

In California, you cannot carry a firearm for 10 years after being convicted of misdemeanors, including assault, battery, stalking, threatening a judge, victim, or witness.

Other States, in contrast, have minimal or no concealed carry standards beyond the baseline of the Federal law which applies to all States.

For example, a number of States, including Georgia, do not require any firearms training for a concealed carry permit. In 2008, a spokesman for the Georgia Bureau of Investigation told a newspaper: ''A blind person can get a permit in Georgia since all you have to do is pass a background check.''

Two States—Alaska and Vermont—do not even require a permit to carry a concealed weapon. Those States let anyone carry a concealed weapon. Under the Thune amendment, people from those States—with virtually no standards for concealed carry or no requirement to prove they know how to use a gun—those people could visit States where they have established standards for the safety of their residents and under the Thune amendment legally carry a gun.

In other words, the visitors can ignore the law of the State—a law the elected representatives of the people in that State have enacted. Some States do little oversight on the concealed carry permits they have issued. In the year 2007, the South Florida Sun Sentinel newspaper found that 1,400 people in Florida had active concealed carry licenses even though they had received sentences—criminal sentences—for major crimes, including assault, sexual battery, child abuse, and manslaughter.

So even in the States where they have established standards for concealed carry, many of them are not keeping an eye on them. There is no oversight. As a consequence, people may be legally carrying in one State which has lax standards in obtaining the permit and no review—virtually no review when it comes to the people who end up with the permits—and that person can travel to another State which has established standards for the safety of their own citizens and under the Thune amendment legally carry a gun.

If the Thune amendment is enacted, States with carefully crafted concealed carry laws must allow concealed carry by out-of-State visitors who may not meet their own State's standards, who may even have sexual battery, child abuse, or manslaughter convictions.

Is that going to make us safer? Do we want in my State—well, Illinois would be an exception because we do not have a concealed carry law. We are one of two States that do not. But for the other 48 States, do we want people traveling across the border who do not meet the basic requirements of knowing how to use a firearm, who do not meet the basic requirements in terms of their own criminal background? Is it so important that everybody carry a gun everywhere or do we want to respect States rights—States rights to determine what is safe in their own State? Why would we want to override some States' standards to allow questionable concealed carry permit holders from States with lower standards or virtually no standards?

It is not necessary for us to adopt this amendment to give individual States the ability to recognize each other's concealed carry permits. The Senator from South Dakota has said his State welcomes all people who have concealed carry permits. But that was their decision. They made that decision in their State. States are free to form concealed carry reciprocity agreements with other States. Twelve States have already decided to honor conceal and carry permits issued by every other State, obviously including South Dakota. However, 25 other States look carefully at each of the other States and make this decision selectively. They have decided that some States have acceptable standards and some do not. Eleven States and the District of Columbia have chosen not to grant concealed carry reciprocity to any other State. They want their own laws to govern the protection of their own people.

The Thune amendment is a direct assault on those States that have chosen not to allow reciprocity. They are California, Connecticut, Hawaii, Iowa, Maryland, Massachusetts, Nebraska, New Jersey, New York, Oregon, and Rhode Island. Over all, the Thune amendment would override the selective reciprocity or no reciprocity laws of each of the 36 States I have mentioned.

There are good reasons a State might want to be careful with who they allow to carry concealed weapons within their borders. Let me give some examples of what has happened with concealed carry. Washington State resident Clinton Granger obtained a concealed carry permit despite his history

of drug addiction and schizophrenia. In May of 2008, Granger was in a fight at a public festival, fired a shot that hit one person in the face, the second person in the wrist, and then lodged in a third person's leg.

Cincinnati resident Geraldine Beasley obtained an Ohio concealed carry permit, even though she had been previously fined for unlawful transportation of a firearm. In August 2007 she shot and killed a panhandler who asked her for 25 cents at a gas station.

In Moscow, ID, resident and Aryan Nation member Jason Kenneth Hamilton was given a concealed carry permit even though he had a domestic violence conviction. In May 2007, Hamilton went on a shooting spree, killing his wife, a police officer, and a church sexton, and wounding three others.

According to the Violence Policy Center, from May 2007 to April 2009, at least seven law enforcement officers were shot and killed by concealed carry permit holders—these are law enforcement officers—and concealed carry holders were charged in the shooting deaths of at least 43 private citizens during that time.

In light of incidents such as these, it is perfectly reasonable for States to decide what the standards will be for concealed carry. The Thune amendment would override this authority of the States and basically say that visitors from States with a concealed carry law don't have to meet the State's standards where they are visiting.

The Thune amendment is troubling because it leaves law enforcement agencies in the dark about the concealed carry population in their own area. In many States, law enforcement plays a key gatekeeper role, an oversight role on the concealed carry population. Under the Thune amendment, that is impossible. The first person who drives in out of State under the Thune amendment may carry a gun and the law enforcement officials wouldn't even have knowledge of it.

When you look at the Thune amendment, along with the amendment offered earlier this year by Senator ENSIGN that repeals the DC government's local gun laws, we see a disturbing trend. We see Members from that side of the aisle leading an organized effort to strip State and local governments of their ability to keep their own communities safe. There is no justification for this. The Supreme Court's decision in Heller made it clear that although the second amendment right is to be respected in terms of the rights of individuals, there was still authority to deal with this issue of concealed carry. Justice Scalia in the Heller opinion specifically discussed the lawfulness of prohibitions on carrying concealed weapons.

Congress should not require one State's laws to trump another's. New York should not have to let visitors on its city streets be governed by the laws of Alaska when it comes to carrying guns, and it should be up to the State to decide who it will permit to carry concealed weapons within their borders.

This is not a good amendment. America won't be safer if the Thune amendment passes. It has not gone through a hearing in the Senate. The Senator decided to call it up the day before that hearing was set. It guts State laws in 36 States. It will leave law enforcement with no knowledge of who is carrying concealed weapons in their State. It puts guns in the hands of dangerous people who could easily misuse them.

This amendment is opposed by law enforcement organizations, mayors, and State elected officials. I have received letters in opposition to what Senator THUNE calls a very simple amendment from the International Association of Chiefs of Police, the Major Cities Police Chief Association, the U.S. Conference of Mayors, a coalition of 400 mayors called Mayors Against Illegal Guns, Chicago Mayor Richard Daley, a group of State attorneys general, including my own Lisa Madigan, the bipartisan Association of State Legislators Against Illegal Guns, and many others.

The amendment has been criticized in many newspapers, including USA Today, the Miami Herald, the Philadelphia Enquirer, the New York Times, the Washington Post, and Baltimore Sun.

This amendment should be defeated. I urge my colleagues to reject it.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, let me, if I might, point out some of the statistics, and I will also add in response to the comments of my colleague from Illinois that the amendment was not applied to the District of Columbia.

With respect to the issue of federalism, I think it is important to note that back in 2003, there were 70 cosponsors in the Senate for a piece of legislation that allowed retired law enforcement and current law enforcement officers to carry across State lines—obviously an infringement on this notion of federalism that the Senator from Illinois has raised.

I also would point out that we do know the impact. The Senator from Illinois said we don't know what the impact of this is going to be. Any suggestion about what impacts could occur are very hypothetical. What we do know is that there are a number of States that have already enacted national concealed carry reciprocity agreements. In those States, we also know what the impacts have been. The impacts have been that clearly there has been less crime rather than more.

Studies have shown that there is more defensive gun use by victims than there are crimes committed with firearms in this country. In fact, researchers have estimated that there are as many as 2.5 million defensive uses of firearms in the United States each year, though a lot of those go unreported because no shots are ever fired. There are lots of examples, and I have a list of them here I could go through anecdotally too. These are those that have been recorded by the press where actually the defensive use by a firearm, someone with a concealed carry permit, has actually helped prevent crimes. There are countless examples of those that have been documented and reported by the press, not to mention, as I said, the estimated 2.5 million defensive uses of firearms in the United States each year.

There are estimated to be about 5 million concealed carry permit holders in the United States today. Assuming that every instance reported by gun control groups of improper firearm use by individuals with a concealed carry permit is true—something that can be debated, but assuming that it is true—over an entire year, for over 142,857 permit holders, there would be one—one—improper use of a firearm.

Put another way, concealed carry permit holders would be 15 times less—15 times less—likely than the rest of the public to commit murder.

There are some States—and some large States, frankly—that have issued concealed carry permits, and probably one of the largest States is the State of Florida. They have had a concealed carry permit law in effect in the State of Florida going back to 1987. Yet if you look at the 1.57 million concealed carry permits that people have in the State of Florida, there have only been 167 of those revoked. That is less than one-tenth of 1 percent.

As of 2008, Utah, which allows both residents and nonresidents to acquire concealed carry permits, had 134,398 active concealed handgun permits. Over the past year they have had 12 revocations or .009 percent because of some type of violent crime, but none of those crimes, incidentally, involved the use of a gun. During the 1990s and through the decade of 2000 so far, independent researchers have found 11 cases where a permit holder committed murder with a gun.

I would simply point out to my colleagues that the points that are being made by the Senator from Illinois are largely speculative. If you go back to 1991, the number of privately owned guns has risen by about 90 million to an all-time high. Over that same timeframe, the Nation's murder rate has decreased 46 percent to a 43-year low, and the total violent crime rate has decreased 41 percent to a 35-year low. This at a time—as I said, since 1991, the number of privately owned guns has increased by about 90 million to an all-time high. Also, as I said before, the number of permits that are issued across the country is about 5 million nationally. My State of South Dakota has about 47,000, but it is a small percentage of the overall number of Americans who actually could access or could get a concealed carry permit who do it. Most of them have a reason for doing it. Most of them are going to be

people such as truckdrivers who are going across State lines such as the example I mentioned. There are lots of people who travel.

For example, as another case in point, I have two daughters who are in college. My oldest one will graduate next year. Currently she is in the safe confines of a college campus, but she attends college several States away from our State of South Dakota. When she is out of college next year, I fully expect—and we have discussed this—that she may get a concealed carry permit in the State in which she resides, to have a firearm in order to protect herself, because I think a lot of single women in this country do, particularly those who live in large cities and she would be living in a large city. When she comes home to South Dakota she, of course, traverses several States and during the course of that, she crosses two States where it would be illegal to have a firearm in her possession in her car to protect her as she travels those vast distances across several States.

There are lots of examples I think of people—law-abiding citizens—who, for purposes of self-defense, simply want the opportunity to, in a legal way, transport that firearm and they have concealed carry permits. They have gone through their State's background check—and by the way, all but three States that issue concealed carry permits require background checks, so it is the same thing you would go through in order to buy a firearm.

So the suggestion that all of these people are going to be able to get firearms: The Federal law prevents some of the very examples the Senator from Illinois mentioned from having access to firearms in the first place. Of course, the background checks, with the exception of those three States—as a practical matter those three States, which are New Hampshire, Rhode Island, and Delaware, also go through the background checks. They don't have it as a requirement to get a conceal and carry permit. But background checks are going to be conducted. You are going to find out if there is criminal behavior in the background, mental illness, all of those things which under Federal law would prevent that person from possessing a firearm in the first place.

I reserve the balance of my time. The Senator from Louisiana is here and I assume the Presiding Officer will recognize the other side.

Mr. DURBIN. Mr. President, I yield 6 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mrs. GILLIBRAND. Mr. President, some would suggest that a permit to conceal a gun in one State should provide authority for a legal and valid concealment in another State. I strongly believe that what gun laws are right for New York are not necessarily right for South Dakota and vice versa. States should be able to make decisions and pass reasonable constitutional safety standards based on their public safety requirements, traditions, population, crime rates, and geography.

It is wrong for the Federal Government to overrule a State's ability to enact reasonable, constitutional gun laws designed to prevent alcoholics, criminals, domestic abusers, those with documented grave mental illness, and other potentially violent and dangerous people from carrying guns in our cities.

In fact, Senator THUNE's amendment creates a double standard in recognition of States rights with regard to conceal and carry laws. By allowing exemptions, this amendment validates the laws of States that ban concealed weapons but then strikes down the laws of a State such as New York that maintains basic safety standards for concealed carry permits. At a minimum, New York should be allowed to opt out and have an exemption.

This legislation would eviscerate concealed carry permitting standards, moving to a new national lowest common denominator. This bill would even allow individuals ineligible to obtain a permit in their own State the means to shop around for a lower standard in other States that offer permits to out-of-State residents, undercutting laws that would otherwise render the applicant ineligible.

A study by the Brady Center to Prevent Gun Violence using FBI crime statistics demonstrates that relaxing conceal and carry laws may have an adverse effect on a State's crime rate. Between 1992 and 1998, the violent crime rate in States which kept strict conceal and carry laws fell by an average of 30 percent, whereas violent crime rates dropped by only 15 percent in States with weak conceal and carry laws.

A second concern is a lack of acceptable safety standards in all States. According to the Washington Post, in at least two-thirds of all States some form of safety training is required in order to receive a permit. Abusers of alcohol are prohibited from getting a permit. Those convicted of certain misdemeanors are prohibited.

In many States, statutory requirements are minimal and do not go much beyond the Federal Brady law requirements for purchasing firearms, meaning that some people get conceal and carry permits despite criminal convictions for violent or drug-related misdemeanors, assault, or even stalking.

It is not completely evident what a national overrule of State concealed carry laws might do to local crime numbers, but trends in national crime suggest that State and local governments understand what works in protecting their citizens.

I spoke with our NYPD Commissioner Ray Kelly, who said:

> The Thune amendment would invite chaos in our cities and put the lives of both police officers and members of the public at risk by enabling anyone with an out-of-State permit, including gun traffickers, to carry multiple handguns wherever they go. New York City's strict requirements as to who can carry a concealed weapon have contributed to the city's unparalleled public safety. Our effort, indeed our entire mission, would be severely undercut by this bill. In a city where 90 percent of all guns used in crimes come from out of State, it is easy to see how S. 845 would pose a danger to New Yorkers by greatly increasing the availability of illegal handguns for purchase.

In 2008, New York had the lowest crime rate of the 25 largest cities in the country, and of the 261 cities with more than 100,000 residents, New York's crime rate ranked 246th.

Mayor Michael Bloomberg attributed this success to ''using innovative policing strategies and a focus on keeping guns out of the hands of criminals.''

This week, the Washington Post cited similar success at reducing crime in big cities across the country, stating that New York, Washington, DC, and Los Angeles are on track for fewer killings this year than in the last four decades. This is part of a larger trend in many big cities across the country.

Local and State elected officials and law enforcement officers across the country, such as the International Association of Chiefs of Police and Major Cities Chiefs Association, are speaking out in opposition to this amendment.

Mayors Against Illegal Guns, a bipartisan coalition of more than 450 mayors—including of New York City, Albany, Binghamton, Buffalo, Rochester, and Syracuse—representing more than 56 million Americans, has stated a strong opposition to this amendment.

I stand here today with law enforcement and these cities and States across this country. They know what is best in keeping their communities safe. Commonsense gun laws focused on training, and keeping guns out of the hands of criminals and other dangerous people, are reducing crime, and we should be supporting their efforts, not gutting such basic safety standards.

I strongly believe in our Constitution and the second amendment and Americans' right to defend themselves, but I also strongly support the States' and cities' right to provide basic constitutional and reasonable regulation of firearms.

I urge my colleagues in the Senate to stand up for our local communities and the commonsense gun safety laws.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. THUNE. Mr. President, I yield to the Senator from Louisiana such time as he may consume.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I rise in strong support of amendment No. 1618.

I am a proud cosponsor of this amendment, along with dozens of other Senators on a bipartisan basis. I urge all of my colleagues to support this amendment.

The second amendment is a valued constitutional right. Thank God, the

courts, particularly in recent years, have expressly recognized that. Of course, the Supreme Court, in the landmark Heller decision, ruled that ''the individual right to possess and carry weapons in case of confrontation'' is a protected fundamental constitutional right. Even the very liberal Ninth Circuit Court, based in California, ruled that the second amendment right to keep and bear arms is ''deeply rooted in this Nation's history and tradition'' and has long been regarded as the ''true palladium of liberty.'' That court also wrote that ''nothing less than the security of the nation—a defense against both external and internal threats—rests on the provision [second amendment].''

That is why this amendment is a fundamental right. What does that mean in everyday terms? It means the ability of citizens, particularly those more vulnerable in our society, such as women, to protect themselves, people such as Sue Fontenot in Louisiana, who told me:

> When my family and I go out at night, it makes me feel safer just knowing I am able to have my concealed weapon.

It is personal safety and security. It is a fundamental ability to protect one's self, one's family, and one's property. So if that is a fundamental right, and if we have reasonable laws and reasonable permitting processes, why shouldn't Sue Fontenot have that freedom, right, and security when she visits other States, which also allow concealed carry?

This isn't just anecdotal quotes, this is also backed up by criminological studies. Studying crime trends around the country in the United States, John Lott and David Mustard concluded:

> Allowing citizens to carry concealed weapons deters violent crimes. . . . When State concealed hand gun laws went into effect in a county, murders fell by 8.5 percent and rapes and aggravated assaults fell by 5 and 7 percent.

In the 1990s, Gary Kleck and Marc Gertz found guns were used for self-protection about 2.5 million times annually. That number, of course, dwarfs these tiny numbers and anecdotal evidence of limited, very tiny numbers of improper use of guns by folks with concealed carry permits.

Responding to the Kleck and Gertz study, the late Marvin Wolfgang, self-described ''as strong a gun control advocate as can be found among criminologists in this country,'' said he agreed with the methodology of the study.

Our amendment will simply allow law-abiding Americans to exercise their fundamental right to self-defense, by using the full faith and credit clause of our U.S. Constitution.

As we do this, as we protect that fundamental individual right, we also protect States rights. I think it is very important to address some of the arguments with regard to States rights that have been made by the other side.

We do not mandate the right to concealed carry in any State that does not allow the practice. Some States, such as Illinois and Wisconsin, fall into that category. We do not mandate a concealed carry right in those States. In addition, our amendment does not establish national standards for concealed carry. It does not provide a national concealed carry permit. It simply allows citizens who are able to carry in their home States to also carry in other States, but only if those other States have concealed carry permits.

We also respect the law of those other States, in terms of where guns can be carried and where they cannot be carried. So we explicitly respect that State law by requiring that State laws concerning specific times and locations in which firearms may not be carried must be followed by the visiting individual, and that is very important.

Finally, we absolutely protect and enshrine current Federal law, in terms of background checks and people with criminal problems or mental problem, who cannot carry guns. If an individual is prohibited by current Federal law from carrying a firearm, we absolutely protect and enshrine that. Let me say that again. If under current Federal law an individual is prohibited from carrying a gun, that is fully protected.

At the end of the day, this is, again, a fundamental debate about what is the problem in terms of violent crime? Is the problem law-abiding citizens who follow the law, who take all of the time and all of the trouble needed to get concealed carry permits, go through background checks, fill out forms, and do everything that is required by their home States? Is that class of people the fundamental cause of violent crime or is the dominant, 99.9 percent fundamental problem in the violent crime arena people who don't follow the law, who ignore the law, who ignore a concealed carry law, ignore those requirements, as well as every other law on the books—unfortunately, including laws against murder and armed robbery and other violent crime?

Clearly, in the minds of commonsense Americans, it is the latter category of folks that is the problem, not the former. The statistics and the evidence and the history bear that out. So concealed carry is a useful and essential tool for law-abiding citizens to be able to protect themselves and stop and deter violent crime. It is not any significant source of violent crime whatsoever. We have the numbers that bear that out. We have some States that allow reciprocity now. Ten States now allow reciprocity under their State law.

Have they seen incidents of problems with concealed carry permits from other States? No. Have they seen spikes in violent crime because of this reciprocity? No. Again, because this is a fundamental right, and because it goes to people's security, because criminological and other studies are on our side and don't show any spike in violent crime by this but in fact show crimes prevented and deterred by concealed carry, I urge all of my colleagues to support this important reciprocity amendment.

Groups around the country who respect the second amendment and find that a fundamental and important right are certainly supporting this amendment. The National Rifle Association, NRA, is a strong supporter of this amendment. I thank them for that and for their leadership. They are also specifically scoring this amendment in terms of Member votes. Gun Owners of America, another leading gun rights second amendment group, is a strong supporter of this amendment and is specifically pushing for passage and scoring Members' votes. The Owner-Operator Independent Drivers Association, the Passenger-Cargo Security Group, and many other groups around the country are strong supporters of this amendment, because the second amendment is a fundamental right because concealed carry does work, because it prevents crimes and deters crime and doesn't significantly add, in any meaningful way, to the crime problem.

Again, like with a lot of gun control debates, this comes down to a pretty fundamental question: Do you think the big problem with regard to violent crime is the law-abiding citizen, the one who takes the time and goes to the trouble of filling out the forms and following all the rules for concealed carry? I don't. Or do you think the fundamental problem—99.99 percent of the problem—is the criminal who doesn't respect that law, because he doesn't even respect laws against murder, armed robbery, and other violent crimes? That is the problem. Commonsense Americans know that.

This amendment will protect law-abiding citizens and provide another effective and important tool against those criminals who are the problem.

I yield the floor.

Mr. DURBIN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Illinois has 47 minutes 34 seconds.

Mr. DURBIN. I yield 10 minutes to Senator SCHUMER from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank all my colleagues who are working with us on this amendment. The Senator from California, who will speak after me, has been such a leader on these issues. She and I were commenting that this is probably the most dangerous piece of legislation to the safety of Americans when it comes to guns since the repeal of the assault weapons ban, which she led the charge on to pass. I thank my colleague from New Jersey, Senator LAUTENBERG, who has been a leader on gun issues and has done such a great job; also, Senator MENENDEZ, Senator GILLIBRAND, Senator DURBIN, and so many others who

are working with us today on this issue.

Today we are here to urge all our colleagues to oppose this legislation. The legislation would do nothing less than take State and local gun laws and tear them up. It would take the carefully crafted gun laws in New York and tear them up. It would do the same in 47 other States.

The great irony of this amendment is that the pro-gun lobby has always said: Let the States decide. Now they are doing a 180-degree turn and saying: Let the Federal Government decide and impose the lowest common denominator, when it comes to carrying concealed weapons, on all the States, except Illinois and Wisconsin which do not have any carry laws.

We know the gun lobby is strong. We know there are many Members on both sides of the aisle who believe strongly in an individual's right to carry arms. But this legislation goes way beyond the previous pro-gun laws we have voted on this session. It is a bridge too far. It threatens the safety of millions of Americans, particularly in urban and suburban areas. It directly threatens the safety of millions of New Yorkers. Let me illustrate.

Our neighboring State of Vermont—it is a beautiful State; I have great respect for it and its two Senators—is a rural State. It has a strong libertarian belief, and it has a very lenient concealed carry law. The Vermont law says that if you are 16 years of age, you can apply for a gun license and you automatically get a concealed carry permit and you get the gun. That is all you have to do.

Can you imagine if this law passed what would happen? Known gun runners would go to Vermont, get a gun license, get a concealed carry permit, and they could get 20, 30, 50 guns concealed in a backpack, in a suitcase, and bring them and sell them on the streets of the south Bronx or central Brooklyn, bring them to Central Park or Queens, and our local police would have their hands tied.

One of the points I would like to make to my colleagues about this amendment is it endangers not only the citizenry but our police officers. Today, at about this time, the mayor of the city of New York and our police commissioner will be speaking out against this proposal. Our police commissioner is particularly upset because his job is the safety of police officers. When a police officer stops someone in a car, they now have the safety and sanctity of mind to know that if that person has a gun in their car, it has been approved by the New York City Police Department. There are people who need to carry guns for self-defense or other purposes. After this law passes, they have no such peace of mind, no such safety. Imagine you are a police officer and you stop someone. They could be from 47 different States with 47 different requirements, and you are responsible to figure out if that person has a gun in his car and has the right to carry a gun in his car. It is impossible to do in our larger urban areas.

For that reason, each State has carefully crafted its concealed carry laws in a way that makes the most sense to protect its citizens. Clearly, large urban areas, such as New York, merit different standards than rural areas, such as Wyoming. To gut the ability of local police and sheriffs to determine who should be able to carry a concealed weapon makes no sense. It could reverse the dramatic success we have had in reducing crime in most parts of America.

That is one point I wish to stress. One of the things I am proudest of, what our government has done over the last 20 years—Federal, State, local—is greatly reduce crime. My city of New York gained 1 million people, I think, in large part because people were no longer afraid to come and live in New York. If you ask the experts—not me, not Senator THUNE, not any of us who have political beliefs that might differ—ask the police experts: What is one of the top reasons we have been able to reduce crime in our cities, it is that we have had reasonable laws on guns, and we have allowed our larger urban, more crime-ridden areas to have stricter laws than our rural areas.

I understand in my State of New York that guns are a way of life in large parts of the State, and I respect that. The Heller decision is a decision I welcomed. I talked about the right to bear arms in the Constitution. I believed in it even before Heller. But you know—and this is what I would like to say to my friends on the other side of the aisle and in the NRA—no amendment is absolute. You are right when you say: Why should the first, third, fourth, fifth, and sixth amendments be expanded as far as we can and the second amendment be seen through a pinhole of militias? You are right. But similarly, no amendment is absolute.

Most of my colleagues on both sides of the aisle support laws preventing the spread of pornography. That is an infringement of the first amendment but a reasonable one because there is a balancing test. Most of my friends on both sides of the aisle would support libel laws. If somebody says something very defamatory about a citizen, they should have the right to sue, of course. That is a limitation on the first amendment. We don't rail against it.

The concealed carry laws of the States are reasonable limits on the second amendment. If you are to believe the second amendment should have no limits, of course, you would vote for this amendment. But then I ask you the contrary question that some who are pro-gun ask those of us who believe in more gun control. How is it that the second amendment should have no limits but the first, third, fourth, fifth, sixth, seventh, and eighth should have limits? Of course, if reasonable limits in a balancing test exist, and if there is any balancing test that makes sense, it is the one of allowing each State to come up with its concealed carry law.

I don't think this is an amendment of which anyone can be proud. I understand the power of the gun lobby. I understand we have different beliefs and represent different States. But we are not trying to say what South Dakota should do. Why should South Dakota say what New York or California should do?

When I spoke—and I have great respect for the sponsor of this amendment—when we were speaking in the gym yesterday morning, he said one of the problems he hears about in his area—and I understand it—is a truckdriver in the cab of his truck carries a gun and is allowed to carry a gun. Why should that truckdriver, when he crosses State lines, goes from South Dakota to North Dakota, be limited? I can understand that argument. But this amendment goes way beyond that. It doesn't talk about one weapon. It doesn't talk about a person who has been granted a license because he needs it for protection as he commerces across State lines. It is unlimited based on whatever the lowest common denominator State would do.

The PRESIDING OFFICER (Mr. BEGICH). The Senator's time has expired.

The Senator from South Dakota.

Mr. THUNE. Mr. President, a couple quick observations, if I may. First, I need to correct for the record the State of South Dakota has reciprocity agreements with 27 States. It does not have national reciprocity, which I think gets at the very point I am making; that is, anybody who has a concealed carry permit in one State is so confused by this patchwork of laws we have that they cannot determine which State is legal and which State is not legal. That is a very serious problem for people such as truckdrivers, such as individuals who want to protect themselves when they travel across the country.

In terms of the arguments made to individuals who have access to firearms, the 1968 Gun Control Act prohibits individuals from even possessing a firearm if the individual is under indictment or convicted of a crime punishable by more than a year, is an unlawful user or addict of a controlled substance, has been adjudicated to be mentally ill or committed involuntarily to a mental institution, is subject to a court order restraining him or her from domestic violence or has been convicted of a domestic violence misdemeanor.

My amendment does nothing to change Federal law. But if individuals are not allowed to possess a firearm, they certainly are not going to be able to conceal and carry one.

I might add, with regard to the issue taking multiple guns in a sack and transporting them, there are Federal laws that prevent trafficking in firearms already. We do nothing to address

that issue. What we simply do is allow those law-abiding citizens who have concealed carry permits in their home States and choose to defend themselves when they travel around the country to do that.

Florida is a case in point. Florida is a big State that has had concealed carry permits for over 20 years and has agreements with multiple States. There is no evidence whatsoever in the State of Florida that there has been any suggestion of increasing crime.

Rather, I suggest the opposite would be true. I say to my colleague from New York that if someone who has a concealed carry permit travels to the State of New York, and I will say anybody who has a concealed carry permit from the State of South Dakota goes to New York and is in Central Park, Central Park would be a much safer place.

I yield 10 minutes to the Senator from South Carolina.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. THUNE. I yielded time to the Senator from South Carolina. I will be happy to yield for a question later on the time of the Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be given 30 seconds to ask the Senator a question.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object, Mr. President. The Senator from South Carolina has been yielded time.

The PRESIDING OFFICER. Objection is heard. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I always thought this debate kind of went down the side of liberal versus conservative until I got to understand during the confirmation hearings of Judge Sotomayor that Senator FEINGOLD is probably one of the strongest gun guys in the Senate. So I have had to recalibrate where I stand on this issue in terms of trying to pigeonhole people.

The point of the amendment, No. 1, is it should not be on the Defense bill. I think we all agree with that. We are talking about a Defense authorization bill to protect our troops and provide them the equipment they need and give them a pay raise. Now we are talking about guns and hate crimes. I don't know how we got here as a body, but we are here.

If you had to pick a nongermane amendment to talk about that makes some sense, that most Americans, I think, would like us to be talking about, it would be something fundamental to our country. I think most Americans are a little bit right to center on an issue such as this, for lack of a better phraseology. Most Americans believe in lawful and responsible gun ownership. Quite frankly, that is what this is trying to bolster.

I make an observation that if you take the time to get a concealed carry permit in South Carolina or any other State that allows it, you let the law enforcement authorities know you are interested in owning a gun, you go to a training seminar that most States have to be able to get the permit or you have to go through whatever hoops the State set up to be able to carry a weapon in a concealed fashion, that you are probably not high on the list of people who want to use a gun to commit a crime. You would be incredibly stupid. You are pointing out to the whole State: Hey, I have a gun. I argue that the people who go through the exercise of getting a concealed carry permit are the ones you probably want to have a gun because they seem to understand the responsibility that goes with owning it.

The idea of does this make us less safe by allowing reciprocity nationwide makes no sense to me. I think of all the people we need to worry about committing gun crimes and violence unlawfully, the people with concealed carry permits are probably last on the list.

Americans do object to guns being used in the commission of crimes, and a lot of States have enhanced punishment whereby if you use a firearm in the commission of a crime your incarceration time can go up. In other words, we want to deter people from using a gun in the commission of a crime, and I think most Americans agree with those laws. I think the city of Richmond was one of the first cities in the Nation to have enhanced punishment for the use of a weapon. It is true that some people do misuse a weapon. Some people misuse a car. But it is a fundamental right under our Constitution, according to our Supreme Court, to possess a gun.

This amendment makes sense at every level. If I go through the process of getting a concealed carry permit in South Carolina and I go to another State that has a similar law, I automatically get the benefit of that law—no more than that law. So I don't know what the law is about carrying a gun in Central Park in New York. I know this: If you have a permit to carry a gun in South Dakota or South Carolina and you go to New York, you don't have any greater rights than the people in New York. And I also understand that whatever Federal restrictions on gun ownership that exist are not changed by this.

So this is pretty common sense to me. If someone goes through the process of getting a permit to carry a weapon in their own State and they choose to go to another State, they automatically get the benefit of that State's law when it comes to concealed carry. They do not get any more, they do not get any less, and it may be less than I would have in South Carolina. But because we are a group of people who travel around and visit among ourselves, this Federal legislation allows us to go from one State to the next and get the benefit of any law that may exist when it comes to concealed carry. But the precondition is that you would have to have that permit in your own State and you have to go through the rigors of getting that permit in your own State.

To anybody who says this makes America less safe or more dangerous, again, that just makes no sense to me. Whatever gun crimes are being committed out there, they are not being committed, as an overwhelming general rule, by the people who have gone through the process of getting a permit and who carry a weapon. So, to me, it makes sense.

I congratulate my friend from South Dakota and tell him he has done something I think most Americans would agree with. He has allowed the American public to be able to travel and get the benefit of whatever law exists in a State when it comes to carrying a weapon—no more, no less. And this argument that people are somehow going to start carrying a weapon across the border makes no sense because whatever Federal restrictions there are on arms trafficking still stand.

At the end of the day, this legislation will help people who follow the law and obey gun laws to travel throughout the country without tripping themselves up and getting in trouble when they do not mean to get in trouble. If we didn't have this law, it really would be a mess. What we are trying to do is provide some clarity to gun ownership in America. We are not enhancing the ability to commit a crime. Quite frankly, I think it is the other way around; if everybody had the same attitude about gun ownership as people who get a permit, the country would be okay.

We are not changing any law that regulates trafficking of firearms. We are not allowing criminals to get access to guns. We are simply allowing people who go through the process of getting a permit in their own State to travel to any State in the Union which has a similar law and to get the benefit of that law. That will make life better for them, it will make life better in terms of legal compliance, and I think it is a proper role for the Federal Government to play.

This amendment enhances our second amendment rights. It doesn't change them in a way that makes America less safe. It allows people who are going to do the right thing to be able to do the right thing with some knowledge as to what the right thing is.

So Senator THUNE has done the country a great service, and I think we will have a big vote—I hope we will—across party lines. You don't have to agree with my right to carry a weapon lawfully. You may not choose that same right for yourself. But that is kind of what makes the country great—the ability for one citizen to understand that even though I wouldn't make that choice, as long as you make a choice responsibly, I am going to allow you to do that. That is what makes this a very special place.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Thirty-seven minutes 13 seconds.

Mr. DURBIN. Mr. President, I would say for the record that I have many more Democrats seeking time than I have time. I wish to alert those who are coming to the floor that they are going to have to accept an abbreviated time. We did not have all the time we hoped for this morning. I ask each of my speakers to also try to abbreviate their time in the interest of accommodating their colleagues.

I yield 15 minutes to Senator FEINSTEIN and hope that she will yield back a sizeable portion of it.

Mrs. FEINSTEIN. I rise today to speak in strong opposition to this amendment. If passed, this amendment would require States like California to allow people with concealed weapon permits from other States to carry a concealed gun, or guns, even if they have failed to meet California's stringent requirements for obtaining a permit.

Over 4 million people hold concealed weapon permits in the United States, so this is no minor shift in policy. In fact, it would be a sweeping change with deadly consequences.

It completely undermines the rights of State government to protect public safety. This amendment essentially overturns the standards and regulations that many States have enacted to prevent concealed weapons from falling into the wrong hands. This is not a philosophical debate, it is a matter of life and death.

My home State, California, sets a very high bar for those who wish to obtain a concealed weapon permit. It does not honor permits granted elsewhere. In fact, only 40,000 permits have been granted in California and we have a population of 38.2 million people. Contrast that with Florida, a State of about half the size at 18 million people—it has 580,000 permits; Georgia has 300,000 permits. Let me repeat, California, the nation's most populace State, has but 40,000 concealed carry permits.

California's strict rules ensure that felons, the mentally ill, and people who have been convicted of certain misdemeanor offenses or are considered a threat to others are automatically disqualified.

Those who do meet these qualifications do not automatically receive a permit. Specifically, in order to obtain a concealed weapon permit in California, an applicant must, No. 1, undergo fingerprinting and pass through a Federal background check; No. 2, complete a course of gun training; No. 3, be considered a person of good moral character by the local sheriff; and No. 4, just as importantly, demonstrate a good cause for needing a concealed weapon permit. This gives State and local authorities the discretion.

This amendment will force California to honor permits issued by all other States, including those which allow minors, convicted criminals, and people with no firearm safety training to carry concealed weapons. Only the time, place, and manner requirements of a State would remain intact under the Thune amendment. For example, if the State of South Carolina had a law making it illegal to carry a weapon into an office building that was government owned, that law would still be valid for all out-of-State concealed carry permit holders. However, this is a very narrow exception.

This isn't just bad policy, it is extremely dangerous policy. The Thune amendment is designed to undermine the rights of States to determine their own rules and regulations for concealed weapons permits. Here we have people who believe in States rights. Yet when it comes to something they really want, they are willing to pounce on States rights and destroy them.

California's standards, I admit, are tougher than most, but many other States routinely deny concealed weapon permits for various reasons: 31 States prohibit alcohol abusers from obtaining concealed carry permits; 35 States prohibit persons convicted of misdemeanors from carrying concealed weapons; 31 States require completion of gun safety programs. The Thune amendment obliterates all of these public safety standards.

It is important to note that 12 States voluntarily honor concealed weapon permits carried in any other State. Another 25 States recognize permits issued by States with similar or equivalent concealed weapon permits standards. But 11 States, including California, choose not to recognize any out-of-State permits. These States have made a choice about what is best for their citizens, and that choice ought to be respected. This amendment says that the views of California's Governor, sheriffs, police, and its citizens don't matter, but the views of those who promote guns do matter. I cannot accept that.

If this amendment were to pass, it would possibly allow those with concealed weapon permits to bring one or more banned assault weapons into our State.

We have consulted with the Congressional Research Service, and they state the following:

> The amendment would appear to have a preemptive effect on State reciprocity laws or regulations because it would appear to require those States which have more stringent eligibility requirements for concealed carry to recognize the permits of other States where the eligibility requirements are less stringent.
>
> It could be argued that the language of this amendment is broad enough such that it would allow certain firearms that are banned from purchase or possession in one State to be brought into that State. For example, one could legally purchase, possess, and carry a concealed permit for a firearm that is banned in States like California, Connecticut, Hawaii, Massachusetts, New Jersey, and New York.

That is not my statement, that is the opinion of the Congressional Research Service. This amendment would put in jeopardy States' assault weapons control laws. I don't know whether that was intended, but this is a very broad and vague piece of legislation that is being debated. If this amendment is agreed to, I believe assault weapons will be brought into California and other border States. These weapons could end up being smuggled into Mexico.

Some say, that an armed society is a polite society, and they portray concealed weapon carriers as responsible citizens who are simply exercising their rights. Earlier this morning on television, I heard a Senator say that only good, responsible people have these permits. That simply is not true. Let me give an example.

In April, Richard Poplawski killed three Pittsburgh police officers. He had the right to carry a weapon in Pennsylvania even though he was the subject of a restraining order filed by an ex-girlfriend.

In March, Michael McLendon killed 11 people, including the wife of a deputy sheriff, before taking his own life following a gun battle with police in Alabama. He too, had a concealed weapon permit.

When I hear people on television saying only the good people get these permits, that is simply not true. In my view, these unstable men should never have been permitted to own any weapon for any reason. Lastly, in February of this year, Frank Garcia killed four people in a shooting rampage in upstate New York. He held a concealed weapon permit in that State. This year, too many people have been killed by those who have the right to carry a concealed weapon. We do not want other State's concealed weapons permitees in the State of California. We have 38 million people. It is a diverse, disparate population. Guns do not help. I believe it is unlikely these men would have obtained concealed weapon permits in my State and, candidly, we want to keep it that way.

I ask unanimous consent to have printed in the RECORD a letter from the Governor of our State, Arnold Schwarzenegger, who opposes this amendment, along with 400 U.S. mayors and the International Association of Chiefs of Police.

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

STATE CAPITOL,
Sacramento, CA, July 20, 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN. I am writing to seek your assistance in protecting states' rights by opposing Senator Thune's amendment to the Concealed Carry Reciprocity Act, which would allow people who are issued concealed weapons permits in their home state to carry those weapons in any state. This amendment would undermine the rights and responsibilities of state governments across this nation.

This is a simple question of protecting California's ability to determine who is allowed to carry a concealed weapon within

our borders. Other states have less stringent requirements than ours, which means that a permit holder who would be ineligible for a concealed weapon under California law would be able to obtain a permit from another state and, under Senator Thune's amendment, still carry that weapon in California.

Our elected representatives—with the support of the majority of Californians—have set guidelines that are stricter than most states'. In California, background checks are conducted using a fingerprint-based system so the state can verify that the recipient of the permit is eligible to possess a firearm under state and federal law. Also, if a person becomes ineligible to possess a firearm because he or she was convicted of a felony or other disqualifying crime, that information is forwarded to their local agency so the permit can be revoked.

I have consistently supported states' rights to determine their own fates on a variety of issues. This amendment would trample the rights I have worked hard to protect, and I urge your opposition:

Sincerely,

ARNOLD SCHWARZENEGGER,
Governor.

Mrs. FEINSTEIN. I believe the amendment is reckless. I believe it is irresponsible. I believe it will lead to more weapons and more violence in the streets of our Nation. I hope and pray this body will turn down this very ill-advised amendment.

I yield the floor.

Mr. DURBIN. Mr. President, may I inquire how much time is remaining?

The PRESIDING OFFICER. The time remaining is 25 minutes 4 seconds.

Mr. DURBIN. The other side.

The PRESIDING OFFICER. There remains 32 minutes 37 seconds.

Mr. THUNE. Mr. President, I yield up to 15 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I rise in support of this amendment. I believe it is reasonable. It is not as draconian in its implications as many of my colleagues, whom I greatly respect in terms of their concerns, are anticipating.

I would also like to say there has been a lot of misinformation on the Senate floor about this amendment, to the effect it will allow felons, people who are mentally defective, and other dangerous individuals to carry weapons on the streets of American cities and also to buy up hordes of guns and transport them into places, as Senator SCHUMER mentioned, such as New York City. My colleague from New York gave as an example, in his terms, a Crip or a Blood moving to Vermont, establishing residency, then bringing a permit down into New York and being able to carry a weapon with impunity.

I think the reality of that particular situation is the gang members already have their guns. They don't need this bill. In fact, this amendment has protections that would prevent those who engage in criminal activity—such as gang members—from taking advantage of this legislation. The people who need this bill are the ones the gang members might be threatening.

With respect to standards of conduct, aspects of criminality, and issues of mental health, it is important to note there is a Federal floor under this amendment that guarantees certain standards will be met regardless of varying State standards. If you read the amendment, it states:

A person who is not prohibited by Federal law from possessing, transporting, shipping or receiving a firearm—and who meets other conditions, may be granted reciprocity.

If you go into the Federal law, and I am going to read from 27 CFR section 478—this is the current standard in terms of being able to possess a firearm or ammunition.

Anyone who—

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

May not possess a firearm.

Anyone who:

Is a fugitive from justice;

Anyone who:

Is an unlawful user or addicted to any controlled substance;

Anyone who:

Has been adjudicated as mentally defective or has been committed to a mental institution;

Anyone who:

Is an alien or illegally or unlawfully in the United States or an alien admitted to the United States under a nonimmigrant visa;

Anyone who:

Has been discharged from the Armed Forces under dishonorable conditions;

Anyone who:

Having been a citizen of the United States, has renounced his or her citizenship;

Anyone who:

Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner; or

Anyone who:

Has been convicted of a misdemeanor crime of domestic violence—cannot lawfully receive, possess, ship, or transport a firearm.

In addition:

A person who is under indictment for a crime punishable by imprisonment for a term exceeding 1 year cannot lawfully receive a firearm.

Those are the Federal guarantees, the floor under which this reciprocity legislation operates.

Senator LAUTENBERG has said in his comments that passing this legislation is akin to allowing someone from another State to come into your State and follow their speed limits. This is not an accurate interpretation of this amendment. The amendment specifically provides that anyone carrying a firearm into another State must follow the laws regarding firearms usage in that State, and I quote from the amendment:

. . . in a State that allows residents of the State to obtain licenses or permits to carry concealed firearms . . .

A person gaining reciprocity is:

Entitled to carry such a firearm subject to the same laws and conditions that govern specific places and manner in which a firearm may be carried by a person issued a permit by the State in which the firearm is carried.

I would say the better analogy at work here is the driver's licensing process itself. States decide the conditions under which a license can be granted, but the nature of interstate travel allows licenses issued in another State to be recognized across the country, so long as the holders of those licenses obey the laws of the State in which they are driving.

I also keep hearing that this amendment will increase the number of purchases of handguns and other weapons. I would like to clarify for this body, as someone who holds a concealed carry permit, a permit to carry does not allow anyone to purchase a firearm automatically. One still has to go through the entire process of the background check as if you did not have a permit.

Illegal firearms sales are a separate matter for this body to address—one that we clearly should be focusing on—but they fall outside the parameters of this amendment.

The issue of gun usage in our country understandably divides people—usually along the lines of those who believe that any relaxation of gun laws will benefit criminal and violent activity versus those who believe gun laws need to be modified in order to allow law-abiding people to defend themselves. I have a great deal of empathy for those who have been the victims of gun violence. I have worked with citizens groups as well as our Governor in the aftermath of the Virginia Tech shootings, to focus our approach. We have made significant improvements in our laws since then, including working to modify privacy laws as they relate to mental health matters, which was the primary concern in the Virginia Tech shooting, and also to improve the instant background check process. I will continue to work on these areas.

I also believe very strongly that the violence we see in our streets and in our neighborhoods must be addressed. But very little of that violence has ever been caused by those who seek permits to carry. As I mentioned before, the people who are perpetrating that kind of violence already have their guns. Their access to those guns is a matter we should all focus on. But few criminals are going to go down to the county courthouse and file for a permit. Those who seek permits to carry and who are within the Federal guidelines specifically addressed in this bill seek to do so in order to protect themselves from the violence we see on our streets.

I would say, when I look at this amendment, a couple clear examples come to mind. One is my father who, in his later years, lived in Florida and then Arkansas, and would drive alone in his car to come and visit me and my brother, who lived in Minnesota. It was usually at least a 2-day journey. My father was older. He was by himself in

the car. He was a classic target of potential criminal activity.

He carried a weapon, a firearm, when he traveled. When he stopped at night and went into a motel, he brought that weapon with him. You check in a motel by yourself, you are 77 years old, people are going to start looking at you. I don't think people who are in that situation need to wonder if they are committing a felony by having a gun to be able to defend themselves when they are in that situation.

Somebody else who comes to mind are all these truck drivers we see on the roads anytime we are on the interstate. These are independent contractors. They are people who are out there making a living the hard way. They constantly cross State boundaries. They have to worry about whether their truck is going to break down. They have to wonder sometimes, where they stop, whether they are going to be victimized if they sleep in the cabin of their own truck. Many can legally carry in their own State. Do they have to worry, if they pull over for the night in another State, if they try to defend themselves they are committing a felony? This is the type of situation I believe this legislation is attempting to address.

I believe it will have a beneficial effect. I believe strongly we need to work together in this body to address other situations of gun violence in this country. I am glad to add whatever insights I can have to do so, but I support this legislation and I intend to vote for it.

I yield the floor.

Mr. DURBIN. Mr. President, I yield 9 minutes to the Senator from New Jersey, Senator MENENDEZ.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I come to the floor saddened by the tragic death yesterday of Marc Dinardo, 1 of 5 of New Jersey's finest police officers shot last week by a gunman. He was killed, not by a law-abiding gun owner like millions of Americans, a sportsman or a hunter, but by one lone armed man, too willing to pull the trigger to kill another human being in cold blood.

Last night, or the night before, gunshots were fired in Jersey City. In Newark, three people were killed, the victims of gun violence.

The statistics are staggering. In 1 year, 30,896 people died from gun violence, 12,791 people were murdered, another 69,863 people survived gun injuries, 48,676 people were injured in a gun attack.

According to the Brady campaign, in 1 year, 20,784 American children and teens were shot in murders, assaults, suicides, accidents or by police intervention. Homicide was the second leading cause of death for young people ages 10 to 24 years old, and 84 percent of victims were killed by a firearm. Amazingly, firearm homicide is the second leading cause of death for young people ages 1 to 19.

These numbers are shocking. I think about what this amendment does, whom it affects, and I cannot help but ask who is it who feels the need to carry a concealed weapon and for what purpose? One must ask how we would ever want to permit, as a matter not of State but Federal law, those whose motives may not be pure to walk into a playground, school, crowded stadium in any State licensed under Federal law to carry a concealed weapon in their coat pocket or bag. Do we honestly believe that person will be the priest or the rabbi? Do we think it will be the mother taking her child to a school, saying: Let me think, I have the house keys, the cell phone—oh yes, the permit for the gun in my bag.

Will it be the law-abiding sportsmen using their rifles for target practice? Sportsmen don't need to conceal their weapons.

Whom do we think will benefit from this amendment? Whom do we think will carry a concealed Glock 39 through the streets of our cities, perhaps into a playground, stadium, church or mosque? It will not be that mother or that hunter. It will not be that sportsman. As Paul Helmke, the president of the Brady Campaign, so aptly pointed out, it will be something like Richard Poplowski, the White supremacist, armed with an AK–47, who allegedly murdered three Pittsburgh police officers on his front porch.

He was a concealed carry permit holder. It will be Michael McClendon, the suicide shooter who went on a rampage in Alabama, murdered ten people, then shot himself. He too was a concealed weapon carry permit holder.

It will be criminals such as Michael Iheme, charged with first-degree murder in the shooting death of his wife in St. Louis Park, MN. She had an active restraining order against her husband because of a history of domestic violence. After shooting his wife, he called 911 and said, ''I killed that woman that messed my life up.'' He was a concealed carry permit holder as well.

We are being asked to seriously consider an amendment that would benefit those criminals, not their victims, an amendment that would override State laws and federally mandate States to recognize the concealed weapon permits of people such as these three notorious criminals, even though they may not be residents of that State, even though they may be legally barred from possessing weapons in that State.

Let's make no mistake, this amendment is a blatant infringement on States rights, a stealth repeal of States' hard-fought gun laws. It strips legislators and Governors duly elected by the people to represent the best interests of their constituents to make sound, competent, informed judgments about how best to regulate guns in their own State, to make those judgments based on the recommendations and input of law enforcement officials who know and understand the specific situation on the ground, on the street, in their cities, in their communities.

Even the Congressional Research Service has found this amendment would have a preemptive effect on State reciprocity laws. They said in their report:

> This amendment is broad enough such that it would allow certain firearms that are banned from purchase or possession in one State to be brought into that State. For example, one could legally purchase, possess, and carry a concealed permit for a firearm that is banned in States such as California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York.

In my view, this would turn the clock back on reasonable, responsible gun laws that States such as New Jersey have passed to protect us from men like Richard Poplowski, Michael McLendon, and Michael Iheme. On the contrary, common sense, logic, reason, rationality, good judgment all say that that amendment will make our streets less safe.

And, contrary to the usual approach of my Republican colleagues to maximize States rights, this amendment will trample the right of States to pass their own laws that keep guns out of the hands of criminals.

Too many times, for too long, we have seen blood on our streets from senseless, pointless, lethal gun violence. We have tried, in our States and in this Chamber, to mitigate it. We have tried in our own ways to stop it. We have all been outraged at those who, in language, attitude, and demeanor, seem to accept it as part of American culture. I do not accept it as such.

We cannot stand down from battle being waged by law enforcement in every city and State against gun violence in our streets. Our charge, our solemn responsibility, is to end the violence, not add to it. There are too many guns on our streets as it is, but there are also too many people willing to use them.

Let's not make it easier to carry a concealed weapon against the wishes of the people of a State whose elected representatives express their will and say, not in our State, to blithely, legally have a Federal mandate that would permit them to cross State lines into your neighborhood or my neighborhood.

The evidence is before us in the names of Richard Poplowski, Michael McLendon, and Michael Iheme, all of whom had permits to carry a concealed weapon. If their States want to permit it, fine, but why should they come into my State and create the opportunity to murder some innocent family when my State, my government, my legislature has determined that, in fact, there is a better way to protect our citizens.

When we go down this road, it is a slippery slope. Some day, some Federal issue will come in your State and you will not want the Federal Government to tell your State how to protect your citizens. If you permit this to happen today, then it will happen tomorrow in a way that you will not like. That is a dangerous precedent. That is a precedent I do not think we want.

Finally, let us remember the victims. Let us remember Officer Marc Dinardo and all of the victims of gun violence who, in fact, are out there protecting us each and every day. They will not know the good guy from the bad guy. They will know if this amendment passes and becomes law that someone could have a concealed weapon on them. At the end of their day, their lives will be greater at risk. That is not something I want on my conscience. I do not know which Member of the Senate wants it on theirs.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I do not want to get into the weeds here, but the Senator mentioned Michael Iheme. He did not have a carry permit. One of the other gentleman whom he mentioned, Willie Donaldson, evidently the court recognized that the person had acted in self-defense and he did not do any jail time for it.

The broader point is, criminals commit crimes, that is what they do. Criminals kill people. This is not directed at criminals, this is directed at law-abiding citizens who want to protect themselves. The statistics I mentioned earlier make it very clear. If you want to look at the studies, there is a lot more defensive gun use by victims than there are crimes committed with firearms. It is further estimated that there are as many as 2.5 million defensive uses of firearms in the United States each year. Again, many of those go unreported.

But I think you have to come back to the point that of the 5 million people in this country who are concealed carry permit holders, if you assumed that every instance of reported crime by gun control groups, of improper firearm use by individuals with concealed carry permits, if every one of those is true, something that can be debated, but let's assume it is true, over an entire year for every 142,857 permit holders, there would be one improper use of a firearm.

To put that another way, concealed carry permit holders would be 15 times less likely than the rest of the general public to commit murder. The point I am making is criminals commit crimes. That is what they do. They are criminals. Criminals kill people. What we are trying to do here is to allow law-abiding people to protect themselves from criminals when they travel across State lines, striking the right balance between Federal, the Constitution, which protects an individual's second amendment right, and State laws. We are not preempting State laws. Illinois and Wisconsin preclude or prevent anybody from owning a concealed carry permit or having a concealed carry permit in their States. So this amendment does not even apply to them. Nobody can carry a concealed weapon in either of those States. It recognizes the rights of States and all of the State laws that apply. Most States have place and time restrictions. In my State of South Dakota you cannot carry in a place that serves alcohol, you cannot carry in schools, you cannot carry in courthouses.

So to suggest that somebody is going to transport a whole bunch of guns, which would be a violation of Federal laws because there are laws against trafficking, into an area of a State, public school, or someplace like that, are wild exaggerations and scare tactics that are not based on any evidence. The data we have that suggest the contrary.

I yield such time to the Senator from Wyoming as he may consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, today I rise in support of the Thune amendment. The Thune amendment to me is very straightforward. It does not preempt State concealed carry laws, it does not create a Federal concealed carry permit. It simply allows law-abiding individuals, law-abiding individuals to lawfully carry concealed firearms across State lines while following the laws of the host State.

Just like a driver's license—this is my Wyoming driver's license—just like a driver's license, the Thune amendment is a license for self-defense across State lines. It means with this license—my concealed carry license from Wyoming—I will not be limited to Wyoming. Just like a regular driver's license, just about the same photo, identification issues, and the only difference is this one from Wyoming says ''concealed firearm permit.'' It has on it a picture of a handgun.

Well, today we are hearing the same arguments against the Thune amendment that we heard from the people who wanted to ban assault weapons. During that semiautomatic assault weapons debate, we heard all of the scare tactics. We heard: There will be blood all over the streets. Terrorists will be able to purchase Uzis and AK–47s. Our cities will turn into the Wild West. The lives of law enforcement will be in danger.

This is simply not the case. A study for the Department of Justice found 40 percent of felons had not committed certain crimes because they feared the potential victims would be armed.

The National Institute of Justice conducted a survey that found that 74 percent of criminals who had committed burglaries or violent crimes said they would be less likely to commit a crime if they thought the victim would be armed.

In States where concealed carry permits are issued, it is a fact that the crime rates go down. Let's take a look at Illinois and Florida. Illinois does not allow concealed carry permits. The number of murders last year in Chicago, 511.

Since Florida passed their concealed carry bill and signed it into law, violent crime has dropped by 32 percent, and murders in Florida dropped 58 percent.

Criminals do not get licensed to carry guns. Criminals do not fill out the paperwork, go to the courthouse, get fingerprinted, and wait weeks to receive their concealed carry permit. Criminals issue their own concealed carry permits.

In the District of Columbia, crime rates are high because the criminals have the advantage over the victims. The gun laws in the District outlaw law-abiding citizens from self-defense while people walk home from work or from the store. They know it is highly unlikely in the District of Columbia that the victims will be carrying a gun for self-defense.

This is a commonsense amendment. It makes sense for law-abiding gun owners all across the country. I urge my colleagues to vote in support of the Thune amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask that the Senator from New Jersey be recognized for 9 minutes and then, after an intervening speaker on the other side of the aisle, the Senator from California be recognized for 5 minutes.

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

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise in strong opposition to the amendment that is being offered, because it would override our safety laws, gun safety laws in my State and other States across the country. The Thune amendment is an outright violation of States rights.

The fact is this vote is not about the Second Amendment, it is not about gun rights, this is about respecting local communities and letting them make their own decisions about how to keep their streets, their homes, and their businesses safe.

As this dangerous amendment gets pushed to a vote, we are seeing opposition grow across this country. In addition to newspaper editorials, we are seeing Governors and mayors and local law enforcement calling on the Senate to vote against this amendment.

This placard shows the wide-ranging groups opposing this amendment, groups opposed to the Thune amendment: Over 450 mayors, people who have responsibility for those in their community, Major Cities Chiefs Association, International Association of Chiefs of Police, State Legislators Against Illegal Guns, National Network to End Domestic Violence.

In a letter to the Senate, the International Association of Chiefs of Police implored Congress to:

> Act quickly and take all necessary steps to defeat this dangerous and unacceptable legislation.

That is from the International Association of Chiefs of Police. They know what to do about concealed guns, and they will decide within their own communities. But the Thune amendment

does not just steal States of their right to create their own laws, it abolishes State laws that are on the books right now. The Thune amendment throws State laws out the window.

For the 35 States that have chosen to keep criminals with misdemeanor convictions from carrying concealed weapons, this amendment abolishes their laws. For the 31 States that have chosen to keep alcohol abusers from carrying concealed weapons, this amendment abolishes their laws.

The Thune amendment would force States to accept the weakest standard in the country and brings about a race to the bottom. Many of us represent States that do not want lax standards on who can walk around our communities with a weapon hidden in their garments.

To make matters worse, the Thune amendment not only overrides a State's concealed weapons laws, it could also override a State's assault weapons ban. That means if we have a ban in my State and someone gets a concealed weapons permit, they could bring an assault weapon into our State. This means even if a State has a ban on assault weapons, under this amendment, someone could legally enter that State with a hidden Uzi or assault weapon and travel around with it. Think about it. If a State's residents are not permitted to carry a particular weapon, someone can come into that State with a weapon that now is prohibited in that State.

That is one of the reasons more than 450 mayors across the country have expressed alarm about the Thune amendment. As these mayors explained in a letter to the Congress:

> Each state ought to have the ability to decide whether to accept concealed carry permits issued in other states.

I don't want it in New Jersey, and I think Members across this Chamber will say: No, I don't want it in my State as well.

Supporters of this amendment like to claim that only law-abiding citizens get their hands on concealed weapons permits. But that is not true. In Alaska, for example, criminals who have repeatedly committed violent misdemeanors are permitted to carry concealed weapons. In Alaska, criminals who have repeatedly committed sex offenses are permitted to carry concealed weapons. According to a new study, during the 2-year period between May 2007 and April 2009, people holding concealed handgun permits killed at least 7 police officers and 44 other innocent people across the country.

Recently we have seen several gruesome examples of senseless murders committed by people holding concealed weapons permits. A few months ago, a 28-year-old concealed weapons permit holder went on a murderous rampage in Alabama. First he shot and killed his mother. Then he gunned down 10 others, including 2 young mothers and a father and an 18-month-old girl.

A few weeks later, another concealed weapons permit holder went on a killing spree in Binghamton, NY. This gunman drove a car up to a citizenship services center and barricaded the back door with his car so the innocent people who were inside would be trapped as he proceeded to kill those who were in his sights. The gunman sprayed gunfire throughout the center, killed 13 people, and wounded several more before taking his own life.

The next day another concealed carry permit holder destroyed more lives. In Pittsburgh, two police officers arrived at a house to quell a domestic conflict. The two officers were ambushed and killed by the gunman who held a concealed weapons permit. Minutes later, the gunman shot and killed a third officer who arrived at the scene.

The special interest gun lobby is hanging its hopes on the prospect that this Chamber will abandon common sense and pass the Thune amendment. But this gun lobby's dream is a nightmare for our country. It violates States rights and it will make it easier for gun traffickers to move firearms. If the Thune amendment becomes law, traffickers could now load up a car and take guns across State lines legally, as long as the driver has a concealed weapons permit in any State.

History will record that this Senate was asked to decide whether to put families further in danger or keep them safe, whether to savage State laws or honor them, and whether to usurp States rights or preserve them. I hope my colleagues will do the right thing. I urge them to vote no, no, no, on the Thune amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from South Dakota.

Mr. THUNE. I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I think a little bit of history is important for us now. Let me give a quote of what Thomas Jefferson had to say. It is important for us to hear him. We recognize his wisdom in lots of what he did for us as one of the Founders of this country. Here is what he said about guns: Gun control laws disarm only those who are neither inclined nor determined to commit crimes. Such laws only make worse for the assaulted and better for the assailants. They serve, rather, to encourage rather than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man.

Granted, that was in a different day and time, but his words ring true. To those who are opposing this amendment who truly believe we ought to have a total ban on firearms, I recognize that is a legitimate position for some of those people. But what I find both disingenuous and also curious and funny at the same time is the number of my colleagues who now come to the floor to preserve States rights when 95 percent of their votes, in the last Congress and this one and the ones that preceded, voted to take away those very same States rights in every other area of freedom.

We just had a hearing on a Supreme Court Justice. She got it wrong on the second amendment. The second amendment is written into the Constitution and the Bill of Rights. Why was the 14th amendment even brought up to Congress? The historical debate shows that during reconstruction, freed Black slaves were losing their right to own a gun simply because they were Black, simply because they were freed slaves. Many Southern States passed laws taking that right away. The due process of the 14th amendment came about so that we could preserve the right of individuals to own arms and defend themselves.

What I find ludicrous in this debate is any discussion of an assault weapons ban or assault weapons. You can't conceal one. That is No. 1. No. 2, we had the Senator from New Jersey mention the Uzi. It is illegal to own an Uzi in this country. So you are already a criminal, you are already a felon, you are already one of those individuals Jefferson was talking about when you claim to say that we are going to step all over State laws.

We had a vote in terms of honoring States rights in terms of the national park bill on guns. Twenty-nine of my colleagues, thirteen of whom now are defending States rights, stepped all over States rights with their vote against the Coburn amendment when it came to allowing people to have supreme their State law in terms of national parks.

Nobody comes to the Senate floor a purist. The vast majority of people who are debating against this amendment on the fundamental principle of stepping on States rights have a voting record that 98 percent of the time they don't care about States rights; they care about the Federal Government.

I have an offer. Any Member who wishes to vote against this amendment, if you will all endorse the Enumerated Powers Act and see that we pass it through Congress, then you can demonstrate your fidelity to the 10th amendment. Except nary a one of those who are opposing this amendment has endorsed the Enumerated Powers Act in this Congress or the last. The arguments ring hollow when we talk about the 10th amendment because the true action would be to recognize the limited powers of the Federal Government to enforce the 10th amendment, and we wouldn't be having this debate.

States rights are convenient only when it comes to something we don't like. They are rarely utilized to truly defend States rights. You have to follow the laws of the State you are in; that is respecting States rights. For every incident and tragedy of somebody who had a concealed carry permit, we can give you 10,000 tragedies of those where gun control allowed the criminals to have guns but the innocents not.

I hope the American people will look at this debate and say: There is a fundamental right in this country, which the Supreme Court will get right in this next session, that is guaranteed to us as part of our liberty. It was inculcated into everything our Founders did. Knowing it to be true, it was written into our Constitution. Many of the rights we have today that we cling to so dearly were never even considered by our Founders but have come about as a result of what the judicial branch has said.

If you are going to use States rights as a position to defend your vote against this bill, I suggest that your constituencies look at your other votes on States rights and see if there isn't some big dissonance with that position. You will find it in every case.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent to be yielded 7 minutes rather than 5. I have cleared that with Senator DURBIN.

Mr. THUNE. How much time remains on the other side?

The PRESIDING OFFICER. There is 8 minutes 35 seconds.

Mrs. BOXER. I ask unanimous consent for 6 minutes.

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

Mrs. BOXER. Mr. President, I agree with the Senator from Oklahoma on one thing. I hope the American people are watching this debate. I truly do. We are talking about a radical proposal that is opposed by Democrats and Republicans in my home State. I have never seen the phones ringing off the hook to this degree.

I ask unanimous consent to have printed in the RECORD a statement by the California Police Chiefs Association.

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

CALIFORNIA
POLICE CHIEFS ASSOCIATION,
Sacramento, CA July 21, 2009.

Re Protect America's police officers, our citizens, and states rights by voting no on the Thune amendment (S.845/H.R.197/H.R. 1620).

Senator BARBARA BOXER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER, the California Police Chiefs Association is strongly opposed to the Thune Amendment (S.845). This legislation would require California to honor concealed carry permits granted by other states, even when those permit holders could not meet the standards required by California law. This would strip California of the power to create its own public safety laws, and hand that power to the states with the weakest protections. The Thune Amendment would also empower gun traffickers and threaten the safety of our police officers.

California, like most states across America, has intensely deliberated how best to balance community safety needs with the rights of our citizens to bear arms. We have, like almost all states, set various standards in addition to those in place under federal law. The linchpin of California concealed carry permitting is local law enforcement discretion. In addition to certain explicit statutory provisions, such as the exclusion of violent misdemeanants and certain juvenile offenders, California police chiefs and sheriffs have the discretion to deny a permit if they believe an applicant will present a danger to public safety. California also requires each applicant to complete a firearms safety course, demonstrate moral character, and justify the reason for applying for a permit. California's standards keep guns out of the hands of dangerous criminals. The Thune Amendment, however, would permit citizens of states with less strict laws to freely carry concealed weapons in our state.

This legislation will also aid and abet gun traffickers. Criminal traffickers already rely on states with weak laws as a source for the guns they sell illegally, according to a report issued by Mayors Against Illegal Guns in December 2008. In fact, the report showed that 30% of crime guns crossed state lines before they were recovered. This bill would frustrate law enforcement by allowing criminal traffickers to travel to their rendezvous with loaded handguns in the glove compartment. Even more troubling, a trafficker holding an out-of-state permit would be able to walk the streets of any city with a backpack full of loaded guns, enjoying impunity from police unless he was caught in the act of selling a firearm to another criminal.

Finally, this law would not only frustrate our police officers, it would endanger them. Policing our streets is perilous enough without increasing the number of guns that officers encounter. Confusion among police officers as to the legality of firearm possession could result in catastrophe. Congress should be working to make the job of a police officer more safe—not less.

As President of the California Police Chiefs Association, I urge you to protect California's ability to protect its communities from gun violence by voting against the Thune Amendment (S. 845/H.R. 197/H.R. 1620).

Sincerely,

BERNARD K. MELEKIAN,
President.

Mrs. BOXER. The police chiefs, letter is so tough and so strong. It reads in part:

The California Police Chiefs Association is strongly opposed to the Thune amendment. The legislation would require California to honor concealed carry permits granted by other States, even when those permit holders could not meet the standards required by California law. The Thune amendment would empower gun traffickers and threaten the safety of our police officers.

If there is one thing we should do for our police officers, it is not make their lives any tougher than they are. We recently lost four police officers in Oakland. The whole community suffered along with those families. My police chiefs talk about this:

A trafficker holding an out-of-State permit would be able to walk the streets of any city in America with a backpack full of loaded guns, enjoying impunity from police unless he was caught in the act of selling a firearm.

This is one of the strongest letters I have ever seen from my police chiefs. This debate is not about the right to own a gun. That has been settled by the Supreme Court in the Heller case. It is about allowing States to determine their own laws. And I totally get why some more rural States with fewer people would have different laws on conceal and carry than a State of 38 million people, my home State of California. Leave us alone. Leave us alone. You want to have conceal and carry with very few requirements, fine. We have conceal and carry with many requirements, and it is working.

Some States do not have any limit on the number of weapons you could carry with one conceal and carry permit. So someone could come into my State, go into one of my schoolyards, and open up a duffle bag full of perfectly legal weapons.

We have approximately 3,300 gun deaths each year in my State. Let me repeat that: 3,300 gun deaths each year in California. Each one of them has a story of tragedy behind it. A lot of them are kids. So do not come down here and tell my State what we should be doing. I support your State. You should support my State. And that is exactly what Governor Schwarzenegger says. He says we have a right to write our own gun laws.

Mr. President, 34 California mayors and 400 mayors nationwide oppose the Thune amendment, as does the International Association of Chiefs of Police.

We have a lot of work to do. We have to work on health care. We have to work on energy independence. We have to work on getting down the deficit. We have to work on bringing down the debt. We have to work on educating our kids. But, oh, no, we are spending hours on an amendment that is offered that tells our States their laws are not to be respected when it comes to conceal and carry.

Do you know there are some States that allow a spousal abuser to carry a concealed carry weapon? Do you want that spousal abuser, maybe in a state of rage, to walk into another State with a duffle bag full of weapons? And my senior Senator—she read this, and she is a pretty good expert on this issue—says you could have an assault weapon in there. Is that what we want?

It is ironic, as we deal with health care issues—do you know what it costs to try to sew up somebody and heal somebody who has been a victim of a gunshot wound? We are training our doctors who go over to Iraq and Afghanistan in our cities.

So all my colleagues on the other side who come here and talk about Big Brother—Big Brother—going into their States and telling their States what to do, this is a case of Big Brother, clear and simple.

If I need to protect my people in California, I want to leave it to my people in California. I do not want to come in and tell them they have to live with other State laws that are weaker. It is just wrong. It flies in the face of States rights. It flies in the face of common sense. And again, the supreme irony is, it is coming from folks who say they love our States, they respect our States, the Federal Government has too much power. But all of a sudden—

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. Mr. President, I hope we will vote against this amendment because this is not what we need in America—more gun deaths and more police being put in the line of fire.

I yield the floor.

Mr. LEAHY. Mr. President, when the Supreme Court handed down its decision in District of Columbia v. Heller I applauded the Court for affirming what so many Americans already believe: The second amendment protects an individual right to own a firearm. The Heller decision reaffirmed and strengthened our Bill of Rights.

Vermont has some of the least restrictive gun laws in the country. One does not need a permit to carry a concealed firearm, and citizens of Vermont are by and large trusted to conduct themselves responsibly and safely. In my experience, Vermonters do just that. Like many Vermonters, I grew up with firearms and have enormous respect and appreciation for the freedoms the second amendment protects. Like other protections in our Bill of Rights, the second amendment right to keep and bear arms is one that I cherish.

As a prosecutor, I protected the rights of Vermonters to possess firearms. As a Senator, I have carefully considered Federal efforts to regulate firearms, and always with an eye toward the burdens it may impose on the second amendment rights of law-abiding American citizens.

Justice Scalia's decision for the Supreme Court in Heller acknowledged that some reasonable regulation can and does coexist with the second amendment, just as it does for other rights in our Bill of Rights. The States have traditionally played the strongest role in regulating firearms based on State and local concerns. Most firearms regulation is decided within States as an issue of State police power. This is how it should be.

I feel strongly that the principles of federalism demand that the Federal Government minimize its intrusion into the policy judgments made by State and local officials, citizens and State legislators, especially in matters of public safety. I believe this is true whether the Federal Government seeks to restrict the activities of Americans or it seeks to second-guess what State officials have decided is proper regulation. Whenever the Federal Government imposes its will some citizens may be happy, but others will be disappointed. This is particularly true when such Federal action involves matters of safety and police power at the State level. The Federal Government plays a role in regulating the importation of firearms and has in providing a framework for interstate commerce.

Senator THUNE's amendment imposes the policy judgments of the Federal Government on the States. Just as I would vigorously oppose any Federal effort to restrict the ability of a State to allow its citizens to carry firearms in a concealed manner, I oppose this effort to second-guess the judgments of State and local officials across the country in relation to permitting people to carry a concealed firearm. Just as I would resist Federal legislation that prohibited States from entering reciprocity agreements with each other to honor one another's concealed carry permits, I do not believe the Federal Government ought to be forcing States to treat citizens from other States differently than it treats its own on this public safety matter. The Thune amendment represents the Federal Government intruding into the gun laws of the States. It could even result in some States repealing their concealed carry laws to avoid the impact of the Federal law.

What works in Vermont does not necessarily work in New York City. And what works in New York City would not get a warm welcome in Vermont. That is the beauty of our Federal system. When it comes to public safety and police power, the Federal Government ought to respect the judgments of the States, their citizens, elected officials, and law enforcement agencies.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Mr. President, 2 years ago I opposed a bill considered by the Senate Judiciary Committee to strip State and local police departments of their ability to enforce rules and policies on when and how their own officers can carry weapons. Today, I continue to oppose attempts to supersede or limit State gun control laws, and for this reason I oppose Senator THUNE's amendment that would infringe on the ability of State and local governments to regulate concealed guns in their jurisdictions. I have said it before, and I say it again—each State should be able to make its own judgment about whether citizens can carry concealed weapons within their jurisdictions. There is no reason for Congress to override gun safety measures in any State.

Yet the Thune amendment would override the laws of 48 States by requiring them to recognize concealed carry permits from other States, even if the permit holder would not be allowed to possess or carry a gun under the laws of those States. Currently, only two States—Illinois and Wisconsin—have a total prohibition against concealed carry weapons. This amendment would require the remaining 48 States to recognize a permit granted by another State that has issued a concealed weapon permit. Such a system leads to ludicrous results. For example, under the Thune amendment, a person who can't obtain a concealed carry permit in his home State could apparently circumvent his State law by finding another State in which that person would be eligible for a nonresident permit and then, using the reciprocity granted by the amendment, carry the concealed weapon back home.

State and local governments do not have a one-size-fits-all approach on gun control. Yet the Thune amendment treats them as if they were all the same. Under this amendment, a State would be prevented from limiting who can carry a concealed gun in its jurisdiction. In doing so, the amendment threatens the safety of our citizens, our communities, and our States.

States need the right to control who can carry a concealed weapon in their jurisdiction. What State officials, law enforcement, and legislators decide are the best policies for rural States may not be the best policies for urban States—and vice versa. This bill creates a race to the bottom, in which gun owners can get a permit in a State with the least restrictive licensing regulations and use that gun in every other State—except Illinois and Wisconsin, where there is a total prohibition. The amendment even entitles residents in Alaska and Vermont, the two States that allow residents to carry concealed guns without permits, to carry their guns in other States.

In 35 States, such as Massachusetts, a permit holder must have attended a safety course. Other States don't require a safety course, and residents in Alaska or Vermont are not required to have a permit at all. Yet, with the adoption of the Thune amendment, gun owners would be able to carry a concealed weapon without a safety course in all these States. This is absurd. In addition, other State licensing laws, which prohibit permits for individuals with criminal backgrounds or substance abuse problems, would be waived under the Thune amendment if the individual is issued a permit in a jurisdiction with more permissive regulations.

According to the most recent statistics, in 2006, an average of nine young people aged 19 and under were killed by a gun each day in the United States. In 2007, an average of 48 children a day were nonfatally wounded. The scourge of gun violence frequently attacks the most helpless members of our society—our children. Does the Thune amendment—authorizing more widespread use of concealed guns—improve these statistics? Does creating a system that reduces the regulations for permits for many concealed gun carriers improve these statistics? I think not.

In fact, it was found that concealed handgun license holders in Texas were arrested for weapon-related offenses at a rate 81 percent higher than that of the general population of Texas, aged 21 and older. Expanding the ability of a concealed gun holder to carry his weapon in a far larger number of jurisdictions will not lower gun deaths or crime.

Our brave police forces face risks every day in the line of duty. Policing the streets, and even routine traffic stops, are perilous enough without increasing the number of guns that officers encounter. Under the Thune

amendment there is no easy way for a police officer to determine the legality of a gun being concealed by an individual with a permit from outside the State. This confusion, and the increase in the number of guns on the street, could result in violent incidents, some of which could lead to more deaths from gun violence. The Senate should be working to make the job of police officers safer. The Thune amendment does the opposite.

The amendment takes away the right of a State to determine who can carry a concealed gun within that State. As a result, the amendment will increase the number of concealed guns that will be allowed on any given street. More than 400 mayors, numerous State legislators, the International Association of Chiefs of Police, and the Major Cities Chiefs Association oppose this amendment because of the danger it brings to our streets, our citizens, and our law enforcement. I strongly urge my colleagues to vote against Senator THUNE's amendment. It is unwise policy that could lead to tragic results.●

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, how much time is left on our side?

The PRESIDING OFFICER. Nine minutes.

Mr. THUNE. Mr. President, I yield myself 5 minutes.

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

Mr. THUNE. Mr. President, the Senator from California has made some comments, and actually both Senators from California talked about the issue of assault weapons. Of course, assault weapons—as my colleague from Oklahoma pointed out, it is very difficult to conceal an assault weapon. It is not something you are going to be running around—it is not a concealed weapon. Obviously, when you get into the State of California, those weapons are illegal.

I think it is fair to point out again that any State can impose restrictions on the people who come into their State with a concealed carry permit from another State. So State laws still trump when it comes to the place where guns can be carried.

To this issue of multiple guns being brought into a State, States can also say the permit only applies to one gun. Obviously, that is an issue on which a State can rule. Secondly, the issue of multiple guns I would think would fall under the rubric of trafficking, which is a Federal offense. It is illegal. For people who have committed crimes, that is illegal under Federal laws. They cannot get guns in the first place—or at least they are not supposed to get guns. It is a Federal crime if they do. People who have a history of mental illness—all these issues are addressed in Federal law, which provides a floor against all these types of things that are being suggested.

Much of what has been suggested here really is scare tactics, it is fear mongering. There is no basis on which to make many of the arguments. It is totally speculative that somehow this amendment is going to lead to all kinds of people, thugs and gangsters, getting guns and then transporting them someplace else in the country.

I will tell you, I do not think there are too many criminals—by the way, criminals commit the crimes. The Senator from New Jersey talked about the thousands who are killed by guns every year. Most of them are killed by criminals. There may have been an exception or two where somebody had a concealed carry permit, but relative to the general population, it is minuscule.

If you think about the number of crimes that are committed every year by criminals, what we ought to be doing is focusing on criminals, the people who commit crimes. Criminals are not going to go down to the courthouse in Sioux Falls, SD, and say: I want to get a concealed carry permit, or anywhere in this country, for that matter, because almost every State, with three exceptions, by law does a background check. So in order to own a gun or possess a gun, you have to go through a background check. So to get a concealed carry permit, you also have to go through a background check. I do not think most criminals are going to be going down and saying: I want to get a background check so I can get a gun so I can haul it and commit a crime in some other State. That is ludicrous. Think about the logic of that. For anybody who has a criminal record, obviously, the background check is going to reveal that. They are not going to be able to either acquire a gun or get a concealed carry permit, which means they are going to do what they usually do; that is, get those firearms illegally and commit crimes and felonies because that is what criminals do.

I want to mention some of those who have endorsed this amendment. The NRA has endorsed this amendment. Gun Owners of America—I have a letter from them endorsing this amendment. Citizens Committee for the Right to Keep and Bear Arms has endorsed this amendment. The Owner-Operator Independent Drivers Association, which, as I pointed out, represents a lot of the truckdrivers across the country, endorses this. This is a real issue for them because they are traveling across State lines in interstate travel on a regular basis. This is something they have advocated for a long time. The Passenger-Cargo Security Group, which, of course, represents a lot of those who fly cargo in this country, has endorsed it. GOProud has endorsed this amendment. And the Pink Pistols group has endorsed this amendment. So there are a number of groups, organizations out there that have endorsed this amendment that believe, as I do, it represents a commonsense approach that balances the constitutional right people in this country have to keep and bear arms—the second amendment right. It is in the Bill of Rights. All the other amendments in the Bill of Rights apply across State lines, and it seems to me, at least, this one should too, subject to restrictions that are imposed by the individual States. This does not preempt any of those.

States have different restrictions that apply and restrict the place and the manner in which firearms may be transported into their States. So what we are simply trying to do is clarify this patchwork of different regulations and laws and requirements that different States have all over the country, so people, law-abiding citizens—not the criminals who are being referred to who commit the crimes in this country—so law-abiding individuals who want to defend themselves against those very criminals have the opportunity to do so by being able to possess a firearm if they have a concealed carry permit.

As I said, every State is a little different as to how you go about getting one of those permits, but every State has its own requirements, and all of the States, with a couple exceptions, have background checks as a part of that.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. THUNE. Mr. President, I reserve the remainder of my time.

Mr. DURBIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes 15 seconds.

Mr. DURBIN. Mr. President, this morning around Washington, hundreds of lobbyists strapped on their suits and their ties and went to work waiting for the Thune amendment and his theory and their theory on keeping America safer by putting more guns on the street. Across America today, thousands of law enforcement officials strapped on their guns and their badges and went out on those mean streets to risk their lives to keep us safe.

Did you listen to the groups that have endorsed the Thune amendment? Do you know what is missing? Not a single law enforcement group supports JOHN THUNE's amendment. The men and women who are risking their lives for our safety every day do not support his amendment. They oppose it. Do you know why they oppose it? Because they realize there are different standards in different States for concealed carry and in some States almost no standards at all. They realize that in 17 States you do not need to even prove you know how to fire a gun safely. And under JOHN THUNE's amendment, those people can go into States that require a test or even a test on a firing range—the 31 States that require it—and they can carry a gun without any evidence that they know how to use it.

There are also some 35 States that prohibit people convicted of certain misdemeanor crimes from carrying concealed firearms. That means that 13 other States can send their people in

with convictions for these misdemeanors and they can carry a firearm legally under JOHN THUNE's amendment.

Let me say, finally, they realize, too, that if you happen to be a drunk driver in a State—17 States—you can still get a concealed carry permit. It does not matter how many times you have been convicted for DUIs, whether you are a habitual drunkard, an alcoholic, you can still get a concealed carry permit in 17 States. Senator THUNE wants those people to be able to drive into your State, where you say, frankly, you cannot have a concealed carry permit if you cannot handle alcohol—he wants them to be able to come into those States and to have the right to carry a firearm.

Will that make us safer? The men and women in uniform, who went out this morning and are out there right now protecting us, say no. And that is what we ought to say to the Thune amendment: No.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Dakota.

Mr. THUNE. Mr. President, let me point out what I pointed out earlier. This amendment does not apply to the District of Columbia. But I also want to come back to a basic point; that is, how did we get here today? Why are we here? Well, we are here, supposedly, to be talking about the Defense authorization bill. But last week the Democratic leadership decided to put a hate crimes amendment on the floor as the first amendment to the Defense authorization bill—unrelated, nongermane to the underlying Defense authorization bill.

The hate crimes bill, it could be argued, preempts a lot of State laws because a lot of States have their own laws with regard to hate crimes. But we decided here—the Democratic leadership did—that it was more important to talk about hate crimes legislation than it was to talk about defense-related amendments.

Well, my view was, they are going to offer a hate crimes amendment on the floor of the Senate. What better way to prevent hate crimes than to allow the potential victims of hate crimes to defend themselves against those very hate crimes? So I was going to offer this amendment, this concealed carry amendment, as a second-degree amendment to the hate crimes amendment that was put on the floor last week by the Democrats. The leader filled the tree, preventing us from doing that. So we worked it out to have this debate and to talk about this amendment today. But it ties in very closely to the hate crimes amendment, the legislation we have had on the floor of the Senate for the last week when we should have been talking about Defense authorization issues.

But that being said, I will come back to my basic fundamental point. This is a commonsense amendment that strikes a balance between the constitutional right the people in this country enjoy under the second amendment to keep and bear arms—and which has been supported by the Supreme Court, I might add—and the rights of States under federalism to restrict that according to their own wishes and laws. And every State does that differently. This amendment does not preempt those.

The States of Wisconsin and Illinois prevent concealed carry permit holders, and so there is not anybody in this country who is going to be able to travel through Illinois or Wisconsin and carry a gun because they just do not allow it. So it respects the rights of the individual States. But it does allow law-abiding citizens in this country to exercise their constitutional right under the second amendment, and that right should not end at State lines. State borders should not be a barrier to an individual's right to defend themselves.

I believe the studies are very clear. As I have said earlier—they are all speculating about all the crimes that are going to be committed—people, concealed carry permit holders, if you look at the data, are 15 times less likely than the rest of the public to commit murder. Criminals commit crimes, not law-abiding citizens, not people who go down to their courthouse to get a concealed carry permit so they can defend themselves against the very criminals who routinely break the laws and possess firearms illegally so they can commit crimes.

This is a reasonable, commonsense balance which I believe strikes the right balance between the constitutional second amendment right citizens in this country enjoy and the States' ability to restrict that right. And any concealed carry permit holder who has a concealed carry permit in their State of residence who travels to another State has to abide by and is subject to the laws that are enacted by that individual State.

So, Mr. President, I hope my colleagues will vote for what is a commonsense amendment that allows people across this country who are law-abiding citizens to defend themselves from the very criminals who break those laws and try to commit these crimes.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, under current law each State adopts and enforces their own eligibility standards for who is qualified to obtain a concealed carry permit. Carrying a concealed weapon is a crime if those eligibility standards are violated and a citizen of that State carries a concealed weapon. For example, 35 States prohibit those with criminal misdemeanor convictions from obtaining a concealed carry permit.

The Thune amendment would federally authorize an individual who has been issued a concealed carry permit in one State the right to carry a concealed weapon in 47 other States, even though those other States prohibit an individual who resides in those other 47 States from carrying a concealed weapon. A Federal standard is thereby imposed on the States.

The 35 States that prohibit criminal misdemeanants from carrying concealed weapons are told under the Thune amendment: You can enforce your own laws regarding your own residents but cannot enforce your own laws against residents of the 13 States who issue concealed carry permits to convicted criminal misdemeanants when those nonresidents visit your State. The laws of those 35 States cannot be applied to all persons in their States—those from 13 other States who get permits under weaker laws are immunized.

A double standard would be adopted and would be imposed on the States.

A terrible precedent of a national standard would also be adopted and imposed on the States, superseding a State's ability should they choose to regulate concealed possesion of a firearm in their States by visiting criminal misdemeanants who do not meet their standards for concealed firearms possession.

So while the Thune amendment says it doesn't preempt any provision of State law with respect to the issuance of licenses or permits to carry concealed firearms, that is true only as to residents—it does preempt the right of the States to apply its laws as to who can carry a concealed weapon to all persons in the State, residents and nonresidents alike.

Senator THUNE's statement that everyone must comply with restrictions of States they are in is not accurate then as to the key restriction relating to who can carry concealed weapons.

The amendment will also create serious problems for law enforcement. Law enforcement officials use concealed carry permits as an important tool in combating illegal trafficking. In most States, carrying a firearm without a permit is a crime. The Thune amendment would hamper law enforcement's ability to identify and arrest illegal traffickers before they are able to sell their weapons on the black market, for instance: This is one reason why the amendment is opposed by the International Association of Chiefs of Police, the Major Cities Chiefs Associations, Mayors Against Illegal Guns and State Legislatures Against Illegal Guns.

The National Defense Authorization Act is enacted every year to help make this a safer nation. This amendment will not do that. I urge my colleagues to vote against it.

Mr. THUNE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 1618.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—58

Alexander	DeMint	McConnell
Barrasso	Dorgan	Murkowski
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Pryor
Begich	Feingold	Reid
Bennet	Graham	Risch
Bennett	Grassley	Roberts
Bond	Gregg	Sessions
Brownback	Hagan	Shelby
Bunning	Hatch	Snowe
Burr	Hutchison	Tester
Casey	Inhofe	Thune
Chambliss	Isakson	Udall (CO)
Coburn	Johanns	Udall (NM)
Cochran	Johnson	Vitter
Collins	Kyl	Warner
Conrad	Landrieu	Webb
Corker	Lincoln	Wicker
Cornyn	Martinez	
Crapo	McCain	

NAYS—39

Akaka	Harkin	Merkley
Bingaman	Inouye	Murray
Boxer	Kaufman	Nelson (FL)
Brown	Kerry	Reed
Burris	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Shaheen
Dodd	Levin	Specter
Durbin	Lieberman	Stabenow
Feinstein	Lugar	Voinovich
Franken	McCaskill	Whitehouse
Gillibrand	Menendez	Wyden

NOT VOTING—3

Byrd	Kennedy	Mikulski

The PRESIDING OFFICER. Under the previous order requiring 60 votes for adoption of the amendment, the amendment is withdrawn.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mr. MENENDEZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator KYL be recognized as in morning business for 10 minutes, and that Senator TESTER then be recognized for 10 minutes.

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

The Senator from Arizona is recognized.

SOTOMAYOR NOMINATION

Mr. KYL. Mr. President, every American should be proud that a Hispanic woman—one with a very impressive background—has been nominated for the Supreme Court.

In evaluating a nominee, it is important that the Senate examine all aspects of the individual's career and his or her merit as a judge and not make judgments on the basis of gender or ethnicity.

It starts with the judge's decisions and opinions. Also important to understanding what an individual really thinks about things are his or her speeches, writings, and associations.

Judge Sotomayor's most widely known speech is, of course, her ''wise Latina woman'' speech, which was given in various fora over the years. It is clear that the often-quoted phrase is not just a comment out of context but is the essence of those speeches.

Judge Sotomayor's central theme was to examine whether gender and ethnicity bias a judge's decision. Judge Sotomayor concludes they do, that it is unavoidable. She develops this theme throughout the speech, including examining opposing arguments and examining evidence that suggests that gender makes a difference. She then quotes former Justice Sandra Day O'Connor's statement that men and women judges will reach the same decision and, in effect, disagrees, saying she is not so sure. That is when she says she thinks a ''wise Latina'' would reach a better decision.

Her attempt to recharacterize these speeches at the committee hearing strained credulity. I will address this issue at greater length during the confirmation debate, but suffice to it say that I remain unconvinced that she believes judges should set aside these biases, including those based on race and gender, and render the law impartially and neutrally.

Judge Sotomayor's address to the Puerto Rican ACLU, entitled ''How Federal Judges Look to International and Foreign Law under Article VI of the U.S. Constitution,'' also raises red flags.

In this speech, she inferred that foreign law should be used but later testified it should not. I will also discuss at length my concerns related to this matter during the confirmation debate and the problems I have squaring her testimony with the contents of this speech. The central point, of course, is that it is completely irrelevant to consider foreign law in U.S. courts. I don't believe Judge Sotomayor is sufficiently committed to this principle.

Judge Sotomayor's supporters argue that we should not focus on her speeches but on her ''mainstream'' judicial record. They claim she agreed with her colleagues, including Republican appointees, the vast majority of the time. That may be true, but as President Obama has reminded us, most judges will agree in 95 percent of the cases.

The hard cases are where differences in judicial philosophy become apparent.

I have looked at Judge Sotomayor's record in these hard cases and have found cause for concern. The U.S. Supreme Court has reviewed directly 10 of her decisions—8 of those decisions have been reversed or vacated, another sharply criticized, and 1 upheld in a 5 to 4 decision.

The most recent reversal was Ricci v. DeStefano, a case in which Judge Sotomayor summarily dismissed before trial the discrimination claims of 20 New Haven firefighters, and the Supreme Court reversed 5 to 4, with all nine Justices rejecting key reasoning of Judge Sotomayor's court.

In my view, the most astounding thing about the case was not the incorrect outcome reached by Judge Sotomayor's court—it was that she rejected the firefighters' claims in a mere one-paragraph opinion and that she continued to maintain in the hearings that she was bound by precedent that the Supreme Court said did not exist.

As the Supreme Court noted, Ricci presented a novel issue regarding ''two provisions of Title VII to be interpreted and reconciled, with few, if any, precedents in the court of appeals discussing the issue.'' One would think that this would be precisely the kind of case that deserved a thorough and thoughtful analysis by an appellate court.

But Judge Sotomayor's court instead disposed of the case in an unsigned and unpublished opinion that contained zero—and I do mean zero—analysis.

Some have speculated that Judge Sotomayor's panel intentionally disposed of the case in a short, unsigned, and unpublished opinion in an effort to hide it from further scrutiny. Was the case intentionally kept off of her colleagues' radar? Did she have personal views on racial quotas that prevented her from seeing the merit in the firefighters' claims?

Judge Sotomayor was asked about her Ricci decision at length during the confirmation hearing. Her defense, that she was just following ''established Supreme Court and Second Circuit precedent,'' as I said, is belied by the Supreme Court's opinion noting ''few, if any'' circuit court opinions addressing the issue.

When I pressed Judge Sotomayor to identify those controlling Supreme Court and Second Circuit precedents that allegedly dictated the outcome in Ricci, she dissembled and ran out the clock. Her ''answers'' answered nothing and, in my opinion, violated her obligation to be forthcoming with the Judiciary Committee.

I am also concerned about Judge Sotomayor's analysis—or lack thereof—in Maloney v. Cuomo, a second amendment case that could find its way to the Supreme Court next year. Maloney was decided after the Supreme Court's landmark ruling in District of Columbia v. Heller, which held that the right to bear arms was an individual right that could not be taken away by the Federal Government.

In Maloney, Judge Sotomayor had the opportunity to consider whether that individual right could also be enforced against the States, a question that was not before the Heller Court. In yet another unsigned opinion, Judge Sotomayor and two other judges held that it was not a right enforceable against States.

What are the legal implications of this holding? State regulations limiting or prohibiting the ownership and

use of firearms would be subject only to ''rational basis'' review. As Sandy Froman, a respected lawyer and former National Rifle Association president, said in her witness testimony, this is a ''very, very low threshold'' that can easily be met by a State or city that wishes to prohibit all gun ownership, even in the home. Thus, if Judge Sotomayor's decision were allowed to stand as precedent, then States will, ironically, be able to do what the Federal District of Columbia cannot—place a de facto prohibition on the ownership of guns and other arms.

As we have seen, Judge Sotomayor's testimony about her previous speeches and some of her decisions is difficult, if not impossible, to reconcile with her record. Similarly, her testimony about the extent of her role with PRLDEF is in tension with the evidence that we have. The New York Times has detailed her active involvement as recounted by former PRLDEF colleagues, who have described Judge Sotomayor as a ''top policy maker'' who ''played an active role as the defense fund staked out aggressive stances.''

What were the litigation positions advanced by PRLDEF during Judge Sotomayor's tenure there? Well, it argued in court briefs that restrictions on abortion are analogous to slavery. And it repeatedly represented plaintiffs challenging the validity of employment and promotional tests—tests similar to the one at issue in Ricci.

Unfortunately, I have not been persuaded that Judge Sotomayor is absolutely committed to setting aside her biases and impartially deciding cases based upon the rule of law. And I cannot ignore her unwillingness to answer Senators' questions straightforwardly. For these reasons, I oppose her nomination.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Montana.

Mr. TESTER. Madam President, I ask unanimous consent to speak as in morning business.

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

FOREST JOBS AND RECREATION ACT OF 2009

Mr. TESTER. Madam President, I rise today to call on the Senate to take action on a bill I introduced last week—the Forest Jobs and Recreation Act.

The Forest Jobs bill is a product of years of effort from Montanans who worked together to find common ground on how to best manage and protect our forests. These folks—mill owners, conservationists, hunters and anglers, motorized users—have fought each other for decades. As little as 10 years ago, their differences were so great, they were so much apart that they could not even be in the same room together.

In the meantime, forest management came to a virtual halt, a beetle epidemic swept through our forests, and not a single acre of wilderness was designated in the State. Amid all the shouting, no one got what they wanted, and all Montanans, and especially our forests, suffered for it.

With help from my fellow Montanans, we are working to fix that. That is why I am enormously proud to carry forward their work in the Forest Jobs and Recreation Act.

Besides putting aside old battles, this bill will help protect our communities from a crisis on Montana's forest lands. And make no mistake about it, Montana's forest communities face a crisis. Our forest crisis demands action, and it demands action now.

For example, in the Beaverhead Deerlodge National Forest in southwestern Montana, a shocking 660,000 acres of lodgepole pine are dead—killed by the mountain pine beetle. To put that in perspective, that is just shy of 1,000 square miles. That is a big figure, even for Big Sky country. And it is a number that is only on the rise.

What follows dead trees? Fire. As I speak, 200 firefighters are battling a wildfire just a few miles southwest of Deerlodge, MT, in those beetle-killed trees.

While no amount of work in a forest could put a stop to the beetle kill, if enacted into law, this bill will help protect our communities and our water supplies from the threats of future forest fires.

On the Beaverhead Deerlodge Forest, the bill mandates that an average of 7,000 acres a year be harvested. This work will happen in the context of larger stewardship projects aimed at restoring fishing and hunting habitat.

A council of local stakeholders will work with the Forest Service to help shape each of the projects, providing a voice to local folks in how we manage our forests.

The bill also addresses two districts on two other forests in Montana—the Three Rivers on the Kootenai and the Seeley on the Lolo. Similar work will occur in these places: big stewardship projects that are driven by local collaborations so our forests, and the communities within them, will be healthier in the end.

Let me be clear. This bill will not just help restore our forests and their watersheds, it will help restore our communities. It will put people back to work in the woods, harvesting trees, rolling up roads, building bigger culverts for fish, and tackling stream restoration projects.

A lot of mills have closed in Montana. We are at risk of losing more. If we lose that infrastructure, we will suffer an even bigger loss. We will lose the folks who know how to work in the woods. Without their know-how, without the mills to process the byproduct of their work, we will not be able to tackle head on the years of work that lie ahead—work to restore the woods around our towns, to make them more resilient to the fires that may one day come.

Of course, in Montana, we don't just work in the woods, we play in them. That is why Montanans asked me to put aside recreation areas in this bill, and I did. Lands will be set aside for both motorized and nonmotorized use.

Lastly, I am proud to set aside some of Montana's best hunting and fishing habitats for future generations with this bill. This bill will keep some spectacular wild places with the cleanest water around you can imagine for our kids and grandkids to hunt and fish and hike and camp, places such as the Sapphires in this picture, the Snowcrests on Roderick Mountain, and lands next to our world famous Bob Marshall Wilderness.

It is a new day when motorized users, timber mill owners, back-country horsemen, hunters, fishermen, and conservationists all agree that it is time to set aside our differences for the sake of the forests and for the sake of our communities.

I have reached out to folks in western Montana to get feedback on these issues. I have held listening sessions throughout timber country, open to any and all Montanans who want to work together on a commonsense plan for our future.

Last weekend, I held a series of open meetings to announce the introduction of the bill and to hear more feedback. I have invited Montanans to visit my Web site—tester.senate.gov—to download their own copy of the legislation. Folks can also click on color-coded maps to see for themselves exactly what we are proposing. And they can sign up as citizen cosponsors of this important legislation. Already, hundreds of Montanans have signed on to make their voices heard and to help put their shoulder to the wheel to get this bill moving.

I can tell you, Montana is buzzing with excitement about this proposal. Folks see it as an opportunity to work together to support this ''Made in Montana'' solution to the conflicts that have stalemated us for far too long.

Working together, we will create jobs. Working together, we will create new opportunities for recreation. Working together, we will protect Montana's clean water. And working together, we will safeguard Montana's fishing and hunting habitat for our kids and grandkids.

Montanans are blessed to live among some of this Nation's finest public lands. We are willing to do our part to help wisely manage and protect these lands. Now it is time for Congress to step up to the plate and do its part.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

SOTOMAYOR NOMINATION

Mr. COCHRAN. Madam President, with respect to the nomination of Judge Sonia Sotomayor to be an Associate Justice on the U.S. Supreme Court, I find that I share many of the concerns expressed by the distinguished Senator from Arizona, Mr. KYL.

First, I want to thank Senators LEAHY and SESSIONS for their handling

of the hearings in the Judiciary Committee on the subject of the Supreme Court confirmation of Judge Sotomayor. Their meetings were both informative and respectful, and I think they appropriately reflected the traditions of the Senate. Both Judge Sotomayor and the judicial confirmation process were treated with the respect they deserve.

The Senate's constitutional role to advise and consent on Federal judicial nominations is one that all Senators take seriously. And I, like most Senators, have traditionally shown significant deference to the President's role in submitting to the Senate nominees for the Federal judiciary. It is a role that the Senate shares with the President. If a nominee was qualified by education, experience, and judicial temperament, then that nominee would likely be confirmed by the Senate, regardless of the political party of the President.

But in recent years, we have seen that standard dramatically altered. During the administration of President George W. Bush, for example, several well-qualified nominees from my State for positions in the Federal judiciary, including Charles Pickering, Michael Wallace, and Leslie Southwick, saw their nominations opposed because of political differences. For better or for worse, a new standard for evaluating judicial nominees has emerged.

As has been well documented during her confirmation process, Judge Sotomayor was confirmed to the U.S. Court of Appeals for the Second Circuit by the Senate on October 2, 1998. I voted in favor of her confirmation. However, a nomination to one of the Federal Circuit Courts of Appeals is not the same as a nomination to the Court of last resort, the highest Court in our land, the U.S. Supreme Court.

During her recent hearing, Judge Sotomayor was asked several questions regarding statements she had made in recent years. In writings and speeches, Judge Sotomayor repeatedly stated that a judge's personal experiences can and will impact judicial outcomes. She has also argued that judges should allow their personal sympathies and prejudices to influence their decision-making. She described the ideal of judicial impartiality as an aspiration she believes cannot be met in most cases. These statements raise serious concerns regarding the lack of commitment to the notion of equal justice under the law.

Judge Sotomayor's responses to questions about these comments have failed to alleviate my concerns about whether she would apply the law in an evenhanded manner. It is the responsibility of the Senate to make certain that those who are confirmed to the Supreme Court not only are fully qualified by reason of experience and training but also that they show a commitment to equal justice under the law. Some of Judge Sotomayor's statements during the last decade have given me reason to question her fidelity to equal justice.

Unlike the Federal circuit court, where she has served since 1998, a Justice on the Supreme Court is not necessarily bound by existing legal precedent. If confirmed, there would be no higher court to deter Judge Sotomayor from making decisions that would become the binding law of the land. For these reasons, I intend to oppose her nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Madam President, I ask unanimous consent to be recognized for up to 30 minutes, although I doubt I will take that long.

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

Mr. GRAHAM. Madam President, I take to the floor to inform the Senate and my colleagues about how I intend to vote on the pending nomination of Supreme Court nominee Judge Sotomayor. I understand the path of least resistance for me personally would be to vote no. That is probably true anytime you are in the minority party and you lose an election. But I feel compelled to vote yes, and I feel this is the right vote for me and, quite frankly, for the country in this case.

Why do I say that? Well, elections have consequences. I told Judge Sotomayor in the hearing that if I had won the election, even though I wasn't running, or Senator MCCAIN had, she would probably not have been chosen by a Republican. We would have chosen someone with a more conservative background—someone similar to a Judge Roberts or Miguel Estrada. She is definitely more liberal than a Republican would have chosen, but I do believe elections have consequences.

It is not as though we hid from the American people during the campaign that the Supreme Court selections were at stake. Both sides openly campaigned on the idea that the next President would be able to pick some judges for the Supreme Court. That was known to the American people and the American people spoke.

In that regard, having been one of the chief supporters of Senator MCCAIN and one of the chief opponents of then-Senator Obama, I feel he deserves some deference on my part when it comes to his first selection to the Supreme Court. I say that understanding, under our Constitution, I or no other Senator would be bound by the pick of a President. But when you look at the history of this country, generally speaking, great deference has been given to that selection by the Senate.

While I am not bound to vote for Judge Sotomayor—voting no would be the path of least political resistance for me—I choose to vote for Judge Sotomayor because I believe she is well qualified. We are talking about one of the most qualified nominees to be selected for the Supreme Court in decades. She has 17 years of judicial experience. Twelve of those years she was on the Second Circuit Court of Appeals. I have looked at her record closely. I believe she follows precedent; that she has not been an activist judge in the sense that would make her disqualified, in my view. She has demonstrated left-of-center reasoning but within the mainstream. She has an outstanding background as a lawyer. She was a prosecutor for 4 years in New York. Her record of academic achievement is extraordinary—coming up from very tough circumstances, being raised by a single mother, going to Princeton, being picked as the top student there, and doing an extraordinary job in law school. She has a strong work ethic. That all mattered to me. It is not just my view that her legal reasoning was within the mainstream. She received the highest rating by the ABA—the American Bar Association—as ''well qualified.''

The reason I mention that is not because I feel bound by their rating, but during the Alito and Roberts confirmation hearings for the Supreme Court under President Bush, I used that as a positive for both those nominees. I feel, as a Republican, I can't use it one time and ignore it the other. So the fact that she received the highest rating from the American Bar Association made a difference to me.

Her life story, as I indicated before, is something every American should be proud of. If her selection to the Supreme Court will inspire young women, particularly Latino women, to seek a career in the law, that is a good thing, and I hope it will.

On balance, I do believe the Court will not dramatically change in terms of ideology due to her selection. Justice Souter, whom I respect as an individual, has been far more liberal than I would prefer in a judge. I think Justice Sotomayor will not be any more liberal than he. On some issues, quite frankly, she may be more balanced in her approach, particularly when it comes to the war on terror, the use of international law, and potentially the second amendment. But time will tell. I am not voting for her believing I know how she will decide a case. I am voting for her because I find her to be well qualified, because elections matter, and because the people who have served along her side for many years find an extraordinary woman in Judge Sotomayor, and I confirm their findings.

What standard did I use? Every Senator in this body, at the end of the day, has to decide how to give their advice and consent. One of the things I chose not to do was to use Senator Obama's standard when it came to casting my vote for Judge Sotomayor. If those who

follow the Senate will recall, Senator Obama voted against both Judge Alito and Judge Roberts, and he used the rationale that they were well qualified; that they were extraordinarily intellectually gifted; but the last mile in the confirmation process, when it came to Judge Roberts, was the heart. Because 5 percent of controversial cases may change society, one has to look and see what is in a judge's heart.

I totally reject that. If the Senate tries to have a confirmation process where we explore another person's heart, I think we are going to chill out people wanting to become members of the judiciary. Who would want to come before the Senate and have us try to figure out what is in their heart? Can you imagine the questions we would be allowed to ask? I think it would have a tremendous chilling effect on the future recruitment of qualified candidates to be judges. Let me say this: Judge Sotomayor agreed with me and Senator KYL that trying to find out what is in a judge's heart is probably not a good idea.

Senator Obama also indicated that judicial philosophy and ideology were outcome determinative when it came to Judge Alito. If I used his standard, knowing that her philosophy is different than mine, her ideology is different than mine, she would have no hope of getting my vote. I daresay not one Republican, using the Obama standard, would provide her with a confirmation vote. So I decided to reject that because I believe it is not in the long-term interest of the Senate or the judiciary.

I went back to a standard I think has stood the test of time—the qualifications standard. Is this person qualified to sit on the Court? Are they a person of good character? Do they present an extraordinary circumstance—having something about their life that would make them extraordinary to the point they would be unqualified? There was a time in this country where a Justice, such as Justice Ginsburg, who is clearly left of center, received 90-something votes in this body. There was a time in this country, not long ago, where a conservative judge, such as Justice Scalia, received over 95 votes from this body. Every Democrat who voted for Justice Scalia could not have been fooled as to what they were getting. They were getting an extremely qualified, talented, intellectual man who was qualified for the job but had a different philosophy from most Democrats. Someone on our side of the aisle who voted for Justice Ginsburg had to know what they were getting. They were getting someone who was very talented, extremely well qualified, incredibly smart, and who was general counsel for the ACLU. You had to know what you were getting, but you understood that President Clinton, in that case, had the right to make that decision.

What happened to those days? I would say to my Democratic colleagues—and I am sure Republicans have made our fair share of mistakes when it comes to judges—that this effort, not too far in the past, of filibustering judges, declaring war on the Judiciary, has hurt this body. In my opinion, the politicization of our Judiciary has to stop for the good of this country, for the good of the Senate, and for the good of the rule of law in America.

What am I trying to do today? I am trying to start over. The political ''golden rule'' is: Do unto others as they did unto you. The actual Golden Rule is: Do unto others as you would have them do unto you. I hope we can get back to the more traditional sense of what the Senate has been all about. That brings me back to the recent past.

This body was on the verge of blowing up. Our Democratic colleagues were filibustering President Bush's nominees for the appellate court, and even the Supreme Court, in a fashion never known by the body. There was an effort by frustrated Republicans to change the rules so all you needed was a majority vote to get on the bench—the Supreme Court. This body, for a couple hundred years, had not gone down that road. A Gang of 14 was created—7 Republicans and 7 Democrats—and they tried to find a better way; they tried to get the Senate back to a more reasoned position. That Gang of 14—the 7 Democrats and 7 Republicans—said filibustering judges should only be done in an extraordinary circumstance. We left that up to the Members of the body, but we were focusing on someone who was clearly out of the mainstream when it came to judging.

If you look at Judge Sotomayor's record for 17 years, it is left of center but not the record of someone who is wearing a robe but under the robe is an activist. An extraordinary circumstance would be somebody clearly not qualified—a pick that is political in nature alone.

I am glad to say my colleagues on the Democratic side and the Republican side who were part of that group—and they are still here—did not see an extraordinary circumstance. I would like to compliment Senator SESSIONS, who did a very fine job in this hearing. He has acknowledged there is nothing extraordinary about this nominee for the Republican Party to try to block her through filibustering. I think that is a correct assessment.

But then it comes down to the individual vote. I have tried to indicate the best I can that I desire, as a Senator, to find a new way to start over and get back to a Senate that is more rational in its approach when it comes to confirmations.

Having said that, to my colleagues who vote no, I understand your concerns and there are things about this nominee that are troubling. The speeches she has given in the past are troubling because I think they embrace identity politics, something I don't embrace. The ''wise Latina'' comment that has become famous, that she believes more often than not that a wise Latina woman with her experience and background would reach a better conclusion than a White male—we had a long discussion about how that does not set well with most Americans and that is not what we want to be expressed by people trying to become Supreme Court nominees.

But having said that, do we want to exclude from consideration people with boldness, who are edgy? Do we want milk toast nominees who are afraid to speak their minds and to disagree with their fellow citizens? I think not.

Her speeches, while troubling, have to be looked at in terms of her record. When we look at this 17-year record we will find someone who has not carried out that speech. I will take her at her word. She rejected this idea of picking winners and losers and was very mainstream in her understanding of the role of a judge. She understood the difference between a policymaker and a judge. I will take her at her word. I cannot understand her heart any more than she can understand mine. The speeches are troubling, but I guarantee I have made some speeches that are probably troubling to people on the other side. I hope they would look at everything I have done, not just the speeches I may have given.

Her time as a lawyer—this is very important to me. During the Alito and Roberts hearings, they were pushed hard about some legal memos they wrote for Ronald Reagan espousing conservative thought and how that made them dangerous. How dare you write a memo about the Civil Rights Act that somebody on the other side may disagree with? Lawyers who advocate positions should not feel chilled in terms of picking their clients if they hope to be a judge. The worst thing we could do is take a lawyer's advocacy position, their clientele, and hold it against them for being a judge.

She was a board member of the Puerto Rican Legal Defense Fund. Some people say we should not talk about her time as a lawyer or even mention that organization. I do not believe that at all because when I am looking at this nominee, I am looking at every aspect of her life.

During her time as a board member, the board and the organization advocated positions I think are out of the mainstream, that I do not agree with, but certainly are legitimate positions to take—such as taxpayer-funded abortion. I could not disagree with her more. I don't think most Americans want their taxpayer dollars to be used to fund abortion. The Puerto Rican Legal Defense Fund argued to the court that if we do not allow taxpayer-funded abortion for poor women, it is a form of Dred Scott kind of oppression. I could not disagree more, but that is not the point. Disagreeing with me is OK.

What I hope will happen in the future is, if a conservative gets into the White

House, and we pick someone who was on the other side of that case, we will have the same understanding I do: being an aggressive advocate for causes I disagree with does not disqualify them from being a judge, if otherwise they have demonstrated the capability.

The advocacy role of a lawyer is unique. I have represented people with whom I disagreed. I have represented people accused of child molesting. I have been a criminal defense lawyer. There is nothing more noble in our system than making the government prove their case regardless of how one feels about the defendant.

The fact that she was an advocate, choosing causes I disagree with, does not, in my opinion, disqualify her because, when I looked at her record, I did not see a judge who was continuing to be a lawyer for the Puerto Rican Legal Defense Fund. I saw a judge who felt bound by the law.

Temperament—for those Members who have practiced in court, I do not like a bully judge, and I know it when I see it. I don't mind being pressed, I don't mind being challenged, I don't mind being interrupted. I just do not want to be belittled in front of my clients for no good reason.

There were some things said about Judge Sotomayor, anonymous comments from lawyers who were asked by the Federal Almanac how they rate the temperament of people on the Second Circuit, and Judge Sotomayor had some things said that were, frankly, disturbing. But I looked at the other part of the record, the people who served with her as a prosecutor, the defense attorneys who wrote on her behalf, people who served with her on the court, and I found on balance that her temperament does not disqualify her. Frankly, I found somebody a lot of people from different backgrounds admire.

Ken Starr, one of the strongest conservatives in the country, found her to be a qualified person who would do a good job; Louis Freeh, the former Director of the FBI, is someone who came and vouched for her character and her qualities as a person.

When I look at the record, the anonymous comments by lawyers who were asked by Federal Legal Service did not win the day, nor should they have.

I do not know what is ahead for this country when it comes to picking Supreme Court Justices. I don't know what openings may occur and when they will occur. I know this. Elections have to matter. I don't want to invalidate elections by disagreeing with someone against whom I ran or I opposed politically because when the election is over, everything has to change to some extent. I am not bound to agree with every pick of President Obama, but when it comes to trying to show some deference, I will. I will try to do better for him than he was able to do for President Bush.

I don't want to turn over the confirmation of judges to special interest groups on the left or the right, and that is where we are headed if we don't watch it. Special interest groups are important, they have their say, they have every right to have their say, but we can't make every Supreme Court vacancy a battle over our culture.

I am trying to start over. I have only been here one term plus a few months. But since I have been here, I have been worried about where this country is going when it comes to judges. I happen to be here at a time when we are about to change the rules of the Senate in a way it had never been done in 200 years. I was new to the body, but I was understanding of the law and how our system works well enough to know that I did not want to be part of that. I had not been here long, but I understood what would happen to this country if we changed the rules of the Senate, even though people felt frustrated and justified to do so.

As a member of the minority, I promised President Obama that I would look hard at his nominees. I will try to help him where I can, but I will not abandon the right to say no and to stop, in an extraordinary circumstance, a nominee who I think would be bad for the country and would dramatically change the power of a branch of the government, the Supreme Court, that is very important to every American.

As to my colleagues who find a different decision on the Republican side, I can understand and appreciate why they did not feel comfortable giving their confirmation votes to Judge Sotomayor. But I am trying to look beyond this moment, look to the future and come up with a reason to support her that will create a different way of doing business, that will help the judiciary, the Senate, and the country as a whole.

Senator SESSIONS did an outstanding job. Senator LEAHY did a very good job. People wanted to know more about her at the hearings, but she is limited, like every nominee, in terms of what she can say.

One last comment about Judge Sotomayor. She is 1 year older than I am. I grew up in the Deep South. I am the first person in my family to go to college. I lost my parents when I was in college and had a 13-year-old sister to raise.

She grew up in the Bronx, came to this country from Puerto Rico. Her mother joined the Army. She lost her dad when she was very young. Her mother raised Judge Sotomayor and her brother under difficult circumstances. Her brother is a doctor. She has been able, Judge Sotomayor, to excel academically and reach the highest rung of America's legal system. That, to me, is a hell of a story. Nobody in my family ever expected me to be a United States Senator—including myself. Only in America can these things happen.

I choose to vote for Judge Sotomayor looking at her from the most optimistic perspective, understanding I could be wrong but proud of the fact that my country is moving in the right direction when anybody and everybody can hit it out of the park. I would not have chosen her if I had to make this choice as President, but I understand why President Obama did choose her and I am happy to vote for her.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR RECESS

Mr. ENSIGN. Madam President, I ask unanimous consent that at 1:45 today, the Senate stand in recess for 10 minutes.

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

Mr. ENSIGN. Madam President, I rise to talk about a bipartisan amendment on military voting, a bill I have cosponsored, because counting every vote in our elections is the foundation of our democracy. I thank Senators SCHUMER, BENNETT, CHAMBLISS, and CORNYN for their work on this matter.

This is a long overdue measure to address the problems that our uniformed service men and women face in exercising their constitutional right to take part in elections, a right for which they so bravely fight to protect. Military personnel have encountered many problems in recent elections. They have trouble receiving timely information about elections in their home States. They have trouble registering and obtaining absentee ballots. They have trouble preparing ballots. Most of all, they have trouble returning the ballot to local election officials in time for their vote to be counted.

It has been a national embarrassment to read news stories of military ballots that have been delayed. Despite the best efforts of those voters, those votes were not counted. Those military voters were disenfranchised from the same democracy they are charged with protecting because of administrative redtape.

According to a Pew Charitable Trust study, one-third of States do not provide military voters stationed abroad enough time to vote. Additionally, it found that 25 States and the District of Columbia need to improve military absentee voting to ensure our men and women stationed around the globe can participate in the democratic process. While it concluded that my home State of Nevada gave its voters enough time to vote, there are still steps that could be taken to make the process simpler. Providing half of the country with insufficient time is entirely unacceptable.

This study went on to say that by almost every measure, military and overseas voting participation is much lower than the general population. In 2006,

voter turnout was approximately 20 percent for military voters as opposed to approximately 40 percent for the general population. These statistics illustrate that those who are fighting to protect our democracy are not being afforded the opportunity to participate in it.

Both the Department of Defense and State and local election officials have not done enough to address these problems. The Military and Overseas Voter Empowerment Act of 2009 would address some of these problems to help military personnel have their votes count. The bill establishes new requirements for the States and for the Department of Defense to make it easier for military and overseas voters to participate in elections. The key requirement is for States to allow sufficient time for these voters who are overseas to receive their ballots, vote, and return them in time to be counted.

Other provisions in the bill include having States provide online and fax systems to deliver registration and absentee ballots; making the Department of Defense provide improved ballot delivery and mail service for troops; and having the Department of Defense provide improved Federal voting assistance such as designating and training voter assistance officers and providing registration and absentee ballot information at every installation. While these are challenges, they are not insurmountable, especially when we consider the outcome—providing the men and women in uniform with the opportunity to vote. We, as Americans, owe them that opportunity.

My office has been in touch with the office of the Secretary Of State of Nevada to continue to work through these challenges. Implementing these changes will not be simple. My colleagues and I have modified the bill to address some of these concerns and will continue to work with our States and localities going forward.

For example, the original version of the bill focused attention on the steps that States must take, even though we know that many States, such as Nevada, have local election officials who carry out important election activities. We never had any intention of reaching into States and rearranging that relationship. That is why the Rules Committee modified the bill to clarify that election responsibilities identified in the bill can, of course, be delegated to the appropriate local election officials. The negotiation process is ongoing because the objective of ensuring that military votes are counted on election day is so critical.

I fully expect we will find new issues to work through, but we must keep our eyes on the main goal—improving the system to protect the voting rights of our military personnel. There are few rights we exercise greater than choosing our own elected officials. We cannot call ourselves a democracy if we do not count the votes of our citizens in elections of government officials. The men and women who put their lives on the line for you and me to protect our country are certainly no exception. It is time that we take steps to protect their right to vote.

I encourage my colleagues to make sure that this particular amendment is included in the Defense authorization bill. This is critical ahead of the election so States have time to prepare and every person in the military who wishes to exercise their right to vote is allowed to do so and their vote is counted in time for the 2010 elections.

RECESS

Mr. ENSIGN. I ask unanimous consent that the Senate stand in recess, as under the previous order.

There being no objection, the Senate, at 1:43 p.m., recessed until 1:56 p.m., and reassembled when called to order by the Presiding Officer (Mrs. HAGAN).

QUORUM CALL

Mr. DURBIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Leg.]

Akaka	Dorgan	McConnell
Alexander	Durbin	Merkley
Barrasso	Enzi	Murkowski
Bennet, Colorado	Feingold	Murray
Bennett, Utah	Franken	Pryor
Bingaman	Gillibrand	Reed, Rhode Island
Bond	Graham	Reid, Nevada
Boxer	Gregg	Risch
Brownback	Hagan	Roberts
Bunning	Inhofe	Sessions
Burr	Inouye	Shaheen
Burris	Isakson	Specter
Cantwell	Johanns	Tester
Cardin	Kaufman	Udall, New Mexico
Casey	Klobuchar	Vitter
Chambliss	Kohl	Voinovich
Coburn	Kyl	Warner
Cochran	Leahy	Webb
Corker	Levin	Whitehouse
Cornyn	Lieberman	Wicker
Crapo	Martinez	
DeMint	McCain	
Dodd	McCaskill	

The PRESIDING OFFICER (Mr. INOUYE). A quorum is present.

DISMISSAL OF ARTICLES OF IMPEACHMENT AGAINST SAMUEL B. KENT, JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the Senate will convene as a Court of Impeachment in the trial of Samuel B. Kent, former United States District Judge for the Southern District of Texas.

The Sergeant at Arms will make the proclamation.

The Sergeant at Arms of the Senate, Terrance W. Gainer, made the proclamation, as follows:

Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States, Articles of Impeachment against Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas.

The PRESIDING OFFICER. The Secretary for the majority.

The SECRETARY FOR THE MAJORITY. Mr. President, I announce the presence of the managers on the part of the House of Representatives to continue proceedings on behalf of the House concerning the impeachment of Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas.

The PRESIDING OFFICER. The managers on the part of the House will be received and assigned their seats.

The managers were thereupon escorted by the Sergeant at Arms of the Senate, Terrance W. Gainer, to the well of the Senate.

The PRESIDING OFFICER. The majority leader of the Senate is recognized.

Mr. REID. Mr. President, at this time the oath should be administered in conformance with article I, section 3, clause 6 of the Constitution and the Senate's impeachment rules to those Senators who were not in the Chamber while the Articles of Impeachment were presented.

The PRESIDING OFFICER. Are there Senators who were not present?

Senators shall now be sworn: Do you solemnly swear that in all things appertaining to the trial of the impeachment of Samuel B. Kent, former Judge of the United States District Court for the Southern District of Texas, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

SENATORS: I do.

Mr. REID. The Secretary will note the names of the Senators who have been sworn today and will present to them for signing the book which is the Senate's permanent record of the administration of the oath.

The following named Senators are recorded as having subscribed to the oath this day:

BENNET
COCHRAN
FRANKEN
ROBERTS

The PRESIDING OFFICER. The managers on the part of the House will now proceed.

Representative SCHIFF. Mr. President, following the resignation of Judge Samuel B. Kent effective June 30, 2009, the House adopted the following resolution directing the managers to request on the part of the House that the Articles of Impeachment be dismissed, which, with the permission of the President of the Senate, I will read:

H. Res. 661 in the House of Representatives, U.S., July 20, 2009.

Resolved, That the managers on the part of the House of Representatives in the impeachment proceedings now pending in the Senate