United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, THURSDAY, MAY 13, 1999 No. 69

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Pastor Lonnie Shull, First Baptist Church, West Columbia, SC.

We are very pleased to have you with us.

PRAYER

The guest Chaplain, Pastor Lonnie Shull, First Baptist Church, West Columbia, SC, offered the following prayer:

God be merciful to us, and bless us; cause Your face to shine upon us.—Psalm 67:1. Gracious Father, we praise You today. You have blessed America, and we are so thankful. You have made us the greatest Nation on Earth. Accept, O Father, our sincere gratitude. May we be a gracious demonstration of the freedom and opportunity, righteousness and justice, You desire for all nations.

I pray that You will empower our Senators with Your wisdom. Give them, I pray, a divine vision for the United States of America. May they be given double portions of courage, honesty, and humility as Your dedicated servants. Save us, I pray, from the enemies who would destroy us. Deliver us from internal strife, selfish arrogance, and moral disintegration.

Today, we especially pray for those who serve this Nation in our Armed Forces overseas. Keep them safe in Your loving care and bring them safely back to their homeland soon. Help us to reach out in love to our fellow citizens whose lives have been devastated by violence and by storms.

O God, please bless America and keep her true as You have kept her free. We ask these things in the name and the authority of the Prince of peace. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able chairman of the Judiciary Committee is recognized.

Mr. HATCH. I thank the Chair.

SCHEDULE

Mr. HATCH. This morning the Senate will resume consideration of the juvenile justice legislation. Pending is the Hatch-Leahy amendment with a vote to take place at approximately 9:40 a.m. Following the disposition of the Hatch-Leahy amendment, Senator HOLLINGS will resume debate of his television violence amendment with 2 hours of debate remaining on the amendment, with the time for a vote to be determined. It is hoped that significant progress can continue to be made on this important legislation. Therefore, Senators can expect votes throughout today's session of the Senate.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the leadership time is reserved.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 254 which the clerk will report.

The legislative assistant read as follows:

A bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile individuals, punish and deter violent gang crimes, and for other purposes.

Pending:

Hatch-Leahy amendment No. 335, relating to the availability of Internet filtering and screening software.

Hollings amendment No. 328, to amend the Communications Act of 1934 to require that the broadcast of violent video programming be limited to hours when children are not reasonably likely to comprise a substantial portion of the audience.

Mr. President, I ask unanimous consent to add Senator MCCAIN as a cosponsor of the Hatch-Leahy amendment.

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

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent to have my full 5 minutes as previously reserved.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the Hatch-Leahy amendment is a good one. I hope everybody will support it. I have talked for years about empowering users of the Internet to control and limit access to material they did not want to see and that could be found on line. This could be any type of material. Parents may not want their children buying things. There may be obscene material. It could be types of sites parents are against.

We also know there is a lot of amazing and wonderful material on the Internet. While I oppose efforts in Congress to regulate content of the Internet, I do want to make sure children can be protected, that parents have the ability to do that, and this gives them a chance to do it.

I have always believed the power to control what people see belongs to the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

users and the parents, not the Government. The amendment the chairman and I offer requires large on-line service providers to offer their subscribers filtering software and systems to stop objectionable materials from reaching their computer screens. I am supportive of voluntary industry efforts to come together and provide Internet users with one-click-away information resources on how to protect children when they go on line. Senator CAMPBELL and I joined Vice President Gore at the White House last week to hear about this one-click-away amendment. Our amendment helps promote the use of filtering technologies. It is better than Government censorship. It is a fall-back provision, if the companies do not do it themselves.

NOTE FROM SENATOR SASSER

Mr. LEAHY. Mr. President, I wonder if my distinguished friend from Utah will indulge me. I ask unanimous consent for 1 minute to read a note that I just received from our former colleague, Senator Sasser.

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

Mr. LEAHY. Mr. President, many of us served here with Jim Sasser, the very distinguished former chairman of the Budget Committee, now our Ambassador to China at a very difficult time.

We have seen the photographs of Ambassador Sasser under siege in the Chinese Embassy. I faxed him a note the other day, saying how proud I was, and I mentioned the comments of many Senators saying how proud they were, of his grace under fire and the fact that he would not leave the American Embassy that is under siege. When there were Embassy staff there, in the true and best tradition of the State Department and the Senate and the Marine Corps and everything else, he said he would stay until it was safe. So I faxed him this note.

This morning I got back this note from him, and I will read it for my colleagues. It is handwritten. It says:

> Dear Pat: My sincere thanks for your wonderful note. Please tell all my former colleagues that Mary and I are well and safe. Things have stabilized after a turbulent few days. Last night I got a good night's sleep in a real bed. All the best, Jim.

I just wanted everybody to hear that.

I thank my friend from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I am glad my friend from Vermont read that letter. I visited with Senator Sasser a couple of years ago over there. He is doing a very good job in China.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I strongly urge my colleagues to support this Hatch-Leahy amendment, which is aimed at limiting the negative impact violence and indecent material on the Internet have on children.

As I noted last evening, this amendment does not regulate the content. Instead, it encourages the larger Internet service providers, the ISPs, if you will, to provide, either for free or at a fee not exceeding the cost to the service providers, filtering technologies that will empower parents to limit or block the access of minors to unsuitable materials on the Internet. We simply cannot ignore the fact that the Internet has the ability to expose children to violent, sexually explicit, and other inappropriate materials with no limits.

A recent Time/CNN poll found that 75 percent of teenagers from 13 to 17 believe the Internet is partly responsible for the crimes that occurred in Littleton, CO, at Columbine High School. The amendment respects the first amendment of the Constitution by not regulating content but ensures that parents will have the adequate technological tools to control access of their children to unsuitable material on the Internet.

I honestly believe that the Internet service providers that do not already provide filtering software to their subscribers will do so voluntarily. They will know it is in their best interests, and I believe the market will demand it.

A recent survey reported in the New York Times yesterday found that almost a third of on-line American households with children use blocking software.

In a study by the Annenberg Public Policy Center of the University of Pennsylvania, 60 percent of parents said they disagreed with the statement that the Internet was a safe place for their children. According to yesterday's New York Times, after the shootings in Colorado, the demand for filtering technologies has dramatically increased. This indicates that parents are taking an active role in safeguarding their children on the Internet. That is what this amendment is all about—using technology to empower parents.

I urge my colleagues to support the amendment, and I yield the floor and hope we can go to a vote.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 335. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—100

Abraham	Bennett	Brownback
Akaka	Biden	Bryan
Allard	Bingaman	Bunning
Ashcroft	Bond	Burns
Baucus	Boxer	Byrd
Bayh	Breaux	Campbell
Chafee	Hatch	Murray
Cleland	Helms	Nickles
Cochran	Hollings	Reed
Collins	Hutchinson	Reid
Conrad	Hutchison	Robb
Coverdell	Inhofe	Roberts
Craig	Inouye	Rockefeller
Crapo	Jeffords	Roth
Daschle	Johnson	Santorum
DeWine	Kennedy	Sarbanes
Dodd	Kerrey	Schumer
Domenici	Kerry	Sessions
Dorgan	Kohl	Shelby
Durbin	Kyl	Smith (NH)
Edwards	Landrieu	Smith (OR)
Enzi	Lautenberg	Snowe
Feingold	Leahy	Specter
Feinstein	Levin	Stevens
Fitzgerald	Lieberman	Thomas
Frist	Lincoln	Thompson
Gorton	Lott	Thurmond
Graham	Lugar	Torricelli
Gramm	Mack	Voinovich
Grams	McCain	Warner
Grassley	McConnell	Wellstone
Gregg	Mikulski	Wyden
Hagel	Moynihan	
Harkin	Murkowski	

The amendment (No. 335) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SANTORUM). Under the previous order, the Senator from Nevada, Mr. BRYAN, is recognized for up to 12 minutes for a morning business statement.

The Senator from Nevada.

DANGERS OF NUCLEAR WASTE TRANSPORTATION

Mr. BRYAN. Mr. President, next Sunday and Monday, NBC is scheduled to air a miniseries entitled ''Atomic Train.'' The plot of this movie includes a runaway train carrying nuclear weapons and high-level nuclear waste causing a massive accident and catastrophe in Denver.

The movie is obviously fiction. Let me just tell you how the network initially described the scenario:

> A runaway train carrying armed nuclear weapons and deadly nuclear waste suddenly careens out of control down the Rocky Mountains.

All of this made the nuclear power industry very nervous, because although the scenario is fictional, much of what is depicted, in part, is a scenario that is entirely possible, given the proposed legislation I will describe that this Congress is considering.

Earlier this week, just days before this was to air, all of a sudden NBC changes the story line of the television miniseries, and now we have:

> A runaway train carrying a Russian atomic weapon and hazardous materials, suddenly careening out of control.

All reference to high-level nuclear waste is dropped. The Nuclear Energy Institute, which is the lobbying arm of the atomic energy lobby, was forced to go into high gear. They sent out what they called an ''Info Wire.'' They were very concerned. They say, in effect:

NEI, in consultation with industry communicators and representatives of the U.S. Department of Energy and the American Association of Railroads, has adopted a containment strategy for the upcoming movie. We do not want to do anything to provide additional publicity for this movie prior to the airing. The containment strategy is not a passive one, in that it envisions an aggressive effort prior to the broadcast.

It is the belief of this Senator that indeed it was a very aggressive effort, and the Nuclear Energy Institute put pressure on the network to drop all references to dangerous high-level nuclear waste. The last thing this industry wants the American people to understand is that legislation which has been supported in previous Congresses, and in this Congress, would result in the shipment of 77,000 metric tons of high-level nuclear waste within a mile or less of a total population of 50 million residing in 43 States.

The blue lines depict rails, and indeed there is a transportation corridor going through the State of Colorado, as well as others.

So why did NBC do an ''el foldo''? NBC is owned by General Electric and, surprise, General Electric has a nuclear division, and one of its senior officers is a member of the board of directors of NEI.

I acknowledge it is a fictional scenario. But what is very real is that in point of fact the proposal is to transport high-level nuclear waste through all these rail corridors that are depicted on this map. That is not fictional. That is real.

It is, in fact, real that high-level nuclear waste is deadly, as NBC first described it. In fact, it is deadly for tens of thousands of years. In point of fact, as we know, every year there are thousands of train accidents in America. A runaway train is not a fictional scenario. That is something that occurs, sadly, from time to time. It is not a fictional scenario for a train and an automobile or a truck to collide at an at-grade crossing. That occurred tragically earlier this year in Illinois. It is not fictional for trains to be derailed.

The last thing this industry wants the American people to know and to understand is that, indeed, the shipment of high-level nuclear waste, proposed to be sent to a temporary—allegedly temporary—storage area in my own State, at the Nevada Test Site, is a scenario that would involve the transshipment of 77,000 metric tons of high-level nuclear waste, with all of the risks that are inherent therein.

What is even more outrageous is that it is totally unnecessary. The Nuclear Waste Technical Review Board tells us it is unnecessary. The Department of Energy has indicated it is unnecessary. The President has indicated he would veto such legislation. All the risks depicted in this scenario with high-level nuclear wastes could be a reality if there was a tragic train accident and, indeed, the canisters were compromised and high-level nuclear waste was scattered along the route.

I think this is a very dangerous proposal. I think the fact the network would cave in is equally dangerous, because the American people have a right to know what is being proposed. In Nevada, we understand the risk. Sadly, there are hundreds of millions of Americans in this country who are not familiar with the nuclear industry's proposal to make their backyards the corridor by which high-level nuclear waste is to pass.

I must say, with tongue in cheek, if this is to be the standard, one might contemplate that the cruise line industry might have put pressure upon the producers of ''Titanic'': Please do not make any reference to the fact that the ship is sinking. This may be bad for business. Or the producers of ''Planet Of The Apes'' might have been subjected to pressure from PETA, People for the Ethical Treatment of Animals, saying: Look, we object to the way in which these apes are being treated in the film; please make changes. Or if some of the advocates of my own State approached the producers of ''Casino'' and said: Look, we don't want you to make any references to ''Casino'' in this story line; please delete that.

In my judgment, the circumstantial evidence is powerful here. The description I have given, namely of deadly nuclear waste, was the network's own description just days ago. The NEI goes into a full court press, what they call a containment strategy—what we all know is damage control—and, miraculously, days before this miniseries is scheduled to air, the story line is changed and all references to deadly nuclear waste are deleted.

I hope the American people will not be misled, that they will understand the risks that affect them and their neighborhoods. Mr. President, 43 different States are affected in this scenario. This map I have here depicts essentially the States. Because, by their nature, highway corridors and rail corridors connect the major metropolitan communities of our country, this high-level nuclear waste would in fact go through major cities in America. That fact is largely unknown.

Last year, I had occasion to travel with my senior colleague to the two communities of Denver and St. Louis, and to share with those communities the risks that are involved. Most people in the community did not have any understanding that this scenario is not fictional and far-fetched but, indeed, it is contemplated that those shipments will occur.

I regret NBC felt it was necessary to respond to the pressure of the nuclear power industry. Having been involved in this battle for the last 17 years, I am not unmindful of what a powerful force they are, not only in Washington but around the country. They have every right to advocate their point of view. As to their concern that somehow their industry would be exposed for what it is, a high-risk industry that threatens the health and safety of many Americans with this ill-conceived and unnecessary plan to ship nuclear waste to a temporary nuclear waste facility in my own State, at least this movie would have made the public aware that high-level nuclear waste is dangerous, to use the description NBC initially gave; that it was indeed going to pass through major cities such as Denver; and that indeed the health and safety of citizens of those communities and many others across the country could be compromised.

Mr. President, I yield the floor and the remainder of my time.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 328

The PRESIDING OFFICER. Under the previous order, the Senate resumes consideration of the HOLLINGS amendment, No. 328, for the remaining 2 hours of debate, which is to be equally divided in the usual form. Who yields time?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, this amendment is nothing more than reinstituting the family hour or the family viewing period. We had it during the seventies, but we set it aside, just like the distinguished Senator from Nevada was talking about with respect to censoring and making sure these producers and broadcasters don't interfere with the creative impulses of a writer or a producer in Hollywood. But when it comes to the bottom line, they change that around. That is what we have, and it is very, very difficult to make an overwhelming case.

We are again facing the same stonewalling that we viewed Sunday on ''Meet the Press,'' when the representative of the Motion Picture Association, who has been doing this for 30-some years, said he did not know the effect of TV violence on children and asked for another study. We pointed out, of course, that is the way we started with Senator Pastore, back in 1969, 30 years ago, and that is when we had the Surgeon General's study. It has become worse and worse and worse over the years.

Again this morning, in the Washington Post, an article says: ''Movie Mogul Defends Hollywood.'' Mr. Edgar Bronfman states:

Violence ''is not an entertainment problem''. . . .

Mr. President, all we have to do is go to the May 3 issue of Newsweek. I ask unanimous consent to print the article, ''Loitering on the Dark Side'' in the RECORD.

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

LOITERING ON THE DARK SIDE—THE COLUMBINE HIGH KILLERS FED ON A CULTURE OF VIOLENCE THAT ISN'T ABOUT TO CHANGE

(By Steven Levy)

Now for the recriminations. Was the Colorado tragedy a legacy of our technoculture: Doom, ''Natural Born Killers,'' hate-amplifying Web sites and pipe-bomb plans from the Net? Or simply two teenage killers' ability to collect enough ordnance to sustain a small army? Gathering the potential culprits seems less an exercise in fixing liability than tossing random darts at the violence-fixated cultural landscape. After the massacre, there were calls to cancel two upcoming Denver events: a Marilyn Manson concert and the NRA's annual convention. Guilt has to be spread pretty widely to make bedfellows of the androgynous Goth crooner and Charlton Heston.

Still, we've got to look for answers to prevent further massacres, if not to clear up the mystery in Littleton. The Internet has been getting heat not only as a host for some of the sick enthusiasms of the Trenchcoat Mafia, but as a potential source of explosive information. Defenders of the New rightfully note that criticizing the reach of the increasingly pervasive Web is like blaming paper for bad poetry. Still, it's undeniable that cyberspace offers unlimited opportunity to network with otherwise unreachable creepy people. What's worse is how the Net makes it easy to succumb to the temptation to post anything—even Ubermensch song lyrics or murderous threats—without the sure sanctions that would come if you tried that in your geographical community. The Internet credo is empowerment, and unfortunately that also applies to troubled teens sticking their toes into the foul water of hatemongering. As parents are learning, the Net's easy accessibility to the netherworlds is a challenge that calls, at the least, for a measure of vigilance.

Hollywood is also a fat target. From Oliver Stone's lyric depiction of random murder (rabidly viewed by the Columbine killers) to stylish slaughter in ''The Matrix,'' violence is the main cource on our entertainment menu. We are a nation that comfortably embraces Tony Soprano, a basic-values type of guy who not only orders hits but himself performs the occasional whacking. The industry's defense is summarized by Doug Richardson, who's scripted ''Die Hard II'' and ''Money Train.'' ''If I were to accept the premise that the media culture is responsible,'' he says, ''then I would be surprised that the thousands of violent images we see don't inspire more acts of violence.'' In other words, the sheer volume of carnage is proof of its harmlessness.

Mr. HOLLINGS. It says:

Hollywood is also a fat target. Oliver Stone's lyric depiction of random murder (rabidly viewed by the Columbine killers) to stylish slaughter in ''The Matrix,'' violence is the main course on our entertainment menu.

I ask unanimous consent that a Time magazine article, again this month, entitled ''Bang, You're Dead,'' be printed in the RECORD.

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

BANG, YOU'RE DEAD

REVENGE FANTASIES ARE PROLIFERATING IN MOVIES AND ON TV. BUT SHOULD THEY BE BLAMED FOR LITTLETON?

(By Richard Corliss)

The young and the older always eye one another across a gaping chasm. Gray heads shake in perplexity, even in a week of mourning, even over the mildest expressions of teen taste. Fashion, for example. Here are these nice kids from suburban Denver, heroically documenting the tragedy for TV, and they all seem to belong to the Church of Wearing Your Cap Backward. A day later, as the teens grieve en masse, oldsters ask, ''when we were kids, would we have worn sweats and jeans to a memorial service for our friends?'' And of course the trench-coat killers had their own distinctive clothing: Johnny Cash by way of Quentin Tarantino. Should we blame the Columbine massacre on haberdashery?

No, but many Americans want to pin the blame for this and other agonizing splatter fests on pop culture. Adults look at the revenge fantasies their kids see in the 'plexes, listen (finally) to the more extreme music, glance over their kids' shoulders at Druid websites and think, ''Seems repulsive to me. Maybe pop culture pulled the trigger.''

Who wouldn't want to blame self-proclaimed Antichrist superstar Marilyn Mason? Listen to Lunchbox, and get the creeps: ''The big bully try to stick his finger in my chest/ Try to tell me, tell me he's the best/ But I don't really give a good goddamn cause/ I got my lunchbox and I'm armed real well / Next motherf***** gonna get my metal/ . . . Pow pow pow.'' Not quite Stardust.

Sift through teen movies of the past 10 years, and you could create a hindsight game plan for Littleton. Peruse Heathers (1989), in which a charming sociopath engineers the death of jocks and princesses. Study carefully, as one of the Columbine murderers reportedly did, Natural Born Killers (1994), in which two crazy kids cut a carnage swath through the Southwest as the media ferociously dog their trail. Sample The Basketball Diaries (1995), in which druggy high schooler Leonardo DiCaprio daydreams of strutting into his homeroom in a long black coat and gunning down his hated teacher and half the kids. The Rage: Carrie 2 (now in theaters) has jocks viciously taunting outsiders until one girl kills herself by jumping off the high school roof and another wreaks righteous revenge by using her telekinetic powers to pulverize a couple dozen kids.

Grownups can act out revenge fantasies too. In Payback, Mel Gibson dishes it out (pulls a ring out of a punk's nose, shoots his rival's face off through a pillow) and takes it (gets punched, switch-bladed, shot and, ick, toe-hammered). The Matrix, the first 1999 film to hit $100 million at the box office, has more kung fu than gun fu but still brandishes an arsenal of firepower in its tale of outsiders against the Internet droids.

In Littleton's wake, the culture industry has gone cautious. CBS pulled an episode of Promised Land because of a plot about a shooting in front of a Denver school. The WB has postponed a Buffy the Vampire Slayer episode with a schoolyard-massacre motif. Movie-studio honchos, who furiously resist labeling some serious adult films FOR ADULTS ONLY, went mum last week when asked to comment on any connection between violent movies and violent teen behavior. That leaves us to explain things.

Revenge dramas are as old as Medea (she tore her sons to pieces), as hallowed as Hamlet (seven murders), as familiar as The Godfather. High drama is about the conflict between shades of good and evil, often within the same person. But it's easier to dream up a scenario of slavering evil and imperishable good. This is the moral and commercial equation of melodrama: the greater the outrage suffered, the greater the justification for revenge. You grind me down at first; I grind you up at last. This time it's personal.

Fifty years ago, movies were homogenous, meant to appeal to the whole family. Now pop culture has been Balkanized; it is full of niches, with different groups watching and playing their own things. And big movies, the ones that grab $20 million on their first weekend, are guy stuff. Young males consume violent movies, in part, for the same reason they groove to outlaw music: because their parents can't understand it—or stand it. To kids, an R rating for violence is like the Parental Advisory on CDs: a Good Housebreaking Seal of Approval.

The cultural gap, though, is not just between old and young. It is between the haves and the self-perceived have-nots of teen America. Recent teen films, whether romance or horror, are really about class warfare. In each movie, the cafeteria is like a tiny former Yugoslavia, with each clique its own faction: the Serbian jocks, Bosnian bikers, Kosovar rebels, etc. And the horror movies are a microcosm of ethnic cleansing.

Movies may glamorize mayhem while serving as a fantasy safety valve. A steady diet of megaviolence may coarsen the young psyche—but some films may instruct it. Heathers and Natural Born Killers are crystal-clear satires on psychopathy, and The Basketball Diaries is a mordant portrait of drug addiction. Payback is a grimly synoptic parody of all gangster films. In three weeks, 15 million people have seen The Matrix and not gone berserk. And Carrie 2 is a crappy remake of a 1976 hit that led to no murders.

Mr. HOLLINGS. Reading one sentence:

Sift through teen movies of the past 10 years, and you could create a hindsight game plan for Littleton.

Another interesting article, ''Gunning for Hollywood,'' appeared in U.S. News & World Report on May 10. I ask unanimous consent that the column by John Leo be printed in the RECORD.

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

GUNNING FOR HOLLYWOOD

(By John Leo)

Every time a disaster like the Colorado massacre occurs, Democrats want to focus on guns and Republicans want to talk about popular culture. Much of this comes from actual conviction, but economic interest often disguises itself as principle. The Republicans can't say much about the gun lobby, because they accept too much of its money. The Democrats can't talk about Hollywood and the rest of the entertainment industry, because that's where so much of their funding comes from.

The gun and entertainment executives tend to patrol the same familiar borders. Charlton Heston, head of the National Rifle Association, offered some dubious arguments: An armed guard at Columbine High School would have saved lives; legalizing concealed weapons tends to lower crime rates. Gerald Levin, the equally adamant head of Time Warner, said he feared ''a new season of political opportunism and moral arrogance intended to scapegoat the media.'' He raised the specter of censorship, noting that Oliver Cromwell, ''the spiritual forebear of Rev. Falwell,'' shut down the theaters of 17th-century England on moral grounds.

Surely we can do better than this. We can talk about the importance of gun control,

and we can talk about the impact on behavior of violence portrayed in the media without suggesting that censorship is any kind of solution.

This time around, a center of sorts seems to be forming. Bill Bennett and Sen. Joseph Lieberman, familiar social conservative voices on this issue, have been joined by Sens. John McCain and Sam Brownback and, it seems, by the Clintons and the Gores. Tipper Gore said that the entertainment media bear some responsibility for the killings in Colorado. In a radio address, President Clinton urged parents to ''refuse to buy products'' which glorify violence.''

If more Republicans will talk about guns, maybe more Democrats will ask their favorite media moguls to start thinking harder about the social impact of the many awful products they dump on the market.

''We want to appeal to their sense of responsibility and citizenship and ask them to look beyond the bottom line,''said Lieberman. There is talk of some sort of ''summit meeting'' on violence. McCain plans a hearing this week on how violence is marketed to children. For the long term, we need a campaign appealing to pride and accountability among media executives. Shame, too, says Lieberman.

Pointless violence is an obvious topic. In the dreadful Mel Gibson movie Payback, a nose ring is yanked off, bringing some of the nose with it. A penis is pulled off in the new alleged comedy Idle Hands. Worse are the apparent connections between screen and real-world violence. Michael Carneal's shooting rampage in a Kentucky school was similar to one in a movie he saw, The Basketball Diaries. In the film, the main character dreams of breaking down a classroom door and shooting six classmates and a teacher while other students cheer. In Manhattan in 1997, one of the men who stomped a parade watcher to death on St. Patrick's Day finished with a line almost exactly like the one uttered by a killer in the movie A Bronx Tale: ''Look at me—I'm the one who did this to you.''

A damaging kind of movie violence is currently on display in a very good new movie, The Matrix. Keanu Reeves's slaughter of his enemies is filmed as a beautiful ballet. Thousands of shells fall like snow from his helicopter and bounce in romantic slo-mo off walls and across marble floors. The whole scene makes gunning people down seem like a wonderfully satisfying hobby, as if a brilliant ad agency had just landed the violence account. What you glorify you tend to get more of. Somebody at the studio should have asked, ''Do we really need more romance attached to the act of blowing people away?''

Sadism for the masses. A generation or two ago, movie violence was routinely depicted as a last resort. There were exceptions, of course. But violence was typically something a hero was forced to do, not something he enjoyed. He had no choice. Now, as the critic Mark Crispin Miller once wrote, screen violence ''is used primarily to invite the viewer to enjoy the feel of killing, beating, mutilating.''

We are inside the mind and emotions of the shooter, experiencing the excitement. This is violence not as a last resort but as deeply satisfying lifestyle. And those who use films purely to exploit and promote the lifestyle ought to be called on it.

Some years ago, Cardinal Roger Mahony, Roman Catholic archbishop of Los Angeles, was thought to be preparing a speech calling for a tough new film-rating code. Hollywood prepared itself to be appalled. But instead of calling for a code, the cardinal issued a pastoral letter defending artistic freedom and appealed to moviemakers to think more about how to handle screen violence. When violence is portrayed, he wrote, ''Do we feel the pain and dehumanization it causes to the person on the receiving end, and to the person who engages in it? . . . Does the film cater to the aggressive and violent impulses that lie hidden in every human heart? Is there danger its viewers will be desensitized to the horror of violence by seeing it?''

Good questions. Think about it, Hollywood.

Mr. HOLLINGS. Mr. President, Mr. Leo's column cites that TV violence has a definite effect on children.

Turning to the New Republic of May 17, Gregg Easterbrook in the New Republic wrote another relevant article entitled, ''Watch and Learn.'' I ask unanimous consent that this article be printed in the RECORD.

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

COPYRIGHT 1999 THE NEW REPUBLIC, INC., THE NEW REPUBLIC; MAY 17, 1999

Section: Pg. 22.
Length: 3724 words.
Headline: Watch and Learn.
Byline: Gregg Easterbrook.
Highlight: Yes, the media do make us more violent.

Body: Millions of teens have seen the 1996 move Scream, a box-office and home-rental hit. Critics adored the film. The Washington Post declared that it ''deftly mixes irony, self-reference, and social wry commentary.'' The Los Angeles Times hailed it as ''a bravura, provocative send-up.'' Scream opens with a scene in which a teenage girl is forced to watch her jock boyfriend tortured and then disemboweled by two fellow students who, it will eventually be learned, want revenge on anyone from high school who crossed them. After jock boy's stomach is shown cut open and he dies screaming, the killers stab and torture the girl, then cut her throat and hang her body from a tree so that Mom can discover it when she drives up. A dozen students and teachers are graphically butchered in the film, while the characters make running jokes about murder. At one point, a boy tells a big-breasted friend she'd better be careful because the stacked girls always get it in horror films; in the next scene, she's grabbed, stabbed through the breasts, and murdered. Some provocative send-up, huh? The move builds to a finale in which one of the killers announces that he and his accomplice started off by murdering strangers but then realized it was a lot of more fun to kill their friends.

Now that two Colorado high schoolers have murdered twelve classmates and a teacher—often, it appears, first taunting their pleading victims, just like celebrity stars do in the movies—some commentators have dismissed the role of violence in the images shown to the young, pointing out that horrific acts by children existed before celluloid or the phosphor screen. That is true—the Leopold-Loeb murder of 1924, for example. But mass murders by the young, once phenomenally rare, are suddenly on the increase. Can it be coincidence that this increase is happening at the same time that Hollywood has begun to market the notion that mass murder is fun?

For, in cinema's never-ending quest to up the ante on violence, murder as sport is the latest frontier. Slasher flicks began this trend; most portray carnage from the killer's point of view, showing the victim cowering, begging, screaming as the blade goes in, treating each death as a moment of festivity for the killer. (Many killers seek feelings of power over their victims, criminology finds; by revealing in the pleas of victims, slasher movies promote this base emotion.) The 1994 movie Natural Born Killers depicted slaying the helpless not only as a way to have a grand time but also as a way to become a celebrity; several dozen onscreen murders are shown in that film, along with a discussion of how great it makes you feel to just pick people out at random and kill them. The 1994 movie Pulp Fiction presented hit men as glamour figures having loads of interesting fun; the actors were mainstream stars like John Travolta. The 1995 movie Seven, starring Brad Pitt, portrayed a sort of contest to murder in unusually grotesque ways. (Screenwriters now actually discuss, and critics comment on, which film's killings are most amusing.) The 1995 movie The Basketball Diaries contains an extended dream sequence in which the title character, played by teen heartthrob Leonardo DiCaprio, methodically guns down whimpering, pleading classmates at his high school. A rock soundtrack pulses, and the character smiles as he kills.

The new hollywood tack of portraying random murder as a form of recreation does not come from schlock-houses. Disney's Miramax division, the same mainstream studio that produced Shakespeare in Love, is responsible for Scream and Pulp Fiction. Time-Warner is to blame for Natural Born Killers and actually ran television ads promoting this film as ''delirious, daredevil fun.'' (After it was criticized for calling murder ''fun,'' Time-Warner tried to justify Killers as social commentary; if you believe that, you believe Godzilla was really about biodiversity protection.) Praise and publicity for gratuitously violent movies come from the big media conglomerates, including the newspapers and networks that profit from advertising for films that glorify murder. Disney, now one of the leading promoters of violent images in American culture, even feels that what little kids need is more violence. Its Christmas 1998 children's movie Mighty Joe Young begins with an eight-year-old girl watching her mother being murdered. By the movie's end, it is 20 years later, and the killer has returned to stalk the grown daughter, pointing a gun in her face and announcing, ''Now join your mother in hell.'' A Disney movie.

One reason Hollywood keeps reaching for ever-more-obscene levels of killing is that it must compete with television, which today routinely airs the kind of violence once considered shocking in theaters. According to studies conducted at Temple University, prime-time network (non-news) shows now average up to five violent acts per hour. In February, NBC ran in prime time the movie Eraser, not editing out an extremely graphic scene in which a killer pulls a gun on a bystander and blasts away. The latest TV movie based on The Rockford Files, which aired on CBS the night of the Colorado murders, opened with a scene of an eleven-year-old girl in short-shorts being stalked by a man in a black hood, grabbed, and dragged off, screaming. The Rockford Files is a comedy. Combining television and movies, the typical American boy or girl, studies find, will observe a stunning 40,000 dramatizations of killing by age 18.

In the days after the Colorado slaughter, discussion of violent images in American culture was dominated by the canned positions of the anti-Hollywood right and the mammon-is-our-God film lobby. The debate missed three vital points: the distinction between what adults should be allowed to see (anything) and what the inchoate minds of children and adolescents should see; the way in which important liberal battles to win free expression in art and literature have been perverted into an excuse for antisocial

video brutality produced by cynical capitalists; and the difference between censorship and voluntary acts of responsibility.

The day after the Colorado shooting, Mike De Luca, an executive of New Line Cinema, maker of The Basketball Diaries, told USA Today that, when kids kill, ''bad home life, bad parenting, having guns in the home'' are ''more of a factor than what we put out there for entertainment.'' Setting aside the disclosure that Hollywood now categorizes scenes of movies stars gunning down the innocent as ''entertainment,'' De Luca is correct: studies do show that upbringing is more determinant of violent behavior than any other factor. But research also clearly shows that the viewing of violence can cause aggression and crime. So the question is, in a society already plagued by poor parenting and unlimited gun sales, why does the entertainment industry feel privileged to make violence even more prevalent?

Even when researchers factor out other influences such as parental attention, many peer-reviewed studies having found causal links between viewing phony violence and engaging in actual violence. A 1971 surgeon general's report asserted a broad relationship between the two. Studies by Brandon Centerwall, an epidemiologist at the University of Wisconsin, have shown that the postwar murder rise in the United States began roughly a decade after TV viewing became common. Centerwall also found that, in South Africa, where television was not generally available until 1975, national murder rates started rising about a decade later. Violent computer games have not existed long enough to be the subject of many controlled studies, but experts expect it will be shown that playing such games in youth also correlates with destructive behavior. There's an eerie likelihood that violent movies and violent games amplify one another, the film and television images placing thoughts of carnage into the psyche while the games condition the trigger finger to act on those impulses.

Leonard Eron, a psychologist at the University of Michigan, has been tracking video violence and actual violence for almost four decades. His initial studies, in 1960, found that even the occasional violence depicted in 1950s television—to which every parent would gladly return today—caused increased aggression among eight-year-olds. By the adult years, Erons' studies find, those who watched the most TV and movies in childhood were much more likely to have been arrested for, or convicted of, violent felonies. Eron believes that ten percent of U.S. violent crime is caused by exposure to images of violence, meaning that 90 percent is not but that a ten percent national reduction in violence might be achieved merely by moderating the content of television and movies. ''Kids learn by observation,'' Eron says. ''If what they observe is violent, that's what they learn.'' To cite a minor but telling example, the introduction of vulgar language into American public discourse traces, Eron thinks, largely to the point at which stars like Clark Gable began to swear onscreen, and kids then imitated swearing as normative.

Defenders of bloodshed in film, television, and writing often argue that depictions of killing don't incite real violence because no one is really affected by what they see or read; it's all just water off a duck's back. At heart, this is an argument against free expression. The whole reason to have a First Amendment is that people are influenced by what they see and hear: words and images do change minds, so there must be free competition among them. If what we say, write, or show has no consequences, why bother to have free speech?

Defenders of Hollywood bloodshed also employ the argument that, since millions of people watch screen mayhem and shrug, feigned violence has no causal relation to actual violence. After a horrific 1992 case in which a British gang acted out a scene from the slasher movie Child's Play 3, torturing a girl to death as the movie had shown, the novelist Martin Amis wrote dismissively in The New Yorker that he had rented Child's Play 3 and watched the film, and it hadn't made him want to kill anyone, so what was the problem? But Amis isn't homicidal or unbalanced. For those on the psychological borderline, the calculus is different. There have, for example, been at least two instances of real-world shootings in which the guilty imitated scenes in Natural Born Killers.

Most telling, Amis wasn't affected by watching a slasher movie because Amis is not young. Except for the unbalanced, *exposure to violence in video ''is not so important for adults; adults can watch anything they want,'' Eron says. Younger minds are a different story. Children who don't yet understand the difference between illusion and reality may be highly affected by video violence. Between the ages of two and eight, hours of viewing violent TV programs and movies correlates closely to felonies later in life;* the child comes to see hitting, stabbing, and shooting as normative acts. The link between watching violence and engaging in violence continues up to about the age of 19, Eron finds, after which most people's characters have been formed, and video mayhem no longer correlates to destructive behavior.

Trends in gun availability do not appear to explain the murder rise that has coincided with television and violent films. Research by John Lott Jr., of the University of Chicago Law School, shows that the percentage of homes with guns has changed little throughout the postwar era. What appears to have changed is the willingness of people to fire their guns at one another. Are adolescents now willing to use guns because violent images make killing seem acceptable or even cool? Following the Colorado slaughter, The New York Times ran a recounting of other postwar mass murders staged by the young, such as the 1966 Texas tower killings, and noted that they all happened before the advent of the Internet or shock rock, which seemed to the Times to absolve the modern media. But *all the mass killings by the young occurred after 1950—after it became common to watch violence on television.*

When horrific murders occur, the film and television industries routinely attempt to transfer criticism to the weapons used. Just after the Colorado shootings, for instance, TV talk-show host Rosie O'Donnell called for a constitutional amendment banning all firearms. How strange that O'Donnell didn't call instead for a boycott of Sony or its production company, Columbia Tristar—a film studio from which she has received generous paychecks and whose current offerings include 8MM, which glamorizes the sexual murder of young women, and The Replacement Killers, whose hero is a hit man and which depicts dozens of gun murders. Handguns should be licensed, but that hardly excuses the convenient sanctimony of blaming the crime on the weapon, rather than on what resides in the human mind.

And, when it comes to promoting adoration of guns, Hollywood might as well be the NRA's marketing arm. An ever-increasing share of film and television depicts the firearm as something the virile must have and use, if not an outright sexual aid. Check the theater section of any newspaper, and you will find an ever-higher percentage of movie ads in which the stars are prominently holding guns. Keanu Reeves, Uma Thurman, Laurence Fishburne, Geena Davis, Woody Harrelson, and Mark Wahlberg are just a few of the hip stars who have posed with guns for movie advertising. Hollywood endlessly congratulates itself for reducing the depiction of cigarettes in movies and movie ads. Cigarettes had to go, the film industry admitted, because glamorizing them gives the wrong idea to kids. But the glamorization of firearms, which is far more dangerous, continues. Today, even female stars who otherwise consider themselves politically aware will model in sexualized poses with guns. Ads for the new movie Goodbye Lover show star Patricia Arquette nearly nude, with very little between her and the viewer but her handgun.

But doesn't video violence merely depict a stark reality against which the young need be warned? American society is far too violent, yet the forms of brutality highlighted in the movies and on television—prominently ''thrill'' killings and serial murders—are pure distortion. Nearly 99 percent of real murders result from robberies, drug deals, and domestic disputes; figures from research affiliated with the FBI's behavioral sciences division show an average of only about 30 serial or ''thrill'' murders nationally per year. Thirty is plenty horrifying enough, but, at this point, each of the major networks and movie studios alone depicts more ''thrill'' and serial murders annually than that. By endlessly exploiting the notion of the ''thrill'' murder, Hollywood and television present to the young an entirely imaginary image of a society in which killing for pleasure is a common event. The publishing industry, including some TNR advertisers, also distorts for profit the frequency of ''thrill'' murders.

The profitability of violent cinema is broadly dependent on the ''down-rating'' of films—movies containing extreme violence being rated only R instead of NC–17 (the new name for X)—and the lax enforcement of age restrictions regarding movies. Teens are the best market segment for Hollywood; when moviemakers claim their violent movies are not meant to appeal to teens, they are simply lying. The millionaire status of actors, directors, and studio heads—and the returns of the mutual funds that invest in movie companies—depends on not restricting teen access to theaters or film rentals. Studios in effect control the movie ratings board and endlessly lobby it not to label extreme violence with an NC–17, the only form of rating that is actually enforced. Natural Born Killers, for example, received an R following Time-Warner lobbying, despite its repeated close-up murders and one charming scene in which the stars kidnap a high school girl and argue about whether it would be more fun to kill her before or after raping her. Since its inception, the movie ratings board has put its most restrictive rating on any realistic representation of lovemaking, while sanctioning ever-more-graphic depictions of murder and torture. In economic terms, the board's pro-violence bias gives studios an incentive to present more death and mayhem, confident that ratings officials will smile with approval.

When r-and-x battles were first fought, intellectual sentiment regarded the ratings system as a way of blocking the young from seeing films with political content, such as Easy Rider, or discouraging depictions of sexuality; ratings were perceived as the rubes' counterattack against cinematic sophistication. But, in the 1960s, murder after murder after murder was not standard cinema fare. The most controversial violent film of that era, A Clockwork Orange, depicted a total of one killing, which was heard but not on-camera. (Clockwork Orange also had genuine political content, unlike most of

today's big studio movies.) In an era of runaway screen violence, the '60s ideal that the young should be allowed to see what they want has been corrupted. In this, trends in video mirror the misuse of liberal ideals generally.

Anti-censorship battles of this century were fought on firm ground, advocating the right of films to tackle social and sexual issues (the 1930s Hays office forbid among other things cinematic mention of cohabitation) and free access to works of literature such as Ulysses, Story of O, and the original version of Norman Mailer's The Naked and the Dead. Struggles against censors established that suppression of film or writing is wrong.

But to say that nothing should be censored is very different from saying that everything should be shown. Today, Hollywood and television have twisted the First Amendment concept that occasional repulsive or worthless expression must be protected, so as to guarantee freedom for works of genuine political content or artistic merit, into a new standard in which constitutional freedoms are employed mainly to safeguard works that make no pretense of merit. In the new standard, the bulk of what's being protected is repulsive or worthless, with the meritorious work the rare exception.

Not only is there profit for the performers, producers, management, and shareholders of firms that glorify violence, so, too, is there profit for politicians. Many conservative or Republican politicians who denounce Hollywood eagerly accept its lucre. Bob Dole's 1995 anti-Hollywood speech was not followed up by anti-Hollywood legislation or campaign-funds strategy. After the Colorado murders, President Clinton declared, ''Parents should take this moment to ask what else they can do to shield children from violent images and experiences that warp young perceptions.'' But Clinton was careful to avoid criticizing Hollywood, one of the top sources of public backing and campaign contributions for him and his would-be successor, Vice President Al Gore. The president has nothing specific to propose on film violence—only that parents should try to figure out what to do.

When television producers say it is the parents' obligation to keep children away from the tube, they reach the self-satire point of warning that their own product is unsuitable for consumption. The situation will improve somewhat beginning in 2000, by which time all new TVs must be sold with the ''V chips''—supported by Clinton and Gore—which will allow parents to block violent shows. But it will be at least a decade before the majority of the nation's sets include the chip, and who knows how adept young minds will prove at defeating it? Rather than relying on a technical fix that will take many years to achieve an effect, TV producers could simply stop churning out the gratuitous violence. Television could dramatically reduce its output of scenes of killing and still depict violence in news broadcasts, documentaries, and the occasional show in which the horrible is genuinely relevant. Reduction in violence is not censorship; it is placing social responsibility before profit.

The movie industry could practice the same kind of restraint without sacrificing profitability. In this regard, the big Hollywood studios, including Disney, look craven and exploitative compared to, of all things, the porn-video industry. Repulsive material occurs in underground porn, but, in the products sold by the mainstream triple-X distributors such as Vivid Video (the MGM of the erotica business), violence is never, ever, ever depicted—because that would be irresponsible. Women and men perform every conceivable explicit act in today's mainstream porn, but what is shown is always consensual and almost sunnily friendly. Scenes of rape or sexual menace never occur, and scenes of sexual murder are an absolute taboo.

It is beyond irony that today Sony and Time-Warner eagerly market explicit depictions of women being raped, sexually assaulted, and sexually murdered, while the mainstream porn industry would never dream of doing so. But, if money is all that matters, the point here is that mainstream porn is violence-free and yet risque and highly profitable. Surely this shows that Hollywood could voluntarily step back from the abyss of glorifying violence and still retain its edge and its income.

Following the Colorado massacre, Republican presidential candidate Gary Bauer declared to a campaign audience, ''In the America I want, all of these producers and directors, they would not be able to show their faces in pubic'' because fingers ''would be pointing at them and saying, 'Shame, shame.' '' The statement sent chills through anyone fearing right-wing though-control. But Bauer's final clause is correct—Hollywood and television do need to hear the words ''shame, shame.'' The cause of the shame should be removed voluntarily, not to stave off censorship, but because it is the responsible thing to do.

Put it this way. The day after a teenager guns down the sons and daughters of studio executives in a high school in Bel Air or Westwood, Disney and Time-Warner will stop glamorizing murder. Do we have to wait until that day?

Mr. HOLLINGS. Mr. President, we include by reference—not printed in the RECORD of course—the hearings of 1993, 1995, and 1997 which are relevant today. In fact, they have been exacerbated by the events we have not only seen in Colorado, but in Kentucky and Arkansas in the various schools, but more particular, it has supported our case about the industry, the broadcasters, the producers—by Hollywood.

Let's understand first the putoff we had and the stonewalling back in 1990 when Senator Paul Simon said: What we have to do really—let's not rush into this.

We have been rushing in since 1969. But in 1989 and 1990, we could not rush in, and we had to have a code of conduct. The reason they could not get it was because of the antitrust laws. So we put in an estoppel to the antitrust laws applying to this particular endeavor. We had the standards for depiction of violence and television programs issued by ABC, CBS, and NBC in 1992.

Mr. President, this is what the programmers themselves said:

> However, all depictions of violence should be relevant and necessary to the development of character or to the advancement of theme or plot.

Going further:

> Gratuitous or excessive depictions of violence are not acceptable.

Mr. President, that is word for word our amendment. What we try to bar is excessive, gratuitous violence during the family hour. It works in the United Kingdom. It works in Belgium and in Europe. It works down in Australia. It is tried and true and passes constitutional muster.

We had this problem develop with respect to indecency. Finally, the Congress acted and we installed in law the authority and responsibility for the Federal Communications Commission to determine the time period of family hour, which has been determined from 6 in the morning to 10 in the evening, and they barred showing of indecency on television in America. That has worked. It was taken to the courts. The lawyers immediately went to work, but the lower court decision has been upheld by the Supreme Court.

The Attorney General of the United States appeared at our hearing before the Commerce, Science and Transportation Committee and said she thought it definitely would pass constitutional muster. We also had a plethora of constitutional professors come in. The record is replete. It is not haphazard.

Let me quote entertainment industry executives and apologists saying just exactly what we say in our law:

> Programs should not depict violence as glamourous—

I quote that from their own particular code of conduct—

> Realistic depictions of violence should also portray the consequences of that violence to its victims and its perpetrators.

That was 1992. Let's find out what they did with the code of conduct.

In 1998, there was a study sponsored by the National Cable Television Association. This is one of the most recent authoritative documents on the entire subject. It includes not only the National Parent-Teachers Association, Virginia Markel, the American Bar Association, Michael McCann, the National Education Association, Darlene Chavez, but—listen to this—Belva Davis, American Federation of Television and Radio Artists; Charles B. Fitzsimmons, Producers Guild of America; Carl Gotlieb, Writers Guild of America West; Ann Marcus, Caucus for Producers, Writers and Directors; Gene Reynolds, Directors Guild of America.

What do they say? I cannot print the entire document in the RECORD, in deference to economy in Government. I read from the findings on page 29:

> Much of TV violence is still glamorized.

This was their code in 1992. There is no ''glamorized.'' Six years later, they themselves—the producers, the writers, Hollywood itself—say:

> Much of TV violence is still glamorized. Good characters are frequently the perpetrators of violence and rarely do they show remorse. Viewers of all ages are more likely to emulate and learn from characters who are perceived as attractive. Across the 3 years of this study, nearly 40 percent of the violent incidents on television are initiated by characters who possess qualities that make them attractive.

Heavens above. They prove our case for the amendment.

Again reading from the study:

> Another aspect of glamorization is that physical aggression on television is often condoned. For example, more than one-third of violent programs feature bad characters who are never punished. Therefore, violence that goes unpunished in the shortrun poses serious risk to children.

Edgar Bronfman in the morning news said this is not something with the entertainment industry. But it is producers, it is writers, it is guilds, managers in Hollywood. I know if he had been in the liquor business, he would tell him to go on out there and find out what is going on.

Reading further from their report:

Violent behavior on television is quite serious in nature. Across the 3-year study, more than half of the violent incidents feature physical aggression that would be lethal or incapacitating if it were to occur in real life. In spite of very serious forms of aggression, much of this violence is undermined by humor. At least 40 percent of the violent scenes on television include humor.

And on and on, from this particular report. It is really noteworthy that they prove our case. And to come up at this time saying that it does not have any effect, like they said on ''Meet the Press'' on Sunday, they would like to join in another study—and I understand the distinguished manager, the chairman, is going to ask for another study by the Surgeon General; and my distinguished chairman, the Senator from Arizona, he has joined in with the Senator from Connecticut to get another study.

Whereas the broadcasters, they know the history of broadcasting. We ought to send them all this three-volume set. I quote from page 23. Writers receive numerous plot instructions. This is back in 1953, 46 years ago. I quote:

It has been found that we retain audience interest best when our story is concerned with murder. Therefore, although other crimes may be introduced, somebody must be murdered, preferably early, with the threat of more violence to come.

That is how you make money. They can put out all the language just like we do. I guess we are emulating them because we all talk about a surplus, a surplus, a surplus, when we have a deficit. They talk again and again and again how they are against this violence, and yet they continue, under their own study, to spew it out and have a definite effect out there in Colorado.

Mr. President, I call my colleagues' attention to Senate Commerce Committee Report on ''Children's Protection From Violent Programming Act,'' S. 363, Report No. 105–89 and the report on the ''Children's Protection From Violent Programming Act of 1995,'' S. 470, Report No. 104–117.

Mr. President, let me agree, though, with Mr. Bronfman on this. And I quote Mr. Bronfman from this morning's Washington Post.

''It's unfortunate that the American people, who really look to their government for leadership, instead get finger-pointing and chest-pounding,'' he said.

I will read that again, because I agree with him. ''It's unfortunate that the American people, who really look to their government for leadership, instead get finger-pointing and chest-pounding.''

There it is. We are experts at it when we call the $100 billion more we are spending this year on a deficit a surplus. When we say it is a legitimate gun dealer, and you have to have a background check, a waiting period, it has sidelined 60,000 felons. It is working. But yesterday, due to the stonewalling and influence of the NRA, we said no, you can go to a gun show and there is no background check.

Can you imagine the Congress that has no shame whatever? I wish I were a lawyer outside practicing. I would take that case immediately up on the 14th amendment and the equal protection clause for the gun dealers and say that is an unconstitutional provision when you do not require it at the gun shows. I would easily win that case. So we are going to set that aside or hope it is brought immediately so we will do away with that. Maybe then they will sober up and we will get enough votes.

Here today we are going to be faced again with the same stonewalling. They go down again and again and again, and they will say: There is no problem. We ought to have further studies.

There is one other result I want to mention to my distinguished colleagues here in the Senate. I have already put in the 1972 report. But I ask unanimous consent the American Medical Association article ''Television and Violence'' be printed in the RECORD.

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

[From the Journal of the American Medical Association, June 10, 1992]

TELEVISION AND VIOLENCE: THE SCALE OF THE PROBLEM AND WHERE TO GO FROM HERE

(By Brandon S. Centerwall, MD, MPH)

In 1975 Rothenberg's Special Communication in JAMA, ''Effect of Television Violence on Children and Youth,'' first alerted the medical community to the deforming effects the viewing of television violence has on normal child development, increasing levels of physical aggressiveness and violence.[1] In response to physicians' concerns sparked by Rothenberg's communication, the 1976 American Medical Association (AMA) House of Delegates passed Resolution 38: ''The House declares TV violence threatens the health and welfare of young Americans, commits itself to remedial actions with interested parties, and encourages opposition to TV programs containing violence and to their sponsors.''[2]

Other professional organizations have since come to a similar conclusion, including the American Academy of Pediatrics and the American Psychological Association.[3] In light of recent research findings, in 1990 the American Academy of Pediatrics issued a policy statement: ''Pediatricians should advise parents to limit their children's television viewing to 1 to 2 hours per day.''[4]

Rothenberg's communication was largely based on the findings of the 1968 National Commission on the Causes and Prevention of Violence[5] and the 1972 Surgeon General's report, Television and Growing Up: The Impact of Televised Violence.[6] Those findings were updated and reinforced by the 1982 report of the National Institute of Mental Health, Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties, again documenting a broad consensus in the scientific literature that exposure to television violence increases children's physical aggressiveness.[7] Each of these governmental inquiries necessarily left open the question of whether this increase in children's physical aggressiveness would later lead to increased rates of violence. Although there had been dozens of laboratory investigations and short-term field studies (3 months or less), few long-term field studies (2 years or more) had been completed and reported. Since the 1982 National Institute of Mental Health report, long-term field studies have come into their own, some 20 having now been published.[8]

In my commentary, I discuss television's effects within the context of normal child development; give an overview of natural exposure to television as a cause of aggression and violence; summarize my own research findings on television as a cause of violence; and suggest a course of action.

TELEVISION IN THE CONTEXT OF NORMAL CHILD DEVELOPMENT

The impact of television on children is best understood within the context of normal child development. Neonates are born with an instinctive capacity and desire to imitate adult human behavior. That infants can, and do, imitate an array of adult facial expressions has been demonstrated in neonates as young as a few hours old, ie, before they are even old enough to know cognitively that they themselves have facial features that correspond with those they are observing.[9,10] It is a most useful instinct, for the developing child must learn and master a vast repertoire of behavior in short order.

Whereas infants have an instinctive desire to imitate observed human behavior, they do not possess an instinct for gauging a priori whether a behavior ought to be imitated. They will imitate anything,[11] including behaviors that most adults would regard as destructive and antisocial. It may give pause for thought, then, to learn that infants as young as 14 months of age demonstrably observe and incorporate behaviors seen on television[12,13] (Looking ahead, in two surveys of young male felons imprisoned for committing violent crimes, eg, homicide, rape, and assault, 22% to 34% reported having consciously imitated crime techniques learned from television programs, usually successfully.[14])

As of 1990, the average American child aged 2 to 5 years was watching over 27 hours of television per week.[15] This might not be bad, if young children understood what they are watching. However, up through ages 3 and 4 years, many children are unable to distinguish fact from fantasy in television programs and remain unable to do so despite adult coaching.[16] In the minds of such young children, television is a source of entirely factual information regarding how the world works. Naturally, as they get older, they come to know better, but the earliest and deepest impressions were laid down when the child saw television as a factual source of information about a world outside their homes where violence is a daily commonplace and the commission of violence is generally powerful, exciting, charismatic, and efficacious. Serious violence is most likely to erupt at moments of severe stress—and it is precisely at such moments that adolescents and adults are most likely to revert to their earliest, most visceral sense of what violence is and what its role is in society. Much of this sense will have come from television.

Not all laboratory experiments and short-term field studies demonstrate an effect of media violence on children's behavior, but most do.[17,18] In a recent meta-analysis of randomized, case-control, short-term studies,

*See footnotes at end of article.

exposure to media violence caused, on the average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure ($P<.05$).[19]

NATURAL EXPOSURE TO TELEVISION AS A CAUSE OF AGGRESSION AND VIOLENCE

In 1973, a small Canadian town (called ''Notel'' by the investigators) acquired television for the first time. The acquisition of television at such a late date was due to problems with signal reception rather than any hostility toward television, Joy et al[20] investigated the impact of television on this virgin community, using as control groups two similar communities that already had television. In a double-blind research design, a cohort of 45 first- and second-grade students were observed prospectively over a period of 2 years for rates of objectively measured noxious physical aggression (eg, hitting, shoving, and biting). Rates of physical aggression did not change significantly among children in the two control communities. Two years after the introduction of television, rates of physical aggression among children in Notel had increased by 160% ($P<.001$).

In a 22-year prospective study of an age cohort in a semirural US county (N=875), Huesmann[21] observed whether boys' television viewing at age 8 years predicted the seriousness of criminal acts committed by age 30. After controlling for the boys' baseline aggressiveness, intelligence, and socioeconomic status at age 8, it was found that the boys' television violence viewing at age 8 significantly predicted the seriousness of the crimes for which they were convicted by age 30 ($P<.05$).

In a retrospective case-control study, Kruttschnitt et al[22] compared 100 male felons imprisoned for violent crimes (eg, homicide, rape, and assault) with 65 men without a history of violent offenses, matching for age, race, and census tract of residence at age 10 to 14 years. After controlling for school performance, exposure to parental violence, and baseline level of criminality, it was found that the association between adult criminal violence and childhood exposure to television violence approached statistical significance ($P<.10$).÷

All Canadian and US studies of the effect of prolonged childhood exposure to television (2 years or more) demonstrate a positive relationship between earlier exposure to television and later physical aggressiveness, although not all studies reach statistical significance.[8] The critical period of exposure to television is preadolescent childhood. Later variations in exposure, in adolescence and adulthood, do not exert any additional effect.[23, 24] However, the aggression-enhancing effect of exposure to television is chronic, extending into later adolescence and adulthood.[8, 25] This implies that any interventions should be designed for children and their caregivers rather than for the general adult population.

These studies confirm what many Americans already believe on the basis of intuition. In a national opinion poll, 43% of adult Americans affirm that television violence ''plays a part in making America a violent society,'' and an additional 37% find the thesis at least plausible (only 16% frankly disbelieve the proposition).[26] But how big a role does it play? What is the effeft of natural exposure to television on entire populations? To address this issue, I took advantage of an historical experiment—the absence of television in South Africa prior to 1975.[8, 25]

TELEVISION AND HOMICIDE IN SOUTH AFRICA, CANADA, AND THE UNITED STATES

The South African government did not permit television broadcasting prior to 1975, even though South African whites were a prosperous, industrialized Western society.[8] Amidst the hostile tensions between the Afrikaner and English white communities, it was generally conceded that any South African television broadcasting industry would have to rely on British and American imports to fill out its programming schedule. Afrikaner leaders felt that that would provide an unacceptable cultural advantage to the English-speaking white South Africans. Rather than negotiate a complicated compromise, the Afrikaner-controlled government chose to finesse the issue by forbidding television broad-casting entirely. Thus, an entire population of 2 million whites—rich and poor, urban and rural, educated and uneducated—was nonselectively and absolutely excluded from exposure to television for a quarter century after the medium was introduced into the United States. Since the ban on television was not based on any concerns regarding television and violence, there was no self-selection bias with respect to the hypothesis being tested.

To evaluate whether exposure to television is a cause of violence, I examined homicide rates in South Africa, Canada, and the United States. Given that blacks in South Africa live under quite different conditions than blacks in the United States, I limited the comparison to white homicide rates in South Africa and the United States and the total homicide rate in Canada (which was 97% white in 1951). Data analyzed were from the respective government vital statistics registries. The reliability of the homicide data is discussed elsewhere.[8]

Following the introduction of television into the United States, the annual white homicide rate increased by 93%, from 3.0 homicides per 100,000 white population in 1945 to 5.8 per 100,000 in 1974; in South Africa, where television was banned, the white homicide rate decreased by 7%, from 2.7 homicides per 100,000 white population in 1943 through 1948 to 2.5 per 100,000 in 1974. As with US whites, following the introduction of television into Canada the Canadian homicide rate increased by 92%, from 1.3 homicides per 1,000 population in 1945 to 2.5 per 100,000 in 1974.

For both Canada and the United States, there was a lag of 10 to 15 years between the introduction of television and the subsequent doubling of the homicide rate. Given that homicide is primarily an adult activity, if television exerts its behavior-modifying effects primarily on children, the initial ''television generation'' would have had to age 10 to 15 years before they would have been old enough to affect the homicide rate. If this were so, it would be expected that, as the initial television generation grew up, rates of serious violence would first begin to rise among children, then several years later it would begin to rise among adolescents, then still later among young adults, and so on. And that is what is observed.[8]

In the period immediately preceding the introduction of television into Canada and the United States, all three countries were multiparty, representative, federal democracies with strong Christian religious influences, where people of nonwhite races were generally excluded from political power. Although television broadcasting was prohibited prior to 1975, white South Africa had well-developed book, newspaper, radio, and cinema industries. Therefore, the effect of television could be isolated from that of other media influences. In addition, I examined an array of possible confounding variables—changes in age distribution, urbanization, economic conditions, alcohol consumption, capital punishment, civil unrest, and the availability of firearms.[8] None provided a viable alternative explanation for the observed homicide trends. For further details regarding the testing of the hypothesis, I refer the reader to the published monograph[8] and commentary.[25]

A comparison of South Africa with only the United States could easily lead to the hypothesis that US involvement in the Vietnam War or the turbulence of the civil rights movement was responsible for the doubling of homicide rates in the United States. The inclusion of Canada as a control group precludes these hypotheses, since Canadians likewise experienced a doubling of homicide rates without involvement in the Vietnam War and without the turbulence of the US civil rights movement.

When I published my original paper in 1989, I predicted that white South African homicide rates would double within 10 to 15 years after the introduction of television in 1975, the rate having already increased 56% by 1983 (the most recent year then available).[8] As of 1987, the white South African homicide rate and reached 5.8 homicides per 100,000 white population, a 130% increase in the homicide rate from the rate of 2.5 per 100,000 in 1974, the last year before television was introduced.[27] In contrast, Canadian and white US homicide rates have not increased since 1974. As of 1987, the Canadian homicide rate was 2.2 per 100,000, as compared with 2.5 per 100,000 in 1974.[28] In 1987, the US white homicide rate was 5.4 per 100,000, as compared with 5.8 per 100,000 in 1974.[29] (Since Canada and the United States became saturated with television by the early 1960s, it was expected that the effect of television on rates of violence would likewise reach a saturation point 10 to 15 years later.)

It is concluded that the introduction of television in the 1950s caused a subsequent doubling of the homicide rate, i.e., long-term childhood exposure to television is a causal factor behind approximately one half of the homicides committed in the United States, or approximately 10,000 homicides annually. Although the data are not as well developed for other forms of violence, they indicate that exposure to television is also a casual factor behind a major proportion—perhaps one half—of rapes, assaults, and other forms of interpersonal violence in the United States.[8] When the same analytic approach was taken to investigate the relationship between television and suicide, it was determined that the introduction of television in the 1950s exerted no significant effect on subsequent suicide rates.[30]

To say that childhood exposure to television and television violence is a predisposing factor behind half of violent acts is not to discount the importance of other factors. Manifestly, every violent act is the result of an array of forces coming together—poverty, crime, alcohol and drug abuse, stress—of which childhood exposure to television is just one. Nevertheless, the epidemiologic evidence indicates that if, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes, and 700,000 fewer injurious assaults.[25, 31]

WHERE TO GO FROM HERE

In the war against tobacco, the tobacco industry is the last group from whom we expect any meaningful action. If someone were to call on the tobacco industry to cut back tobacco production as a matter of social conscience and out of concern for the public health, we would regard that person as being at least simple-minded, if not frankly deranged. Oddly enough, however, people have persistently assumed that the television industry operates by a higher standard of morality than the tobacco industry—that it is useful to appeal to its social conscience. This

was true in 1969 when the National Commission on the Causes and Prevention of Violence published its recommendations for the television industry.[32] It was equally true in 1989 when the US Congress passed a television antiviolence bill that granted television industry executives the authority to confer on the issue of television violence without being in violation of antitrust laws.[33] Even before the law was fully passed, the four networks stated that they had no intention of using this antitrust exemption to any useful end and that there would be no substantive changes in programming content.[34] They have been as good as their word.

Cable aside, the television industry is not in the business of selling programs to audiences. It is in the business of selling audiences to advertisers. Issues of ''quality'' and ''social responsibility'' are entirely peripheral to the issue of maximizing audience size within a competitive market—and there is no formula more tried and true than violence for reliably generating large audiences that can be sold to advertisers. If public demand for tobacco decreases by 1%, the tobacco industry will lose $250 million annually in revenue.[35] Similarly, if the television audience size were to decrease by 1%, the television industry would stand to lose $250 million annually in advertising revenue.[35] Thus, changes in audience size that appear trivial to you and me are regarded as catastrophic by the industry. For this reason, industry spokespersons have made innumerable protestations of good intent, but nothing has happened. In over 20 years of monitoring levels of television violence, there has been no downward movement.[36, 37] There are no recommendations to make to the television industry. To make any would not only be futile but create the false impression that the industry might actually do something constructive.

The American Academy of Pediatrics recommends that pediatricians advise parents to limit their children's television viewing to 1 to 2 hours per day.[4] This is an excellent point of departure and need not be limited to pediatricians. It may seem remote that a child watching television today can be involved years later in violence. A juvenile taking up cigarettes is also remote from the dangers of chronic smoking, yet those dangers are real, and it is best to intervene early. The same holds true regarding television-viewing behavior. The instruction is simple: For children, less TV is better, especially violent TV.

Symbolic gestures are important, too. The many thousands of physicians who gave up smoking were important role models for the general public. Just as many waiting rooms now have a sign saying, ''This Is a Smoke-Free Area'' (or words to that effect), so likewise a sign can be posted saying, ''This Is a Television-Free Area.'' (This is not meant to exclude the use of instructional videotapes.) By sparking inquiries from parents and children, such a simple device provides a low-key way to bring up the subject in a clinical setting.

Children's exposure to television and television violence should become part of the public health agenda, along with safety seats, bicycle helmets, immunizations, and good nutrition. One-time campaigns are of little value. It needs to become part of the standard package: Less TV is better, especially violent TV. Part of the public health approach should be to promote child-care alternatives to the electronic baby-sitter, especially among the poor who cannot afford real baby-sitters.

Parents should guide what their children watch on television and how much. This is an old recommendation[32] that can be given new teeth with the help of modern technology. It is now feasible to fit a television set with an electronic lock that permits parents to preset which programs, channels, and times they wish the set to be available for; if a particular program or time of day is locked, the set won't turn on for that time or channel.[38] The presence of a time-channel lock restores and reinforces parental authority, since it operates even when the parents are not at home, thus permitting parents to use television to their family's best advantage. Time-channel locks are not merely feasible, but have already been designed and are coming off the assembly line (eg, the Sony XBR).

Closed captioning permits deaf and hard-of-hearing persons access to television. Recognizing that market forces alone would not make closed-captioning technology available to more than a fraction of the deaf and hard-of-hearing, the Television Decoder Circuitry Act was signed into law in 1990, requiring that, as of 1993, all new television sets (with screens 33 cm or larger, ie, 96% of new television sets) be manufactured with built-in closed-captioning circuitry.[39] A similar law should require that eventually all new television sets be manufactured with built-in time-channel lock circuitry—and for a similar reason. Market forces alone will not make this technology available to more than a fraction of households with children and will exclude poor families, the ones who suffer the most from violence. If we can make television technology available that will benefit 24 million deaf and hard-of-hearing Americans,[30] surely we can do not less for the benefit of 50 million American children.[35]

Unless they are provided with information, parents are ill-equipped to judge which programs to place off-limits. As a final recommendation, television programs should be accompanied by a violence rating so parents can gauge how violent a program is without having to watch it. Such a rating system should be quantitiative and preferably numerical, leaving aesthetic and social judgments to the viewers. Exactly how the scale ought to be quantified is less important than that it be applied consistently. Such a rating system would enjoy broad popular support: In a national poll, 71% of adult Americans favor the establishment of a violence rating system for television programs.[40]

It should be noted that none of these recommendations impinges on issues of freedom of speech. That is as it should b. It is not reasonable to address the problem of motor vehicle fatalities by calling for a ban on cars. Instead, we emphasize safety seats, good traffic signs, and driver education. Similarly, to address the problem of violence caused by exposure to television, we need to emphasize time-channel locks, program rating systems, and education of the public regarding good viewing habits.

FOOTNOTES

1. Rothenberg MB, Effect of television on children and youth. JAMA. 1975;234:1043–1046.

2. American Medical Association. Proceedings of the House of Delegates, June–July, 1976. Chicago, Ill: American Medical Association; 1976:280.

3. Zylke JW. More voices join medicine in expressing concern over amount, content of what children see on TV. JAMA. 1988;260:1831–1832.

4. American Academy of Pediatrics, Committee on Communications. Children, adolescents, and television. Pediatrics. 1990;85:1119–1120.

5. Baker RK, Ball SJ, eds. Violence and the Media: A Staff Report to the National Commission on the Causes and Prevention of Violence. Washington, DC: US Government Printing Office; 1969.

6. Surgeon General's Scientific Advisory Committee on Television and Social Behavior. Television and Growing Up: The Impact of Televised Violence. Washington, DC: US Government Printing Office; 1972.

7. Pearl D, Bouthilet L, Lazar J, eds. Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties. Rockville, Md: National Institute of Mental Health; 1982.

8. Centerwall BS. Exposure to television as a cause of violence. In: Comstock G, ed. Public Communication and Behavior. Orlando, Fla: Academic Press Inc; 1989;2:1–58.

9. Meltzoff AN, Moore MK. Newborn infants imitate adult facial gestures. Child Dev. 1983;54:702–709.

10. Meltzoff AN, Moore MK. Imitation in newborn infants: exploring the range of gestures imitated and the underlying mechanism. Dev Psychol. 1989;25:954–962.

11. Meltzoff AN. Infant imitation after a 1-week delay: long-term memory for novel acts and multiple stimuli. Dev Psychol. 1988;24:470–476.

12. Meltzoff AN. Imitation of televised models by infants. Child Dev. 1988;59:1221–1229.

13. Meltzoff AN. Memory in infancy. In: Squire LR, Byrne J, Nadel L, Roediger H, Schacter D, Thompson R, eds. Encyclopedia of Learning and Memory. New York, NY: Macmillan Publishing Co. Inc; 1992.

14. Heller MS, Polsky S. Studies in Violence and Television. New York, NY: American Broadcasting Company; 1976.

15. AC Nielsen Company. Nielsen Report on Television 1990. Northbrook, Ill: Nielsen Media Research; 1990.

16. Flavell JH. The development of children's knowledge about the appearance-reality distinction. Am Psychol. 1986;41:418–425.

17. Andison FS. TV violence and viewer aggression: a cumulation of study results, 1954–1976. Public Opinion Q. 1977;41:314–331.

18. Hearold S. A synthesis of 1043 effects of television on social behavior. In: Comstock G, ed. Public Communication and Behavior. Orlando, Fla: Academic Press Inc; 1986;1:65–133.

19. Wood W, Wong FY, Chachere JG. Effects of media violence on viewers' aggression in unconstrained social interaction. Psychol Bull. 1991;109:371–383.

20. Joy LA, Kimball MM, Zabrack ML. Television and children's aggressive behavior. In: Williams TM, ed. The Impact of Television: A Natural Experiment in Three Communities. Orlando, Fla: Academic Press Inc; 1986:303–360.

21. Huesmann LR. Psychological processes promoting the relation between exposure to media violence and aggressive behavior by the viewer. J Soc Issues. 1986;42(3):125–139.

22. Kruttschnitt C, Heath L, Ward DA. Family violence, television viewing habits, and other adolescent experiences related to violent criminal behavior. Criminology. 1986;24:235–267.

23. Milavsky JR, Kessler RC, Stipp HH, Rubens WS. Television and Aggression: A Panel Study. Orlando, Fla: Academic Press Inc; 1982.

24. Hennigan KM, Del Rosario ML, Heath L, Cook TD, Wharton JD, Calder BJ. Impact of the introduction of television on crime in the United States: empirical findings and theoretical implications. J Pers Soc Psychol. 1982;42:461–477.

25. Centerwall BS. Exposure to television as a risk factor for violence. A J Epidemiol, 1989; 129:643–652.

26. Harris L. Too much TV violence. Harris Survey, August 4, 1977.

27. Central Statistical Service. Deaths: Whites, Coloureds and Asians, 1987. Pretoria, South Africa: Government Printer, 1989.

28. World Health Organization, World Health Statistics Annual, 1989, Geneva, Switzerland: World Health Organization; 1989.

29. National Center for Health Statistics, Vital Statistics of the United States, 1987. Hyattsville, Md: US Department of Health and Human Services; 1990.

30. Centerwall BS. Young adult suicide and exposure to television. Soc Psychiatry Psychiatr Epidemiol, 1990; 25:149–153.

31. Johnson JM, DeBerry MM Jr. Criminal Victimization. 1989: A National Crime Survey Report. Washington, DC: US Department of Justice; 1990.

32. National Commission on the Causes and Prevention of Violence, To Establish Justice, To Insure Domestic Tranquility: Final Report of the National Commission on the Causes and Prevention of Violence. Washington, DC: US Government Printing Office; 1969: 187–207.

33. Dietz WH, Strasburger VC. Children, adolescents, and television. Curr Probl Pediatr. 1991;21:8–31.

34. Clark KR. Antiviolence law won't bring much change, networks say. Seattle Times. August 10, 1989:F12.

35. US Bureau of the Census. Statistical Abstract of the United States: 1991. Washington, DC: US Government Printing Office; 1991.

36. Signorielli N, Gross L, Morgan M. Violence in television programs: ten years later. In: Pearl D, Bouthilet L, Lazar J, eds. Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties. Rockville, Md: National Institute of Mental Health; 1982: 158–173.

37. Gerbner G, Gross L, Morgan M, Signorielli N. The Violence Profile: Enduring Patterns. Philadelphia, Pa: Annenberg School of Communication; 1989.
38. Surgeon General's Northwest Conference on Interpersonal Violence., Report Seattle, Wash: US Public Health Service; 1987:93–94.
39. DuBow S. The Television Decoder Circuitry Act—TV for all. Temple Law Rev. 1991;64–609–628.
40. Los Angeles Times Poll. Television sex and violence. Poll 196. September 19, 1989. In: Opinion Research Service. American Public Opinion Data. Louisville, Ky: Opinion Research Service. 1989.

Mr. HOLLINGS. Mr. President, I am limited in time so I am going along:

> Following the introduction of television in the United States, the annual white homicide rate increased by 93 percent from 1945 to 1974. In Canada during that same period, the homicide rate increased 92 percent.

This is really the clincher, Mr. President:

> In South Africa, where television was not introduced until 1975, the white homicide rate decreased 7 percent between 1943 and 1974; but by 1987, 12 years after television was introduced in South Africa, the white homicide rate there had increased by 130 percent.

Mr. Bronfman says it has nothing to do with television. Come on. Give us a break. For those who come around now and say: We are going to have content, V-chip, and everything else, and we want everything else, we have the content, we all agree—we did not all agree. In fact, NBC, the premium television network, they didn't agree to a content-based rating system; it is voluntary. They said: I do not agree with that, and we are not going to do it. And they do not do it. But they are talking about content.

BET, Black Entertainment Television, another responsible network group, said: We are not going along with that.

But let's see what the Kaiser Family Foundation found out since they have put in now, for a couple years, the so-called content rating system. A 1999 study by the Kaiser Family Foundation found that 79 percent of shows with moderate levels of violence do not receive the content descriptor ''V'' for violence. Of course, NBC and BET do not go along with it.

There is the program, ''Walker, Texas Ranger,'' which appears on the USA cable channel at 8 p.m. in the Washington, DC, area. It included the stabbing of two guards on a bus, an assault on a church by escaped convicts who take people hostage and threaten to rape a nun, and an episode ending where one escapee is shot and another is beaten unconscious. But the show did not receive the content descriptor ''V'' for violence.

This is all in the most recent Kaiser Family Foundation study.

The Kaiser study also found that no programs rated TV-G receive a ''V'' rating for violence. Moreover, 81 percent of the children's programming containing violence did not even receive the ''FV'' rating for fantasy violence.

And then a question. Let me quote this one:

> The bottom line is clear.

This is from the Kaiser report:

> Parents cannot rely on the content descriptors as currently employed to block all shows containing violence. There is still a significant amount of moderate to high-level violence in shows without content descriptors. And with respect to children's programming, the failure to use the ''V'' descriptor and the rare use of the ''FV'' descriptor leads to the conclusion that there is no effective way for parents to block out all children's shows containing violence, V-chip or no V-chip.

Then finally the Kaiser Family Foundation study says:

> Children would still be woefully unprotected from television violence because content rating V is rarely used.

So much for: Content, content; give it time; give it time to work; and everything else like that. They have no idea of that working. What about the V-chip?

If you want to really spend an afternoon and tomorrow, try to toy with this one. I have a V-chip in my hand. I hold it up. You can get them there at Circuit City for $90.

Who is going to spend the time to learn how to use this? Well, they are not. And 70 percent of those polled who use the rating system say they will not buy a V-chip. They are going to trust the children.

How are you going to go through the average home that has three sets? Can't you see that mother in the morning chasing around—she has 64 channels in Washington. It is all voluntary; it is not required. She does not know which channel is which. She has this thing. And, wait a minute, she has her 18 pages of instructions. So she chases around from the kitchen to the bedroom, down to the children's room, and she has the 64 programs, and she has her 18 pages of instructions, and it is complicated because they do not want the children to be able to work it. Well, by gosh, they have succeeded with me. I don't know how to work it. We tried yesterday afternoon when we had a little time. We are going to work on it some more. But I bet you my boots that my grandchildren will learn quicker than I. I can tell you that right now. They will know how to work this blooming thing. It is not going to happen. That was another sop in the 1996 telecommunications act. Those on the House side wanted the V-chip. It was another putoff, another stonewall. We knew it was impractical. We know it is easier to trust your children than to go through this charade and this expense and race around and try to figure out all of these things.

When you have a dial on there, just turn that off. You don't need a chip. Just turn it off. Tell the children they cannot use it.

Well, you say, the children are going to do it anyway. I tell you the truth, with all these rating things, if I was a kid and found out that something was naughty and it was rated where I couldn't see it, just being a child, I would say, well, wait a minute, we are going to go to Johnny's house. My parents got me, but there is nobody home at Johnny's. We'll see this thing.

I mean, you really induce, excite, interest children with the rating system. It is counterproductive to begin with. But then the V-chip they talk about is just next to impossible.

Let us go to the constitutional question, Mr. President. It is not the least restrictive. The family hour is the least restrictive. Under the court decisions with respect to this interference on free speech, it is not that we have an overwhelming public interest established, which we have in the record, but it has to be the least restrictive. The least restrictive, of course, is that that has been tried and true, the family hour approach that we have now submitted in the amendment.

I hope they have enough pride to go along with what they have all voted. We voted this out in 1995, with only one dissenting vote. We voted it out in 1997, with one dissenting vote. I remember in 1995, the distinguished majority leader then, Senator Dole of Kansas, he went out there and he gave Hollywood—I hate to use the word ''hell,'' but that is what it is; that is what the newspapers said. He came back on the floor all charged up.

So I went to him and I said: Bob, I got the bill in. It is on the calendar. You put your name on it, if there is some interest in the authorship or whatever it is, or make any little changes you want to make. I am trying to get something done. I have been trying with John Pastore since 1969, 30 years now, to get something done, get a vote.

I said: Let's go ahead with it. But, no, no, the overwhelming influence of Hollywood, it stops us in our tracks. The overwhelming influence of the NRA, it stops us in our tracks.

I agree with Mr. Bronfman. Mr. Bronfman is right on target: It is unfortunate when the American people, who really look to their government for leadership, they don't find it, because they are bought and sold.

It is a tragic thing. You cannot get anything done around here. I have got a one-line amendment to the Constitution to get rid of this cancer: The Congress of the United States is hereby empowered to regulate or control spending in Federal elections. With that one line we go back to the 1974 act. We limit spending per voter. No cash; everything on top of the table; no soft money. One line says we can go back. We passed it in a bipartisan fashion back in the 1974 act, almost 25 years ago. We were like a dog chasing its tail.

But if we don't get rid of that cancer, you are not going to get any Congress. This Congress, instead of responding to the needs of the people with respect to spending and paying the bill in the budget, with responding to the gun violence around here where we take legitimate dealers and say you have to have a background, but the illegitimate shows, you say, yesterday afternoon, forget about it, and where today they want to move to table an amendment

that works in England and Europe, down under, New Zealand, Australia and everything else. Why not? Because we want that support from out there with that group.

Of course, I think they own the magazines, the broadcasters, the Internet; they own each other. I can't keep up with the morning paper, who owns everything, but they are all owning each other. There is a tremendous, overwhelming influence for money, money, money. It is tragic, but it is true.

We have to sober up here and start passing some good legislation that people have been crying out for—the Parent-Teacher Association, National Education Association, American Medical Association, American Psychiatric Association, with the 18 hearings that we have had, 300 formative studies, over 1,000 different articles. Yet they say, well, wait a minute, that is on content. Let's see with the V-chip that is coming in July. They know it is a stonewall.

Mr. President, I yield such time as necessary to the distinguished Senator from North Dakota.

Mr. DORGAN. Mr. President, I am pleased and proud to join my colleague, Senator HOLLINGS of South Carolina, as a cosponsor of this amendment. I have worked with Senator HOLLINGS since 1992 on this subject in the Commerce Committee. We have had hearing after hearing. This is a very big issue. We are proposing a baby step on a very big issue. It is likely that this baby step that we propose to take will be turned down by the Senate. We will see. Maybe I will be surprised today. I hope I will. But if the past is prologue, we will likely see the Senate decide it is not time or the amendment is not right or any one of 1,000 excuses.

If ever there was an example of when all is said and done, more is said than done, if ever there was an example of that, it is on this subject. We have thousands of studies. We have had hundreds of hours of debate, many proposals. Almost nothing happens.

Will Rogers said something once instructive, it seems to me. He said: When there is no place left to spit, you either have to swallow your tobacco juice or change with the times.

On this subject, I say to my colleagues, it is time to swallow your tobacco juice. There is no place left to spit on this issue.

Let me give you some statistics. As a parent, I am pretty acutely aware, but I have a 12-year-old son and a 10-year-old daughter. We have a couple television sets, and they have switches on the sets. We try very hard to make sure they are not watching inappropriate television programming, but I tell you, it is hard. There is a lot coming through those sets at all hours of the day and night.

Senator HOLLINGS and I say, let us at least describe a block of time or have the Federal Communications Commission describe a period of time during which children are expected to be watching television, during family hour, and describe that that period will not contain excessive amounts of violence on television. Surely we can entertain adults without hurting our children. That is all this amendment says.

Is it old-fashioned? Yes, it goes back to a time when we actually had a sort of understanding. During certain periods of the evening, during family time, during times when you would expect children to watch television, you won't have excessive acts of violence on television programming. Is that so extreme? Is that censorship? No, of course not.

Let me read you some information. Before I do, let me mention, I said last night that by the time a young person graduates from high school, they have watched 12,500 hours of television. Excuse me, let me change that. They have sat in a classroom, 12,500 hours in a school classroom, and they have watched 20,000 hours of television. They are, regrettably, in many cases much more a product of what they have seen than what they have read. Let me read some statistics about what they are seeing on these television programs.

By the end of elementary school, the American Medical Association reports from their studies, the average American child has watched 8,000 murders on television and 100,000 acts of aggressive violence. That is by the end of elementary school. By age 18, these numbers, of course, have jumped, 112,000 acts of violence, and by age 18, the average young American has watched 40,000 murders on television.

Now, one can make the point that it doesn't matter, it is irrelevant, and this doesn't affect anybody. I am not saying that just because when somebody sees an act on violence on television, they rush out the door and commit an act of violence on somebody else. But I am saying that the media have a profound influence on our lives. People spend $200 billion a year advertising precisely because they feel it makes a difference—it makes a difference in terms of what people wear, what songs they sing, how they act, what kind of chewing gum they buy. It works—except when it comes to violence, we are told it is irrelevant and it doesn't matter.

I would like to call my colleagues' attention to one little community in Canada. I have never been there; I never heard of it before, in fact. But a fascinating study was done in this town. It is a town called Notel, Canada. In 1973, this small community acquired television for the first time. It wasn't because this little Canadian town never wanted television; that wasn't the problem. The problem was that they had signal reception problems that could not be solved and so they didn't get television until much, much later. They didn't have any hostility to television; they just didn't get it. You had this little ''island,'' this little town with no television. Somebody decided to do a study. They did a study concurrent with this community never having had television now receiving television for the first time. They did a double blind study and selected two other towns and then this community. Then they measured young people's behavior.

I want to describe to you what they learned because it is exactly what you would expect: Television affects behavior. Violent television affects behavior.

In the double blind research design, first and second grade students were observed prospectively over a period of 2 years for rates of objectively measured noxious physical aggression, such as hitting, shoving, biting, et cetera. The rates of aggression did not change in the two communities who had had television all along. Their rate of aggression was the same. But that community that just received television in 1973, which had been dark all those years because they could not get reception, they get television now, it is a new thing, and guess what happens? The rates of physical aggression among their children increased by 160 percent. The other two communities didn't change. The community that just began to receive television had a substantial increase in the rate of aggression among their children.

What does that say? It says what we all know: Television affects behavior. At one of our hearings, we had testimony that said—do you remember the old ''Teenage Mutant Ninja Turtles'' program? There was Leonardo, Donatello, Michelangelo and—perhaps the Senator from South Carolina can name the fourth. It's Raphael, I think. So you have four turtles, and they have sticks and they are beating up each other. It is interesting.

We had testimony before the Commerce Committee that ''Teenage Mutant Ninja Turtles'' had to be produced two ways. One, with all of the full flavor of the hitting and the sticks and all of the things they were doing. And, second, they had to clean it up and tone it down because in some foreign markets they would not allow it to be imported into their television sets with that level of violence because they didn't want the kids to see that. So you make it at one level of aggression and violence for the U.S. market and then clean it up a bit so some of the foreign children aren't exposed to that.

I thought that was interesting because it describes, it seems to me, an attitude here. The attitude has been: Let's keep pushing the limits. I think, as I said yesterday, television has some wonderful things on it. I laud those people who produce it. Some things I see are so wonderful and beautiful. I watch some of these channels. I have mentioned Discovery, the History Channel, and so many other things. Yes, the broadcast channels produce things I believe are wonderful as well. But I also have the right, believing that and saying that, to say there is

also a lot of trash. The first amendment gives people a right to produce trash as well. But is the first amendment an impediment for us to say to broadcasters that there are certain times in our living rooms, when our children are going to be expected to be watching television, that we ought to be able to expect a menu of television programming that is free from excessive violence? Is that an unreasonable proposition? I don't think so.

The evidence, as described by the Senator from South Carolina, is so clear. After a couple of decades of research, the National Institutes of Mental Health concluded:

> The great majority of studies link television violence and real life aggression.

The American Psychological Association's review of research was conclusive. They said:

> The accumulated research clearly demonstrates a correlation between viewing violence and aggressive behavior.

You can throw these studies away and say it doesn't matter, that it is psychobabble. But, of course, we all know it is not. Every parent here understands that this is real.

I mentioned last evening that if someone came to the door of my colleague, the Senator from Kentucky, or the Senator from South Carolina, and you had children in your living room playing and you had a television set that was turned off and somebody knocked on the door and said: We have some entertainment for your kids; I have a rental truck here and we have props and some set designs and I have some actors; I would like to bring them into your living room and put on a little play for your children. So you invite them into your living room and they put on a play. They pull knives and stab each other, they pull pistols and shoot each other, and they beat each other bloody—all in the context of this dramatic play, this mayhem and violence. And your children are watching with eyes the size of dinner plates. Would you, as a parent, sit there and say that it doesn't matter, that is fine, thanks for bringing this play into my living room? I don't think so. I think you would probably call the police and say: I have a case of child abuse in my living room. Shame on you for bringing that into my living room.

Well, it is brought into our living rooms every day, in every way, with the touch of a button. Some say, well, the solution to that is to turn the TV set off. Absolutely true. There isn't a substitute for parental responsibility. But as a parent, I can tell you it is increasingly difficult to supervise the viewing habits of children.

I introduced the first legislation in the Senate on the V-chip. I introduced it twice, in 1993 and in 1994. It is now law. The V-chip will be on television sets, but it will be a while before almost all television sets have them. Hopefully, that will be one tool to help parents, but it will not be the solution, just a tool.

It seems to me that we ought to decide now, to the extent that we can help parents better supervise children's viewing habits, that we can tell broadcasters, and tell the FCC that we want broadcasters to know, there is a period of time when they are broadcasting shows into our living rooms that we want the violence to be reduced in that programming so as not to hurt our children. That is not unreasonable. That is the most reasonable, sensible thing in the world. We did it before in this country; we ought to do it now. We have done it for obscenity, and we ought to do it for violence. The Supreme Court has ruled that there is a period of time when certain kinds of obscenities and language ought not to be allowed to be broadcast because children will be watching or listening. And the Supreme Court has upheld that. The Supreme Court will uphold this. Again, I say, this is a baby step forward.

Now, let me quote, if I might, the Attorney General of the United States, who testified at the Senate Commerce Committee hearing.

She said:

> I am not at this hearing as a scientist. I am here as Attorney General who has been concerned about the future of this country's children and as a concerned American who is fed up with excuses and hedging in the face of an epidemic of violence. When it comes to these studies about television violence, I think we are allowed to add our common sense into the mix.

She continues:

> Any parent can tell you how their children mimic what they see everywhere, including what they watch on television. Studies show children literally acting out and imitating what they watch. The networks themselves understand this point very well. They have run public service announcements to promote socially constructive behavior. They announce that this year's programs featured a reduced amount of violence, and they boosted episodes encouraging constructive behavior in each instance. Then they endorse the notion that television can influence how people act.

She says, further quoting her:

> As slogans go, I fear that ''Let the parents turn off the television'' may be a bit naive as a response to television violence, especially when you consider the challenge that parents face in trying to convince children to study hard, behave and stay out of trouble. Supreme Court Justice John Paul Stevens compared this argument to saying that the remedy for an assault is to run away after the first blow. Indeed, many parents don't want to have to turn the television set off. They want to expose their children to the good things television can offer, like education and family-oriented programs.

I have watched television for a long time and have seen much good and much that concerns me. I have seen in most recent years an increasing desire to create sensationalized violence and intrigue in entertainment, most notably the shows about the police and the rescue missions.

When I turn it on these days, there is one network that is particularly egregious. They have all kinds of shows where they get their television cameras and put them in the cop's car. I guess what they are doing is probably contracting with the police someplace, and then they are off and showing traffic arrests and drug arrests. The other night, I saw a case where a fellow was in the front seat of the police car with a camera for a television show. And they engaged in a high-speed chase of a drunk driver. The result, of course, was that at the end of the chase there was a dead, innocent driver coming the other direction hit by the drunk.

My mother was killed by a drunk driver. My mother was killed in a high-speed police chase.

I have spent years in the Congress proposing legislation dealing with drunk driving with high-speed pursuits and other things. I have also prepared legislation recently dealing with this question of whether our police departments should contract with television stations, having people with television cameras riding in the police car, of which the conclusion, incidentally, to a high-speed chase must be, it seems to me, to go ''get their man'' because that is going to make a good conclusion to the television program. The answer to me, though, is absolutely not.

If they want to put a television camera in a police car for the entertainment of people on some television network, then I think we ought to subject them to a very substantial liability when somebody gets hurt as a result of it.

I am, frankly, a little tired of turning on television and seeing television news cameras moving down the highways and above the highway recording high-speed chases, because they think it is excitement that people want to see. I am flat sick of seeing programs in which television network programs are riding with members of the police force because they can maybe record some violence for people who want to see. That is not entertainment, in my judgment. That is just more trash on television. I know some people like to watch it. But I happen to think people die as a result of it. Innocent people die as a result of it, and I think it ought to stop.

But this issue of violence on television is something that Senator HOLLINGS from South Carolina has been at it for a long time. We just had a man come to the Chamber a bit ago, Senator Paul Simon from Illinois. He is not a member of this body anymore. He retired. But he also joined us years ago. In fact, he was one of the earliest ones who talked about this issue. This issue has been around since the 1960s, and has been discussed among families for all of this decade.

With respect to the efforts of the Senator from South Carolina, and, as I indicated, the proposal that he and I offer today to simply allow the FCC the authority to describe a period of time in the evening that would be described as family viewing hours is a baby step forward. Those who come to this Chamber and say that they can't

take this baby step, you can make excuses forever. You can make excuses for the next 10 years, as far as I am concerned. You defy all common sense if you say you can't take this baby step. The only reason you can't take this step is because there are a bunch of other big interests out there pressing on you saying we want to make money continuing to do what we are doing. What they are doing is hurting this country's kids.

As I said when I started, surely we ought to be able to entertain adults in this country without hurting our children. And this is one sensible step that we can take. We did it before some years ago. We ought to do it again. It does no violence to the first amendment. It seems to me that it offers common sense to American families.

Mr. President I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I ask the distinguished Senator from Utah to yield to me 10 minutes.

Mr. HATCH. I would be happy to yield 10 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have talked with the distinguished sponsor of this amendment, the Senator from South Carolina, Mr. HOLLINGS, with whom I have had the privilege to serve for 25 years—he has been here longer than that—and also with my distinguished friend from North Dakota, who has just spoken.

Mr. President, as I told the distinguished Senator from South Carolina, I will have to oppose the amendment because of an agreement I made with a number of the industry groups a couple of years ago. I believe that agreement is still appropriate today. It is an agreement that brought about a compromise between Senators and industry to try to work them out, as we have with a number of other things, in a cooperative way, whether it is with legislation or legislative fiat. It involved a V-chip. I wanted to give the V-chip a fair chance to work in the marketplace, because I felt that technology was rapidly changing, and working in the marketplace might be a lot better than legislation that almost fixes technology where it is. I am enough of the old school that having made a commitment I am not going to go back on it.

The American Medical Association, the American Academy of Pediatrics, the National PTA, the National Education Association, the Center for Media Education, the American Psychological Association, the National Association of Elementary School Principals, the Children's Defense Fund, and others agreed in writing on July 10, 1997, to allow the V-chip system to proceed unimpeded by new legislation so that we could see how it works.

Just last week, the Kaiser Family Foundation released a poll showing that 77 percent of parents said that if they had a V-chip in their home they would use the technology. With the rating system and the V-chip, each family can create their own individualized family viewing system.

I think that would work a lot better in protecting children than the amendment we are considering.

Mr. DORGAN. Mr. President, will the Senator from Vermont yield for a question?

Mr. LEAHY. Certainly.

Mr. DORGAN. It is a very brief question.

As the Senator knows, I was the original sponsor of the V-chip that was first introduced in the Senate. The Senator from Vermont is describing an agreement. I am curious. The Senator mentioned a few of the outside groups who are party to the agreement. Which Senators were a part of that agreement? I was the original sponsor of the V-chip. I wasn't a part of that agreement.

Mr. LEAHY. One of the reasons I didn't want to interrupt the Senator when he was speaking was that I wanted to hear his whole statement. If he would allow me to finish so that he may hear——

Mr. DORGAN. Will the Senator yield for a question?

Mr. LEAHY. I will indicate who the Senators were, because the Senator knows all of them well: Senator HATCH, the distinguished chairman of the Judiciary Committee; Senator LOTT, the distinguished majority leader; Senator DASCHLE, the distinguished Democratic leader; Senator MCCAIN, and others. I will give the Senator all of the names, but those are the ones who come to mind initially.

Mr. DORGAN. I wonder. Could I have a dialogue about that following the statement? I don't intend to interrupt the statement. The Senator from Vermont mentioned five. There are 100 Senators. It would be good to have a dialog about that following the Senator's statement.

Mr. LEAHY. I will be glad to put it in the RECORD. I ask unanimous consent to have printed in the RECORD the letter of July 8, 1997, signed by Senators, MCCAIN, BURNS, LEAHY, Moseley-Braun, DASCHLE, Coats, HATCH, BOXER, LOTT, as well as the numerous names I mentioned, such as the American Academy of Pediatrics, the National Association of Elementary and School Principals, and others who signed. I will give copies to the distinguished Senator from North Dakota.

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

U.S. SENATE,
Washington, DC, July 8, 1997.

DEAR COLLEAGUE: The television industry and leading parent groups have agreed on a series of improvements to the Television Parental Guidelines System that will substantially enhance the ability of parents to supervise their children's television viewing.

Given human subjectivity and the sheer volume of television programming, no system will ever be perfect. However, we do believe this revised system more closely approximates what the Congress and American parents had in mind when the V Chip legislation became the law of the land.

It must also be remembered that development of a ratings system is only the first installment of the promise the Congress made to American parents. Until the V Chip is readily available in the marketplace, parents will have information, but not the means to act on it by blocking from their homes programs they consider inappropriate for their children. Therefore:

(1) We will recommend to the FCC that it move expeditiously to find the revised guidelines to be ''acceptable'' as defined by the Telecommunications Act. Moreover, we believe this should be the FCC's universally mandated system for television set manufacturers to follow in putting V Chips into television sets sold in this county;

(2) To allow prompt and effective implementation of the revised parental guidelines system, we believe there should be a substantial period of governmental forbearance during which further legislation or regulation concerning television ratings, content or scheduling should be set aside. Parents, the industry, and television set manufacturers will need time for this revised system to take hold in the marketplace. The industry will need time to adjust to the new guidelines and then apply them in a consistent manner across myriad channels. Set manufacturers will need to design user friendly, V Chip equipped sets and bring them to market. And most important, parents will need several years to utilize all the tools given to them so that they may act to control their children's television viewing. Additional government intervention will only delay proper implementation of the new guideline system.

This has been a long and difficult process. We acknowledge that any system should indeed be voluntary and consistent with the First Amendment. That is why we believe the voluntary agreement that has been reached, coupled with forbearance on further governmental action as described above, is the best way to proceed in order to balance legitimate First Amendment concerns while giving American parents the information they need in order to help them supervise their children's television viewing.

Sincerely,

John McCain; Conrad Burns; Patrick Leahy; Carol Moseley-Braun; Tom Daschle; Dan Coats; Orrin Hatch; Barbara Boxer; Trent Lott.

JULY 10, 1997.

The attached modifications of the TV Parental Guideline System have been developed collaboratively by members of the industry and the advocacy community. We find this combined age and content based system to be acceptable and believe that it should be designated as the mandated system on the V-chip and used to rate all television programming, except for news and sports, which are exempt, and unedited movies with an MPAA rating aired on premium cable channels. We urge the FCC to so rule as expeditiously as possible.

We further believe that the system deserves a fair chance to work in the marketplace to allow parents an opportunity to understand and use the system. Accordingly, the undersigned organizations will work to: educate the public and parents about the V-chip and the TV Parental Guideline System; encourage publishers of TV periodicals,

newspapers and journals to include the ratings with their program listings; and evaluate the system. Therefore, we urge governmental leaders to allow this process to proceed unimpeded by pending or new legislation that would undermine the intent of this agreement or disrupt the harmony and good faith of this process.

Motion Picture Association of America
National Association of Broadcasters
National Cable Television Association
American Medical Association
American Academy of Pediatrics
American Psychological Association
Center for Media Education
Children's Defense Fund
Children Now
National Association of Elementary School Principal
National Education Association
National PTA

MAY 12, 1999.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: We are contacting you on an urgent matter regarding the Juvenile Justice Bill now before the Senate. Senator Hollings' ''safe harbor'' amendment runs counter to the television ratings/V-Chip approach developed two years ago.

In July, 1997 together with members of the non-profit and advocacy community we developed the combined age and content based rating system. At that time, you and a number of your colleagues agreed to a substantial period of governmental forbearance so that the V-Chip television rating system could have a chance to work in the marketplace. There is evidence that this strategy is paying off. Just this week, the Kaiser Family Foundation released a poll showing that 77% of parents said that if they had a V-Chip in their home, they would use the technology.

Since the first V-Chip television set will arrive on the marketplace in July, we should allow parents an opportunity to understand and use the system before moving too quickly on further legislation. We hope you will support the freedom of parents to use their own discretion—and the V-chip—when deciding what programs are appropriate for their families. Therefore, we urge you to vote to table the Hollings amendment.

Sincerely,

JACK VALENTI,
President & CEO, Motion Picture Association of America.
DECKER ANSTROM,
President & CEO, National Cable Television Association.
EDWARD O. FRITTS,
President & CEO, National Association of Broadcasters.

CENTER FOR MEDIA EDUCATION,
Washington, DC, May 12, 1999.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: In July, 1997, together, with members of the entertainment industry, we developed the combine age and content based rating system. I favor this system and believe that it deserves a fair chance to work in the marketplace.

This week, the Center for Media Education announced a national campaign to educate parents about the V-Chip TV Ratings system. The first V-chip televisions will arrive in the marketplace in July. I urge governmental leaders to allow parents an opportunity to understand and use the V-chip system. I continue to believe that legislation such as S. 876 would undermine the intent of the agreement we signed on July 10, 1997.

Sincerely,

KATHRYN MONTGOMERY, Ph.D,
President.

Mr. LEAHY. Obviously, our signing such a letter does not bind the distinguished Senator from North Dakota nor the distinguished Senator from South Carolina, as he and I have discussed. I do feel having stated my commitment binds me. As the Senator from North Dakota knows, I have a reputation of once having given a commitment I never go back on it. I do not suggest that he or anybody else is bound by the agreement that we worked out to give the V-chip a chance. I am suggesting that I assume the Senators who did sign on to that would feel that way.

What we want to do is what I still want to do. I commend the Senators who worked on developing the V-chip, to allow families to create their own individualized family viewing system. I did this when my children were young by reading reviews and determining what they should or should not watch or read.

Now 50 percent of the new TVs will have the V-chip by July 1 of this year; 100 percent of the new TVs will have the V-chip by January of next year. That is why Senators HATCH, LOTT, DASCHLE, MCCAIN, and others signed this letter, so we can ensure that the industry has guidelines and ratings and TV manufacturers will install V-chips. By doing that we move the ball forward very quickly. The TV manufacturers, as they promised us, are getting the job done.

I want to live up to my signed commitment with the other Senators. I want to live up to the expectations of the AMA, the National PTA, the Children's Defense Fund, and the other groups I mentioned. TV parental guidelines and the V-chip give parents the tools to determine the programming children may watch.

In addition, Charles Ergen, the CEO of EchoStar, said this could have serious unintended impacts. Echo-Star gives parents who subscribe to satellite service a powerful tool. His V-chip not only allows parents to block out R-rated shows, but they can block out shows based on specific concerns about language, drug use, violence, graphic violence, sexuality, or other considerations they might have.

Under this amendment, even though they have done all that to cooperate with us, Echo-Star would be punished because they use national feeds and they transmit signals across time zones. They transmit not only into Kentucky or Vermont but in California, Oregon, Ohio, and everywhere in between. They go across the three time zones of this country. They provide the programming for multiple time zones at once on a national basis. I assume they probably do it in the time zones of Alaska and Hawaii, which goes even beyond the three in the Continental United States.

Under the longstanding law, satellite carriers cannot alter the signals they are given which are authorized under a compulsory license. Depending on how long the family time period is, it may be impossible for satellite carriers to comply because they are required to use a national feed from distant stations. For example, on the west coast, the time is earlier than the east coast, where a lot of the programming originates. With the uplink of station WOR in New York or WGN in Chicago, an hour later, they are going to be in noncompliance with this amendment on the west coast.

One option for them would be for satellite TV carriers to black out programming on the west coast or simply take the programming in the east coast and shift it to very late hours, extremely late hours for east coast viewers, which is the allowed hour for west coast viewers.

Frankly, I think use of the V-chip allows parents to block out what they want and will work much better than blocking out entire time zones in the United States.

I want to also note that two-thirds of American households have no children under the age of 18. If this amendment were enacted, American television viewers of all ages would lose control over the programming available to them. I repeat, two-thirds of American households have no children under the age of 18.

There are, I believe, serious constitutional problems with this amendment. I get very concerned about the Federal Government or any Federal Government agency policing the content of TV programming.

For example, there would be a $25,000 fine for each day there is violent video programming. Is one gunshot in a show considered violent programming? What about two? What if it is a history show that shows the assassination of a President or a world leader? Is that violence?

I am reminded of the old joke of religious leaders of different faiths getting together and they wanted to start the meeting with a prayer, but they couldn't agree on a prayer so they had to cancel the conference.

I worry once again that we denigrate the role of parents, especially the amendment which considers parents almost irrelevant to the development of children. I have been blessed to be married for 37 years this year, and I have three wonderful children. My wife and I took a very serious interest in what movies they saw, what TV programs they watched, what books they read. We tried to guide them the right way. I like the idea that both my wife and I were making those decisions and not somebody else. Someone else might have different moral values, might have a different sense of what was appropriate and what is not appropriate. I really didn't want to turn it over to

the hands of a government agency—local, State, or Federal. I felt that was my responsibility, a responsibility that I considered one of the most important roles I had as a parent.

I also think if we let the government do it, let the government take over the parenting, then if something goes wrong, we blame them. It is harder to deal with issues such as bad parenting and lack of parental supervision if we can only blame ourselves, but that should be our responsibility as parents, first and foremost. It was the responsibility of my parents when I grew up in Vermont and the responsibility of my wife and I as our children grew up.

I don't know how the government steps into the shoes of parents by involving our government in the day-to-day regulation of the contents of television shows, movies, or other forms of speech. I recently visited a country which is one of the last of the countries with such restrictions. I prefer we make those choices. Parents should be able to use the V-chips offered by satellite TV providers and by TV manufacturers to block out programming they consider offensive for their children.

Anything any parents want to block out for their child, I don't care what it is—it could be C-SPAN, with me speaking now; if they can even get the children to watch it, they may want to block that out—that is fine; parents should have that right.

I want to remind everyone that the Supreme Court has noted:

> Laws regulating speech for the protection of children have no limiting principle, and a well-intentioned law restricting protected speech on the basis of content is, nevertheless, state-sponsored censorship.

So, while I do not support this amendment, I do not want my comments to be interpreted as backing off at all in my pride in the work of Senator HOLLINGS and Senator DORGAN on these issues. They are concerned, and rightly so, about the content of some of the things we see. There are some things, even if they are shown late at night, I would not watch and I am 59 years old. I was a prosecutor for 9 years. I went to murder scenes. I saw some of the most violent conduct ever. I still have nightmares remembering some of those scenes. I do not want to see them replayed.

There are some, because of their offensive nature, I am not interested in. I do not want to see them, but I will make that decision. But for parents, for their help, we would not have the V-chip without the work of the Senator from South Carolina, the work he and his colleagues have done. It is not only work, it is agitation, I might say. I can almost repeat some of the speeches the Senator gave to push them that far forward. He gives new meaning to the term ''stentorian tones.'' They are stentorian tones in a clarion call, rarely heard anymore in these halls.

I consider myself privileged, over the years, not only to have had the Senator from South Carolina as a close personal friend—both he and his wife are very close personal friends of my wife and myself—he has been a mentor to me. So I commend him for what he has done.

I mention all this because he is not a newcomer to the debate. He has been a parent of this debate. I do not want anybody to lose sight that we all are in this together in this regard. If we have young children—mine are now grown, but I assume it would be the same attitude as towards grandchildren—there are things on television, just as there are in the movies, that we do not want our children to see. Most of us do not want to see them ourselves, but we certainly do not want the children to see them. I think the system we have set up is one that is working. I would love to see something done in a cooperative way.

It is moving rapidly forward. If that could be done without the hand of Government on it, it would make the Senator from Vermont far more comfortable. If they are unable to move forward, if they do not utilize the breathing spell they were given, that is one thing. But they seem to be moving forward during that breathing spell, and I would like to see that work without a heavy hand.

I yield the floor.

Mr. HOLLINGS. I yield such time as necessary to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I have great respect for the Senator from Vermont. I would not suggest he go back on an agreement he made with anybody. But I do want to make this point clearly. On January 31, 1994, I introduced legislation in the Senate calling for the V-chip. It was the first legislation introduced in the Senate on the V-chip. Within a year or so, with myself, my colleague and others, including Senator CONRAD especially, and Senator LIEBERMAN, the V-chip passed the Senate and became law. There is nothing, no agreement at all for most Members of the Senate about some V-chip versus any other restriction on legislative action.

The letter that was read earlier, that might have been from some people who were not necessarily involved in the V-chip issue. I am the one who introduced it. There might have been some people who made some commitments to somebody else that they would not do something. That is their business. If there are 6 or 8 or 10 of them, that is their business. But that is not the business of the other 90 Senators. They have made no such agreement.

This proposal complements the V-chip. This proposal works with the V-chip. This proposal is not at odds with the V-chip, and there is no such agreement I am aware of with almost all Members of the Senate that we should not take this baby step forward on this sensible proposition.

One more point: This is not content-based Government involvement. We already have a description that says if you are a television broadcaster you cannot, at 7:30 in the evening, broadcast the seven dirty words. You cannot do that. Why? Because we have decided certain things are inappropriate and the Supreme Court has upheld our capability of doing that through the Federal Communications Commission.

It is also inappropriate, and we used to think as a country that it was, to broadcast excessively violent programs in the middle hours of the evening when children are watching. The Senator from South Carolina and I simply want to go back to that commonsense standard. Suggesting somehow that we have no capability or no interest in determining what some broadcaster somewhere throws into America's living rooms is just outside the debate about what is real. What is real is we have a real responsibility. That is what is being addressed by the amendment offered here by the Senator from South Carolina.

Again, it is a baby step. I do not want anybody to be confused that somehow this is at odds with the V-chip. I introduced the V-chip. This is not at odds with the V-chip. It complements the V-chip, and this Congress and this Senate ought to agree to this amendment and we ought to do it this morning.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

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

The PRESIDING OFFICER. The Senator has 11 minutes and 16 seconds.

Mr. HOLLINGS. I yield 3 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

Mr. WELLSTONE. Mr. President, first of all, I just came down after listening to the debate. I want to ask both my colleagues to put me on as an original cosponsor.

The second thing I want to say is in this debate we have been having on this juvenile justice bill, part of the context for this has been the nightmare of Littleton, CO. That is always, ever present.

I read a piece the other day—I don't even remember the author, I say to my colleague from South Carolina—but I thought it was very balanced. The author made the point: Yes, you want to go after the guns, but you also want to go after the culture of violence. I think we have to do both. Yes, you want to do much more for prevention for kids before they get in trouble in the first place. Yes, I argue, you want to have support services and mental health services. All these pieces go together.

But if I could ask my colleague very briefly, will he just describe this amendment? Will my colleague just briefly describe the very essence of this amendment? Because it seems to me to be very, very mild. I want to be sure I am correct in my understanding.

Mr. HOLLINGS. The essence of the amendment is to reinstitute the family hour, and during that time have no excessive, gratuitous violence. That is all it is. We do that right now with indecency, constitutionally, at the FCC level. Just say that excessive, gratuitous violence be treated similarly. It is working in the United Kingdom, it is working Europe and it is working down in Australia. It is tried and true. They want to restore it. To those people who say they want to restore family values, here is the family hour.

Mr. WELLSTONE. I think it needs to be repeated one more time what a moderate, commonsense proposal we have here. This is constitutional. This is the right thing to do. As far as I am concerned, any steps we can take, albeit small steps, but significant steps that can reduce this violence, that can deal with this cultural violence, I think is absolutely the right thing to do. I add my support.

I heard my colleague from Vermont speaking as a grandfather. Our children are all older, but we have children, and now grandchildren: 8, 5 and almost 4. This is the right thing to do. There should be overwhelmingly strong support for this proposal.

The PRESIDING OFFICER. Who yields time? The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to retain a little time here for the closing, but let me go right to the point with respect to the remarks of my distinguished friend from Vermont.

We were not part of any agreement. That was another one of those so-called stonewalls. The significant part of the agreement was the two leaders were on it, and the agencies and entities at that time were told that was all they were going to get. You learn in this town to go along with what you can get from the leadership.

Don't come down to the floor and say it's a leadership vote, because the leader himself has voted this particular measure out of the Commerce Committee on two occasions. He knows the need of the V-chip being in all sets, 100 percent. Wait a minute. The average person holds onto his or her television set at least, they say in the hearings, between 8, 10, 12 years—or an average of 10 years. So you have a 10-year period here. They are not going to replace all the sets. We know this with the digital television problem we have.

In that light, we want to make absolutely sure we do something, as my distinguished friend from North Dakota says, that is consonant, helpful, and a part of the V-chip, if it will work. We have shown how complicated it is. It is going to be a delayed good, if any at all.

I retain the remainder of our time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I should put all Senators on notice that we are just about out of time for debate with regard to the Hollings amendment on his side and I have somewhere near 42 minutes on our side. I intend to yield back some of that time so we can go to a vote on this matter.

I understand Senator COCHRAN wants to take about 10 minutes to speak on this amendment. I will take a few minutes now.

I rise to explain why I will ultimately move to table the Hollings amendment today. I struggled with this decision because there is much to be commended in my dear friend's amendment. I have a lot of respect for him. He knows that. I think it is important we work to make our culture safer for our families and for children, and that we make entertainment choices more family friendly. No question about it. We should certainly work to make television entertainment, which is so ubiquitous, less coarse, especially when children are watching.

Having said that, I do have a number of concerns with this amendment. Members of the satellite television industry, which we are working to make more competitive with cable, have expressed concerns with this amendment. Because much of the fare on satellites is delivered nationally, they will have difficulty complying. If a satellite carrier picks up programming on the east coast, where much programming originates, it will likely be out of compliance, given that fare appropriate for later hours on the east coast will be beamed simultaneously across the time zones to viewers on the west coast, and across the country, where obviously it will be earlier.

Additionally, opponents of this amendment have raised constitutional concerns. Although I have not had an opportunity to review or visit all of these constitutional issues, I do not believe that the constitutional concerns are clearly right or that opponents have an open-and-shut constitutional case. I do believe the issues bear careful consideration.

Most of all, I must vote to table this amendment because of a commitment I made to my colleagues in 1997 in connection with getting the voluntary television ratings and V-chip systems in place. At that time, I was approached by a number of colleagues to sign a Dear Colleague letter taking a stand against regulating television ratings, content, or scheduling until those systems had time to get underway.

That Dear Colleague letter is dated July 8, 1997, and was signed by Senators LOTT, DASCHLE, MCCAIN, LEAHY, as well as myself, and other Republicans and Democrats. I made that commitment then and I believe I need to honor it now.

Some may believe that an earlier amendment which I supported had a similar impact. The Brownback-Hatch-Lieberman amendment allowed the industry to develop a voluntary code of conduct but did not impose any regulations on the industry. It also was a comprehensive amendment and had much greater application than the television ratings, content, and scheduling at issue in the V-chip and ratings process. It applied to television, movies, music, video games, and the Internet. At that time yesterday, I recognized my earlier commitment and raised and distinguished it.

Therefore, although I find much to commend in the amendment of the Senator from South Carolina, because of my prior commitment to forbear from supporting legislation or recommendation concerning television ratings, content, or scheduling, I believe I must honor that pledge to my colleagues and vote to table the Hollings amendment.

There is a lot of very bad programming on television in our country today. I think the satellite viewership problem is a big problem. To make someone liable because they have to carry the satellite transmission at a time that fits within the time constraints of this amendment on the west coast—coming from the east coast, it may be in compliance, but the west coast may not be, and the satellite transmitter will be liable—is a matter of great problematic concern to me.

I share the same concern my friend from South Carolina shares with regard to what is being televised and on the airwaves today, especially during times when young people are watching. On the other hand, I have a very strong commitment to uphold the first amendment and to be very reticent to start dictating what can and cannot be done on network television or on television, period.

As for cleaning up the media, we did have the Brownback-Hatch-Lieberman amendment. Senators BROWNBACK and LIEBERMAN have worked long and hard to come up with some solutions that hopefully will be voluntary, that hopefully will resolve these questions.

That amendment yesterday was adopted overwhelmingly. It requires the FTC and Department of Justice to do a comprehensive study of the entertainment industry. It seems to me that is a very reasonable, important thing to do and we ought to get that information before we make any final decisions in this area.

Also, it had a provision asking the National Institutes of Health to study the impact of violence and unsuitable material on children and child development. That brought a lot of angst to a number of people. Having the FTC look into these things brought a lot of angst to a lot of people. I might add, having the Department of Justice do it has caused a lot of concern.

I think that amendment, including its other provisions on antitrust, will go a long way toward cleaning up the exposure of minors to violent material. I would like to see that work and I would like to see these studies done before we go this drastically to a solution in the Senate.

At the appropriate time I will move to table the amendment, and I hope my colleagues will support the motion to

table with the commitment from me—and I think others will make it, too—that we will continue to revisit this area, because we are all concerned. It is not only the province of those who are for this amendment; all of us are concerned about what is happening to our children in our society today.

I see that Senator COCHRAN has arrived. I yield 10 minutes to Senator COCHRAN.

Mrs. BOXER. Will the Senator put me on that list for 10 minutes when Senator COCHRAN has finished?

Mr. HATCH. I will be happy to do that. I suppose the Senator from South Carolina wants to end the debate, and then I will yield back whatever time I have remaining at that time.

Mr. President, I ask unanimous consent that Senator COCHRAN be given 10 minutes; immediately following Senator COCHRAN, Senator BOXER be given 10 minutes; and immediately following Senator BOXER, Senator SESSIONS be given 10 minutes. Then I will be prepared to yield back the remainder of our time as soon as the Senator from South Carolina is through.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I may proceed as in morning business.

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

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 1029 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. COCHRAN. Mr. President, I thank my distinguished friend from Utah for yielding me time from his debate.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes under unanimous consent.

Mrs. BOXER. Thank you very much, Mr. President.

It is rare that I disagree with my wonderful friend, FRITZ HOLLINGS, and my wonderful friend, BYRON DORGAN, but I do on this particular amendment that is pending before us. I think the debate is about this: Do we believe there is violence in the entertainment industry? Yes. So there is agreement there. Does it upset all of us when we see it, when we know kids are seeing it? Yes.

But how should we deal with it? Should Government become parents and decide what our kids watch or should Government give parents the tools to decide what their kids should watch? And I come down on the side of making sure Government gives parents the tools to decide what their children should watch, and not on the side of those who in essence want the Government, through the bureaucracy, the FCC, to determine what shows should or should not be on television.

Again, I do not know who is in the FCC. I think I know the chairman. I think he is a terrific person. But I do not want to say that the FCC members know more about our country's children than the parents do. So if Government can play the role of giving parents the power to determine what their kids watch, I think we are doing the right thing. As a matter of fact, 2 years ago that is what we did do. We required that all new television sets have a V-chip installed. And 50 percent of all the new sets will have the V-chip by July 1; and all the new sets will have it by January 1. So we are moving to the point where all TV sets will have the V-chip when you buy it.

I think it is a smart answer, the V-chip, to dealing with the issue of violence on television. It is a chip that allows the parents to program what shows their children can and cannot see. There you have it. Very simply, it is government doing what I think is the right thing, giving parents this tool, this powerful tool, putting the parents in charge, not the government in charge.

I worry about going down that path of giving the FCC or any other agency or, frankly, any Senator the power to decide what show goes on at what time. It is very subjective; it is a path that I think we should avoid.

Now, the Center for Media Education, which helped develop the TV rating system and is undertaking a national campaign to educate parents about the V-chip, they do not like this particular proposal that is before us. They say ''it would undermine the intent'' of the voluntary rating system and the V-chip.

So why would we, 2 years ago, work very hard, all of us together, to develop this V-chip and then, in the stroke of a vote, if we were to pass the Hollings amendment, undermine what the purpose was of that V-chip?

Also, the Senate yesterday adopted the Brownback amendment, and we know that is going to launch into an investigation of the entertainment industry to see whether it is marketing to kids violent programming. An amendment of mine would also extend that to investigate the gun manufacturers.

I was very happy to see the Senate accept that, because, as I said yesterday, to point the finger of blame at one industry is outrageous. To point the finger of blame at one person or one group of people is outrageous. There is not one of us who can walk away from the issue of our violent culture and say: It has nothing to do with me. I am just perfect. It is the other guy.

So we undertook this issue 2 years ago. We passed this V-chip proposal. Senator BROWNBACK, yesterday, encouraged the entertainment industry to step up to the plate and develop solutions by giving an antitrust exemption to the entertainment industry so they can sit down together to come up with even more solutions than the V-chip, because, frankly, they need to talk to one another. If it means they say at a certain time we are not going to show these violent shows, that would be terrific. That would be helpful, and that would mean that the parents' job is easier. They don't have to worry as much as they do now. I agree, they have to worry plenty now.

I also want to do this because it is very easy to get up here and blast an industry. In every industry, there are some positive steps. Even the gun manufacturers, which I believe are marketing to children, and many of them are not responsible, there are some who are selling their guns with child safety locks, and they are doing it on a voluntary basis. I praise them. As a matter of fact, the President had those companies to the White House, and he praised them.

I think we ought to look at some of the good things the entertainment industry is doing for our children. Viacom, through the Nickelodeon channel, periodically airs programs to help children work through violence-related issues. In this example that I am going to give you, all these examples, I am not going to mention PBS, because they are incredible as far as producing programs for our children that are wonderful.

I was sitting watching one of the programs with my grandchild the other day, and kids were talking to each other, young kids, about 10, 11, about the pressures in their lives. It was terrific. I enjoyed it. I think my little grandson was too young to understand it. But for the 9-year-olds, the 8-year-olds, the 10-year-olds, there are some good things.

MTV has ''Fight For Your Rights, Take a Stand Against Violence.'' It is a program that gives young people advice on reducing violence in their communities. Now, they also do some things on there that do not give that message. I agree. But are we just going to bash and bash and bash? Let's at least recognize there are some efforts here.

The Walt Disney Company has produced and aired numerous public service announcements on issues such as school violence and has featured in its evening TV shows various antiviolence themes.

We want more of that, and if we don't get more of that, we are going to just make sure that parents can, in fact, program their TVs so the kids do not see the garbage and the violence and the death and all of the things that Senator HOLLINGS is right to point out are impacting and influencing our children.

There are shows and episodes that glorify violence, and there are shows and episodes that denounce violence.

I think we need to be careful in this amendment of the slippery slope we could go down if we decide in our frustration and our worry about our children that government should step in and become the parents. The V-chip, the Brownback amendment, those two things give parents the tools they need

and lets the industry sit down together and focus on the issue of violence.

So we have some efforts underway that are very important. I do not want to see us short circuit those efforts.

This is a difficult issue because we know we have a problem here. When we have a problem, let us take steps that don't lead us into another problem. We had a debate in front of the Commerce Committee. I was there and had the opportunity to testify before my friend. It had to do with ratings. There was a big debate over whether government should rate these movies and TV shows or whether the industry should undertake it. I will never forget this. One Congressman came up and he said: I can't believe what I just saw on TV.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mrs. BOXER. I ask unanimous consent for 1 additional minute.

Mr. HATCH. That would be fine.

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

Mrs. BOXER. I remember what happened then. This Congressman came over from the other side and testified that he couldn't believe that ''Schindler's List'' was put on TV and that he felt ''Schindler's List'' had obscenity in it. A big debate ensued, because many thought ''Schindler's List'' was one of the best things that was shown on TV, that it taught our young people about the Holocaust. There were some rough scenes in it that were historically accurate.

All it proved to me is that the eye of the beholder is so important here. Here was someone saying that was one of the best things you could put on TV to teach our children, and here is somebody else saying it was one of the worst things.

Keep government out of these subjective decisions. Give parents the tools. Let them decide if ''Schindler's List'' is right for their children, or any other program.

I yield the floor.

Mr. LEVIN. Mr. President, violence in television shows, video games, and movies horrifies us as parents and grandparents. However, I support the tabling of the Hollings amendment because, in my judgment, it would have gone too far in giving the Government the responsibility for keeping violent television programming away from our children. The principal responsibility belongs in the hands of parents and grandparents. Putting this responsibility in an agency like the FCC to determine what is too violent and what is not is not only of questionable constitutionality, it would foster the idea that the Government should be doing this job. That confuses and defuses the clear message to parents that the principal responsibility is theirs. We should give parents the tools to do this as we have tried to do through the ''V-chip'' filtering technology. The first V-chip equipped televisions are expected to become available this summer. We should also focus the principal responsibility on parents, so that the V-chip is effectively used.

Mr. ASHCROFT. Mr. President, the advent of the television began the extraordinary advance in video technology. Families came together to witness such great programs as: The Andy Griffith Show, I Love Lucy, Leave it to Beaver, and Father Knows Best. The television revolutionized technology and media, and replaced the radio as the main source of family entertainment. The television is an instrumental part of American society, it provides us with news, education, and entertainment and will likely continue to do so.

In recent years, however, the entertainment industry has promoted programming unfit for the children of the next generation. No longer can families come together to watch television without having to see material unfit for their children. In the wake of recent events, it has become clear that exposure to violent programming does in fact play an influential role in children's behavior. It is regrettable that it has come to the point where it may be necessary for Congress to take action in the oversight of television programming. The Children's Protection from Violent Programming Act creates a ''safe harbor'' and eliminates the broadcast of violent programming aired during hours when children are likely to be a substantial portion of the viewing audience.

While I have reservations with this amendment, I am willing to stand in support of it. Admittedly, this amendment gives the Federal Communications Commission additional power to regulate television programming—even when two-thirds of American households have no children under the age of 18. Clearly this amendment will restrict the programming available to viewers of all ages. I also have reservations since the TV rating system, already in place, will provide parents with specific information about the content of a television program. V-chips will be incorporated into all new television sets by January 1, 2000. In addition, I am concerned that by passing this legislation, we will be giving the Federal Communications Commission additional authority to define violent programming far beyond that which is necessary.

The fact of the matter is that to date the entertainment industry has not yet taken responsibility for themselves. Television programs of an adult nature are undermining and contradicting the virtues parents are trying to teach. Likewise, research from more than ten thousand medical, pediatric, psychological, and sociological studies show that television violence increases violent and aggressive behavior in society. Astonishingly, the murder rate in the United States doubled within 15 years after television was introduced into American homes.

It pains me to stand before you today and say that the federal government may need to regulate yet another industry. What we need is smaller, smarter government. Without the cooperation of television networks, however, Congress has no choice but to give the FCC the authority to impose itself upon the entertainment industry. Each of us, Congress, television networks, and parents need to come together for the sake of our children. Our children are the future of this country, and if we as a nation are going to live together in peace, each of us must take the responsibility to teach our children the difference between right and wrong.

Mr. DODD. Mr. President, it is my intention to vote to table the Hollings amendment regarding television programming and I wanted to say a few words about why I am going to cast this vote. Television can be a valuable entertainment and educational tool and I commend my good friend, Senator HOLLINGS for his work in this important area. I share his concern for the impact that violent programming has on children.

However, I have concerns about a government entity, the FCC, determining for everyone what is deemed ''violent programming''. This amendment has critical free speech implications. What would constitute violent programming? Would a documentary or an historical piece be deemed as such because it depicted violent acts or victims of violence? These determinations are best made by parents—the people who know their children best. The impact of this amendment would be overly broad. In fact, two-thirds of American households have no children under the age of 18. Further, I have concerns about the government mandating another solution before current technology practices have been given a chance. Most television broadcast and cable networks have implemented a voluntary ratings system that gives advance information about program content. The TV Parental Guidelines were designed in consultation with advocacy groups and approved for use by the Federal Communications Commission last year. These voluntary systems are an important step in the right direction, because it allows us to think more carefully about what we watch and what our children watch.

Congress also required that an electronic chip, called a V-chip, be included in newly manufactured television sets to allow parents to screen out material that they find inappropriate for their children. The first television sets equipped with V-chips will arrive in stores July 1, 1999; all new sets will contain a V-chip by July 1, 2000. I support the use of this valuable and innovative technology which enhances our ability to make careful choices.

Just this week, FCC Commissioner William Kennard announced the creation of a task force to monitor and assist in the roll-out of the V-chip. Special emphasis will be given to educate

parents about the availability and use of the technology. In fact, the Kaiser Family Foundation recently released a poll stating that 77 percent of parents said that if they had a V-chip in their home, they would use it.

We need to give the integrated V-chip and ratings system a chance to work. It is time to honor the commitment that was made in 1997—to allow this system to proceed unimpeded.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank the Chair.

Mr. President, I am intrigued by the Hollings amendment.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SESSIONS. I will.

Mr. HATCH. We said that after you finished we would go to Senator HOLLINGS. With Senator HOLLINGS' permission, I will yield 5 minutes, if I have it, or the remainder of my time, to the distinguished Senator from Montana, and then Senator HOLLINGS.

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

Mr. SESSIONS. Mr. President, this fits along with the general view of mine. We are both lawyers, and Senator HOLLINGS is a better lawyer than I, but I think we have made television prime time movies too much a matter of first amendment freedoms, and not enough of a matter of common sense. To say that you have to meet certain standards during certain hours of the day when our children may be impacted by that does not, in a significant way, prohibit a person from exercising what we generally understood to be free speech when we founded this country. Speech was generally understood, at the most fundamental level, as a communication about ideas and issues, and that you would be able to articulate and defend and promote your issues. It did not mean—and I don't think the Founding Fathers contemplated—that every form of video of vicious murder or sexual relations or obscenity could be published in print and in our homes.

In fact, we have laws all over America that flatly prohibit certain degrees of obscenity. Indecency cannot be prohibited, but things that are determined as a matter of law to be obscene are flatly prohibited anywhere in America. So, therefore, they say that on the public airwaves, which we license people to use, they have to be committed to the public service. They have to give so many hours of public service advertisements, and we monitor the stations to make sure that they do so. To say there is no Government agency that can say certain things can't be shown during limited periods of time, to me, is strange law. I don't think it is quite right.

In addition, I know a lot of people who have spoken on the floor here today—and over the last several days, are worried. Also, the President has spoken about his concern that in the afterschool hours children are not supervised. Many children have parents who work swing shifts or parents who have to be out in the yard or doing other things while they are inside watching TV, and they may not have a V-chip yet. Do we have no responsibility to those children? Is it sufficient to just say it is their parents' fault?

Some say if you are a parent, you can control whatever your children watch. Those of us who are parents know that is not precisely accurate. We can work at it hard, and if you are a parent who is home most of the time, you can do a fairly good job. But even then a determined young person can pretty well watch what they want. The point is, the showing of any one violent scene is not going to cause a normal child to become a murderer. The point is, what happens if every night kids who maybe are not healthy are seeing on their television images of violence—and in years gone by, they have gotten more graphic—and at the same time they get in their car and they play an audio or CD of Marilyn Manson, who has extremely violent lyrics, or they turn on the computer and play computer games. I was looking at one and the pointer was a chopped-off hand with blood dripping off it. That is humorous to some degree, but where you have it constantly, it is a problem.

First of all, in my wrestling with the Hollings amendment, is it appropriate for the Government to do so? The FCC does all kinds of other limitations on programming. Is it appropriate for them to analyze the content for violence? I have had my staff do some research of the law on it.

First of all, my general opinion is that the current state of the law is too restrictive on the ability of the Government to contain what is shown in the homes of America. I think it is too restrictive. I don't think the Constitution does that. But the current state of the law, I believe, is too restrictive, and these are some of the things I have discovered.

Under the Hollings amendment, we would perhaps be considered to be pushing the envelope a little bit. But I am not sure that we would because it would prohibit distribution of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience. It would require the FCC to reach a definition of what violent programming is and determine the timeframe for it. It would permit the FCC to exempt news and sports programming, and it would have penalties for those who violate that.

The closest law we can find on point is on the FCC's regulation of indecent programming, which has survived challenge in the courts. Obscene material is the kind of material that is illegal, where the Supreme Court has stated that this material can be so obscene and so lacking in any merit, that communities in the country can ban it from being distributed in their communities. Indecent material is the kind of material that is less than obscene. So what do we do about indecent material? The FCC defines indecent material—and I am paraphrasing—as this: Patently offensive descriptions based on local community standards of sexual and excretory functions or organs.

Government regulation of indecent material is possible, but it has to survive a standard of strict scrutiny. The courts are going to look at it very strictly to make sure the first amendment is not being undermined.

In Action for Children's Television v. FCC, a 1995 case decided in the District of Columbia, the DC court of appeals—which is one step from the U.S. Supreme Court—upheld the FCC safe harbor regulation of indecent material, provided the regulation was the least restrictive means to achieve the Government's compelling interest in protecting young people from indecent programming.

It didn't deal with violence. The original ban on indecent programming between 6 a.m. and midnight contained an exception for public programmers to broadcast indecent material between 10 p.m. and midnight.

A lot of public broadcasters quit at midnight. So the law is a compromise that if you are a public programmer, you can show this material at 10 o'clock and you don't have to wait until midnight like everybody else.

The court found that this exception was not narrowly drawn—not the most narrowly drawn restriction and mandated that you have this kind of law and everybody has the 10 o'clock rule. Some of them can't have 10 and some have midnight. But it upheld it. The Supreme Court upheld that restriction and that rule by the FCC. It was appealed to the U.S. Supreme Court, the final arbiter. They affirmed the ruling without opinion. They did not hear the case, but they did not overrule, and they allowed to stand the opinion of the district court.

So I think the difference we have here is that we are dealing with violence as opposed to what may be defined under the law as indecent.

I think we are raising a very good point. I am seriously considering this amendment. I understand those who have concerns about it. My basic inclination is to say that we ought to care about children. We know for a fact that many children are at home and unsupervised. We have a responsibility and it is not in violation of the first amendment to deal with this and have some restrictions on it.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I hope that Americans will look upon this debate. I think it is indicative of how hard and how difficult it is to deal with this issue. One cannot paint with a broad brush, whether we are talking about firearms or entertainment programming or games, or anything else. We cannot paint with a broad brush.

We are under the heels of tragedies such as Littleton, CO. We are very quick to blame. We are also reluctant to admit our own shortcomings in assuming our responsibilities as citizens, as parents, as schoolteachers, and as members of a community.

This particular amendment pretty much says, let no good deed go unpunished. It is too broad. We may table this amendment, and it should be tabled. But I hope that those who are in the business of entertainment and providing programming in its many forms, I hope this message gets to downtown Burbank and Hollywood and Vine.

This basically, if you look at the amendment, is pretty much a lawyer's amendment. It says:

> We shall define the term ''hours'' when children are reasonably likely to comprise a substantial portion of the audience, and the term ''violent video programming.''

I will tell you that argument will go on for just a little more than a moon, because we know that long hours of television are experienced just after school when they first get home. Then ''prime time,'' we would have to define ''prime time'' as somewhere between 8 o'clock and midnight.

It also includes maybe the Internet. You could interpret this to say the Internet, because it says in this section the term:

> ''Distribute'' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave or satellite.

You can also interpret that as the Internet.

We have never to this point put restrictions on the Internet. There may be a day coming when, if the ISPs and the programmers don't show some kind of responsibility, Government will.

It is almost unenforceable. In fact, it is unenforceable. I have never seen a section like this that says if any part of this amendment is found unconstitutional, then the remainder stays in. I think again that is pretty much full employment for our legal profession.

The amendment runs counter to the meaning that we had when we all sat down and worked out the V-chip. There were some of us who said the V-chip will probably not work unless we have responsible parents who are in charge of the television, basically. We were told at that time that the V-chip people were ready to go for it.

Do you know that the first television to have a V-chip in it—this was an agreement 2 years ago, back in July of 1997. Guess what. We have yet to see the first television set to have a V-chip in it—2 years later. That television won't be on the market until July of this year.

Let's give it a chance to work, as far as the V-chip is concerned.

I want to send a strong message to those who will provide entertainment. You should get the message right away. There are people looking, and there are people willing to take some steps, if they show no responsibility at all in programming to our young people.

I thank the Chair. I thank the floor leader for the time.

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

Mr. HOLLINGS. Mr. President, the distinguished Senator from Montana is the chairman of our Subcommittee on Communications. He questions now: Is the amendment too broad? It sounds to him like a lawyer's amendment. But the distinguished Senator did vote for something identical in 1995 and in 1997, because he voted for exactly that when we reported out the ''lawyer's amendment,'' or however he wants to describe it right now. I appreciated his vote at that time. I am sorry I didn't get to talk to him this morning when he came in, because I think I could have gotten him back around to where he was. So much for that.

My distinguished colleague from California talks about ''Schindler's List.'' Heavens above. We said, ''Excessive, gratuitous violence.'' You have ''Schindler's List.'' You have ''Civil War.'' You have ''Saving Private Ryan.'' It just couldn't apply under this amendment. So let's not raise questions like that.

With respect to pointing the finger at one industry, no. We pointed the finger yesterday—almost a majority, but half the Senate, almost—to the gun industry. We are trying at every angle we possibly can to do something rather than to just talk about it, because that is what we have been doing with respect to television violence. Now they come, of course, with the wonderful putoff, that ''shall the Government decide,'' and ''let the parents,'' ''power to the parents,'' and everything else like that. Heavens above.

I haven't seen an amendment yet to repeal the FCC authority over indecency. In fact, the decision—going up before the courts, finding it to be constitutional—by Judge Edwards, who said violence would be even again more appropriately controlled, but he ruled again on the authority of the Government, the heavy hand of Government, rather than the parent, namely the FCC, to come down and control indecency during the family hour that we have today for indecency.

What this boils down to is to merely extend the family hour for indecency, to violence, to television violence. We brought the Attorney General of the United States, the Justice Department, and she attested to the fact of its constitutionality as well as the outstanding force of constitutional law by professors from the various campuses.

Mr. President, we have had that study. It came out again by the voluntary effort of the industry itself back in 1992. We put that one in the RECORD. Then 6 years later, what does Hollywood say?

I repeat the various letters that we have here, Mr. President. We had the American Federation of Television and Radio Artists finding this, the Producers Guild of America finding this, the Writers Guild of America finding this, the Caucus for Producers, Writers and Directors, and the Directors Guild of America—all finding this. When I say ''finding this,'' I mean that much of TV violence is still glamorized. It is trivialized. So we know what the industry does with a study and an investigation in the Brownback amendment.

Mr. President, if we value family values, listen to this one.

Out in Ohio, a 5-year-old child started a fire that killed his younger sister. The mother attributed the fact that he was fascinated with fire to the MTV show Beavis & Butt-Head, in which they often set things on fire. The show featured two teenagers on rock video burning and destroying things. The boy watched one show that had the cartoon character saying ''fire is fun.'' From that point on, the boy has been playing with fire, the mother said. It goes on to say the mother was concerned enough that she took the boy's bedroom door off the hinges so she could watch him more closely, the fire chief said.

Let's give the mothers of America a break. Yes, we can put in the V-chip; yes, we can do all the little gimmicks. But we know one thing is working: They don't shoot 'em up in London schools. They don't shoot 'em up in European schools. They don't shoot 'em up in Australian schools. They have a family hour with respect to television violence. It is working.

In this country, why doesn't the family values crowd have the family hour with respect to TV violence?

Mr. DORGAN. Will the Senator yield?

Mr. HATCH. I yield 2 minutes to the Senator.

Mr. DORGAN. Mr. President, I have listened to this debate. It reminds me of the three stages of denial: The fellow says I wasn't there when it happened; if I was there, I didn't do it; if I did it, I didn't mean it.

I have listened to the denial on this issue. We finally come to the point after three decades of debate, especially in the last 6 or 8 years, where the denial is to say we can't take a baby step forward on this important issue because somebody has reached an agreement somewhere with someone else.

I didn't reach an agreement with anybody. We have a V-chip. I introduced the first V-chip bill in the Senate January 31, 1994. We have a V-chip in law. But don't anybody stand up here and say that because we have a V-chip in law there was some deal someplace with somebody that prevents Members from doing what we ought to do now. Don't anybody say that, because I was not part of a deal. The Senator from South Carolina was not part of a deal, and I daresay that 90 other Senators in this Chamber were part of no deal with anybody about these issues.

This is common sense. This makes sense.

It seems to me that we ought not have anybody ever come to the floor of the Senate again to talk about this issue if Members are not willing to take this baby step in the right direction.

I am pleased to join the Senator from South Carolina in offering this amendment today to say we have had a lot of discussion, hundreds of studies, a lot of debate. Now we come to the time where we choose. Don't make excuses. Don't talk about some deal that doesn't exist for most Senators. Vote for this legislation.

Mr. HOLLINGS. I thank the distinguished Senator for his leadership.

Mr. HATCH. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. FITZGERALD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 328. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—60

Allard	Feingold	McCain
Baucus	Fitzgerald	McConnell
Bayh	Frist	Moynihan
Bennett	Gorton	Murkowski
Boxer	Gramm	Murray
Breaux	Grams	Nickles
Brownback	Hagel	Reed
Bunning	Hatch	Robb
Burns	Hutchinson	Roberts
Campbell	Inhofe	Roth
Chafee	Jeffords	Santorum
Cleland	Kennedy	Schumer
Cochran	Kerrey	Shelby
Collins	Kerry	Smith (NH)
Craig	Kyl	Smith (OR)
Crapo	Leahy	Specter
Daschle	Levin	Thomas
Dodd	Lott	Thompson
Domenici	Lugar	Torricelli
Enzi	Mack	Voinovich

NAYS—39

Abraham	Edwards	Lieberman
Akaka	Feinstein	Lincoln
Ashcroft	Graham	Mikulski
Biden	Grassley	Reid
Bingaman	Gregg	Rockefeller
Bond	Harkin	Sarbanes
Bryan	Helms	Sessions
Byrd	Hollings	Snowe
Conrad	Hutchison	Stevens
Coverdell	Johnson	Thurmond
DeWine	Kohl	Warner
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden

NOT VOTING—1

Inouye

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that following the disposition of amendment No. 335, Senator FEINGOLD be recognized for up to 8 minutes to make a statement on debate, the Senator from Minnesota be recognized for up to 10 minutes, and then Senator ASHCROFT be recognized to offer an amendment regarding guns, and that there be 45 minutes equally divided for debate prior to the vote on or in relation to the amendment, with no amendments in order to the amendment prior to that vote.

I further ask consent that following the debate, the amendment be laid aside and Senator FEINSTEIN be recognized to offer an amendment regarding gun control, with the debate limited to 90 minutes and under the same parameters outlined above.

The PRESIDING OFFICER (Mr. VOINOVICH). Is there objection?

Mr. LEAHY. Reserving the right to object——

Mr. HATCH. Let me finish. Following that debate, the Senate proceed to vote in the order in which the amendments were offered, with 5 minutes prior to each vote for explanation.

Mr. LEAHY. Reserving the right to object, and I will not object, I assume then that 5 minutes would be divided in the usual fashion.

Mr. HATCH. Therefore, for the information of all Senators—do I have the unanimous consent?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Therefore, for the information of all Senators, the next votes will occur at approximately 3:30 p.m. and approximately 4 p.m. today.

Mr. LEAHY. Unless time is yielded back.

Mr. MCCAIN. Mr. President, reserving the right to object, following the disposition of those amendments, is it then your intention to move to a Hatch-Craig amendment?

Mr. HATCH. Yes; following that, we intend to move to the Hatch-Craig amendment on firearms.

Mr. LEAHY. That is not part of the unanimous consent request.

Mr. HATCH. That is not part of the unanimous consent request.

Mr. MCCAIN. I ask unanimous consent that we move to the Hatch-Craig amendment immediately following the disposition of those amendments.

Mr. LEAHY. Mr. President, at this time I object.

Mr. MCCAIN. Then I object to the unanimous consent request.

Mr. LEAHY. We already have that.

Mr. HATCH. Let me ask the Senator——

The PRESIDING OFFICER. The unanimous consent agreement has been agreed to, and the Senator from Wisconsin has 8 minutes.

Mr. HATCH. Would the Senator from Arizona——

The PRESIDING OFFICER. The Senator from Wisconsin has 8 minutes.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 1035 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

THE CRISIS IN KOSOVO

Mr. WELLSTONE. Mr. President, I have spoken a number of times on the floor of the Senate about the crisis in Kosovo. I think it is important, under the circumstances, that I do so again in order to pose some critical questions that have emerged recently about United States and NATO policy there.

I saw a window of opportunity for diplomacy. I was really optimistic given the direction of the G–8 countries. I thought we were then going to be going to the United Nations, and we had an opportunity perhaps through diplomacy to bring this conflict to an end.

I think that given what has happened over the weekend, and given the very delicate discussions now underway involving NATO, the U.N. Secretary General, Russia, China, and other key players, it is time to reconsider a proposal that I made 10 days ago: a brief, conditional pause in the airstrike campaign to allow for a de-escalation of this military conflict.

Let me be clear. I continue to support the basic military, political and humanitarian goals that NATO has outlined: the safe return of refugees to their homes; the withdrawal of Serb security forces; the presence of robustly armed international forces capable of protecting refugees and monitoring Serb compliance; full access to Kosovo for nongovernmental organizations aiding the refugees; and Serb willingness to participate in meaningful negotiations on Kosovo's status.

These goals must be met. But in the wake of the Chinese Embassy accident, NATO needs to be even more focused on diplomacy, and I think we have to be very careful to not appear to be belligerent in our public statements—to be strong in terms of the goals that have to be met but be creative in our diplomacy.

I don't really know what there is to the withdrawal of some of the Serb military. Secretary Cohen has raised some very important questions. But on the floor of the Senate, I do want to point out that contrary to some published reports of United States and public statements that suggest that we intend to continue the airstrikes even against Serb forces who may actually be beginning to withdraw, I believe we and NATO should reiterate what we have been saying earlier—that NATO will not strike at Serbian troops who are actively pulling out of Kosovo.

How can we expect even the Serbs to withdraw their troops if we have made it clear that we will bomb them on the way out unless they have agreed to full withdrawal and outlined a timetable for it? Is this seeming new emphasis on continuing the airstrikes even if the

troops are withdrawing a change in emphasis, or tone, or is it a substantive change? What precisely would the NATO rules of engagement be if substantial numbers of Serb troops begin to actually withdraw from Kosovo? What did Milosevic's statement on a return to ''peacetime troop levels'' mean? If he means a return to prewar levels, that is a nonstarter. What small token Serb forces, if any, would NATO allow to stay, as long as an armed international presence was allowed?

While I understand NATO's decision to remain silent, or to leave some ambiguity on some of these questions, it has created an unnecessarily confusing, and sometimes conflicting, set of policy prescriptions from NATO.

Mr. President, while I think a diplomatic solution is the best way to resolve this crisis, I want to make clear that I have no illusions about Milosevic and what he has done. My disgust with his actions was only increased yesterday when I read some of the information in the new State Department report entitled ''Erasing History: Ethnic Cleansing in Kosovo.''

The report catalogs the horrific events that continue to unfold in Kosovo. Interviews with thousands of refugees have revealed brutalities which boggle the mind and sicken the soul. I shudder to think what else we will learn in the months and years to come after looking at forensic evidence within Kosovo. It is clear that even while the bombing campaign has raged Kosovo has been emptied, and it has been burned.

Mr. President, let me just make it clear that I know why we have been involved, and I think we have launched our military actions with the best intentions and with what I truly believe was sound moral authority. But I am troubled now by some actions by NATO, including the so-called ''collateral'' damage we have wrought, and the embassy bombing, which I believe may undermine that sense of moral legitimacy.

The embassy incident is only the latest of targeted errors which have caused civilian casualties. We have seen errant strikes on a refugee convoy, a civilian train, a bus and other incidents. While I understand clearly the difference between the brutal, deliberate and systematic attacks of Serb forces, which have resulted in the deaths of thousands and displacement of over a million more, and the accidental death of civilians caused by our wayward missiles, any serious moral reflection requires us to consider the impact of our actions on innocent civilians. Taken together, I fear these incidents are beginning to erode the moral authority of our efforts in Kosovo.

I do not mean to suggest in any way a moral equivalence between the two. But as the number of civilian casualties mounts, it will become increasingly difficult to justify as we try to balance these regrettable losses against whatever progress we are making toward our goal.

One way to put an end to Milosevic's atrocities and to the recurring cycle of collateral damage and NATO apologies may be to pursue a more creative coupling of our military, political and diplomatic goals.

Last week, I called for a brief, conditional and reciprocal pause in our military action. I wish we had done so. On NATO's part, this would entail a bombing pause of perhaps 48 hours. Such a pause—if it can be worked out in a way which would protect NATO troops and would not risk Serb resupply of their war machine—could help to reinvigorate—and I think we need to now—diplomatic efforts and halt the steady movement toward bombing that we have now seen which could lead to a deeper involvement and a wider war. Mr. President, we need to reinvigorate our diplomatic efforts, and we need to halt the steady movement in the bombing. We need to figure out a way that we can involve critical parties and countries in a diplomatic effort.

While my proposal is not the proposal that comes from the Chinese and Russians, it is more qualified. And it would require a more immediate reciprocal response from Milosevic.

I believe we need to take this step. I am not naive about whether we can trust Milosevic. We have seen him break his word too many times with that. We may even be seeing that again now in what NATO leaders have called a ''feint'' of a partial withdrawal. I am not proposing an open-ended halt in our efforts, but I am talking about a temporary pause of 48 hours or so offered on condition that Milosevic not be allowed to use the period to resupply his troops, or to repair his air defenses, and that he immediately order his forces in Kosovo to halt their attacks and to begin to actually withdraw. It would not require his formal prior assent to each of these conditions. But if our intelligence and other means of verification concludes that he is taking military advantage of such a pause by doing any of these things, we should resume the bombing.

I believe, however, that we need to take this first step, a gesture, in order to move diplomacy forward and bring these horrors to an end.

Let me conclude by saying that as a Senator I have been so impressed by the heroic efforts of nongovernmental organizations to bring humanitarian supplies by convoy to hundreds of thousands of homeless and starving misplaced refugees still wandering in the mountains of Kosovo. I believe a pause might very well serve their interests. It might enable these aid organizations and other neutrals in the conflict to more easily airlift or truck in and then distribute relief supplies to them without the threat of their humanitarian mission being halted by the Serbian military. A Serb guarantee of their safe conduct would be an important reciprocal gesture on the part of Milosevic. These people must be rescued. My hope is that a temporary bombing pause might help to enable aid organizations to get there.

Mr. President, I intend to press these questions that I have raised with the administration officials later today. I think we have an opportunity still for diplomacy. We must not allow this window of opportunity provided by the Russians and others to close.

I thank my colleagues for their graciousness.

I urge the President and his foreign policy advisers to consider steps to de-escalate this military conflict, and to work with our allies, with the U.N. Secretary General, with the Russians and others to take advantage of whatever opportunities present themselves to forge a just and lasting peace which restores the Kosovar Albanians to their home, provides for their protection and for their secure futures, allows aid groups access to them, and provides for negotiation on their political status.

We must move forward now. I wish that we could have had this pause that I called for 10 days ago. I am extremely worried about the repercussions of the bombing of the embassy in China. I am worried about the events in Russia. I am worried about a window of opportunity for diplomacy closing and more escalation in this military conflict.

I think it is important that we take this step under the conditions that I have outlined.

I am going to continue to press forward with this proposal. I hope that in the Senate next week we will again have a discussion and debate about the events in Kosovo, about our military involvement, about where we are, about where NATO is, and what we need to do to achieve our objective.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 342

(Purpose: To amendment chapter 44 of Title 18, United States Code, to enhance penalties for the unlawful use by or transfer to juveniles of a handgun, ammunition, large capacity ammunition feeding devices or semiautomatic assault weapons, and for other purposes)

Mr. ASHCROFT. Mr. President, I thank you for recognizing me. It is my understanding that in accordance with the previous consent that I have the opportunity to present an amendment to the juvenile bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 342.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

To be inserted at the appropriate place:

TITLE . RESTRICTING JUVENILE ACCESS TO CERTAIN FIREARMS

SECTION 1. PENALTIES FOR UNLAWFUL ACTS BY JUVENILES.

(a) JUVENILE WEAPONS PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking ''Whoever'' at the beginning of the first sentence, and inserting in lieu thereof, ''Except as provided in paragraph (6) of this subsection, whoever''; and

(2) in paragraph (6), by amending it to read as follows:

''(6)(A) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except—

''(i) a juvenile shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, larger capacity ammunition feeding device or a semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense; or

''(ii) a juvenile shall be fined under this title, imprisoned not more than 20 years, or both, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) during the same course of conduct in violating section 922(x)(2), the juvenile violated section 922(q), with the intent to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon in the commission of a violent felony.

''(B) A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

''(ii) if the person sold, delivered, or otherwise transferred a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon in the commission of a violent felony, shall be fined under this title, imprisoned not more than 20 years, or both.

''(C) For purposes of this paragraph a 'violent felony' means conduct as described in section 924(e)(2)(B) of this title.

''(D) Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United States, and the juvenile is subject to the penalties under clause (ii) of paragraph (A), the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.''.

(b) UNLAWFUL WEAPONS TRANSFERS TO JUVENILES.—Section 922(x) of title 18, United States Code, is amended to read as follows:

''(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun;

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.

''(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun;

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.

''(3) This subsection does not apply to—

''(A) a temporary transfer of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon to a juvenile or to the possession or use of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon by a juvenile—

(i) if the handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon are possessed and used by the juvenile—

''(I) in the course of employment,

''(II) in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch),

''(III) for target practice.

''(IV) for hunting, or

''(V) for a course of instruction in the safe and lawful use of a firearm.

''(ii) Clause (i) shall apply only if the juvenile's possession and use of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon under this subparagraph are in accordance with State and local law, and the following conditions are met—

''(I) except when a parent or guardian of the juvenile is in the immediate and supervisory presence of the juvenile, the juvenile shall have in the juvenile's possession at all times when a handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon is in the possession of the juvenile, the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition; and

''(II) during transportation by the juvenile directly from the place of transfer to a place at which on activity described in clause (i) is to take place the firearm shall be unloaded and in a locked container or case, and during the transportation by the juvenile of that firearm, directly from the place at which such an activity took place to the transferor, the firearm shall also be unloaded and in a locked container or case; or

''(III) with respect to employment, ranching or farming activities as described in clause (i), a juvenile may passes and use a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault rifle with the prior written approval of the juvenile's parent or legal guardian, if such approval is on file with the adult who is not prohibit by Federal, State or local law from possessing a firearm or ammunition and that person is directing the ranching or farming activities of the juvenile.

''(B) a juvenile who is a member of the Armed Forces of the Unites States or the National Guard who possess or is armed with a handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon in the line of duty;

''(C) a transfer by inheritance of title (but not possession) of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon to a juvenile; or

''(D) the possession of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon taken in lawful defense of the juvenile or other persons in the residence of the juvenile or a residence in which the juvenile is an invited guest.

''(4) A handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection, shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon is no longer required by the Government for the purposes of investigation or prosecution.

''(5) For purposes of this subsection, the term ''juvenile'' means a person who is less than 18 years of age.

''(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

''(B) The court may use the contempt power to enforce subparagraph (A).

''(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.''

(7) For purposes of this subsection only, the term ''large capacity ammunition feeding device'' has the same meaning as in section 921(a)(31) of title 18 and includes similar devices manufactured before the effective date of the Violent Crime Control Law Enforcement Act of 1994.

SEC. 2. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. ASHCROFT. Mr. President, all of us are concerned and deeply so about what we think is a changing landscape in American culture. We are concerned about the fact that young people whom we once felt were the repository for the innocence of the culture are no longer that repository. We find ourselves being outraged and stunned when we find activity in juvenile quarters which are really threatening to all of us. That is why the whole juvenile justice topic is before us. We are amazingly aware, painfully aware, of the fact that we need to take steps to improve the way we deal with young people and to curtail the amount of criminal activity and behavior among those who are the young people of our culture.

It is important that we debate this issue in the Senate. It is important that we offer legislative responses to this serious challenge to the public safety and security of people and their families. But we shouldn't try to telegraph or to communicate the fact that we are addressing this, that we think that we can do everything that is necessary for a safer and saner approach to life by all of our citizens including young people.

There is much that simply can't be done by government. The resources of the State are inadequate to shape the culture totally and completely and to bring the kind of result that we want.

The fact that we are here to talk about things that we can do doesn't

mean we believe that what we can do will totally accommodate or otherwise remediate the problem. We should do what we can do. I believe it is important to look around and ask how can we improve the situation and the legal framework.

One of the aspects of juvenile justice that we are discussing today is the access that juveniles have to firearms. In my hometown of Springfield, MO, and towns and cities across Missouri and across the United States, parents have long played an active and crucial role in teaching children the safe and responsible use of firearms.

However, Federal law already recognizes that certain firearms involve a higher level of responsibility than others. Handguns, for instance, have long been recognized as requiring greater restrictions than other firearms. Of course, any restriction must respect the second amendment rights of American citizens, one of the fundamental rights enjoyed under the Bill of Rights under the U.S. Constitution.

The amendment I propose today does exactly that. It simply extends the recognition of the need for increased responsibility to certain military-style semiautomatic assault weapons such as AK–47s and Uzis. In part, this mirrors a bill which I introduced recently in the Senate, Senate bill 994. The amendment which I have sent to the desk restricts the acquisition and possession of semiautomatic assault rifles and high-capacity ammunition-feeding devices—those holding over 10 rounds of ammunition—by juveniles.

Let me say again what this amendment does. This amendment restricts juveniles from acquiring semiautomatic assault weapon rifles and high-capacity ammunition-feeding devices—meaning those feeding devices which hold over 10 rounds of ammunition. It says juveniles do not have the authority to acquire, to purchase, or to possess those rifles generally.

Let me be clear about what this amendment does not do. This amendment does not affect the lawful ownership or possession of semiautomatic hunting or target rifles or semiautomatic shotguns, the kind of firearms that are routinely used responsibly by young people and American citizens across our country in hunting. It does restrict the possession and purchase of semiautomatic assault weapons and the high-capacity ammunition-feeding devices associated with them.

Current Federal gun law can be awfully complicated, but this amendment is not complicated. It is a straightforward commonsense amendment. Let me refer to a chart which shows the existing law. Already, the law requires elevated levels of responsibility in terms of handguns so that a juvenile individual is prohibited from purchasing a handgun from a federally licensed dealer, prohibited from purchasing a handgun in a private transaction or sale, and must have the permission of a parent in order to possess or use the handgun. I repeat, cannot buy from a licensed dealer, cannot buy in a private sale, and must have permission to use or possess.

Current Federal law in regard to semiautomatic assault rifles prohibits the sale by a federally licensed dealer to a juvenile, but permits juveniles to purchase semiautomatic assault rifles from individuals in private sales, and does not require a juvenile to have parental permission in order to possess or use such a firearm.

We have a disparity. Handguns have been prohibited for sale both privately and through licensed dealers and require parental permission; semiautomatic assault rifles, or AKs or Uzis, although prohibited for sale by a licensed dealer, juveniles are permitted to purchase at private sales; and juveniles require no parental permission. What we are proposing takes care of this disparity.

It says we will treat semiautomatic assault weapons as we treat handguns, that we will prohibit the acquisition of these weapons and firearms by juveniles from private sales just as they have been prohibited from federally licensed dealers, and we would require any possession by a juvenile of such a firearm to be an acknowledged and permitted possession of that firearm by the adult or the guardian parent of the juvenile.

It is pretty clear that what we have done here is to simplify the law by saying the same basic rules that apply to juveniles on handguns will apply to juveniles in semiautomatic assault weapons or assault rifles.

The law currently says in regard to a handgun you can teach your child to shoot a handgun but he can't shoot it without your permission. Basically, this would harmonize semiautomatic assault rifles with the law regarding handguns.

Now, there are under existing law some permitted uses of handguns by juveniles. If a juvenile is in the military service or if a juvenile is in lawful defense of himself against an intruder into his house, he is allowed to use a handgun—eminently reasonable. Those basic exceptions ought to be transferred or ought to exist for other firearms, as well.

Transfer of title to a firearm like this to a juvenile is permitted by inheritance, though the juvenile may not take possession until age 18, absent the kind of permission which would be required not only for this but for handguns.

My amendment simply treats semiautomatic assault weapons such as the AK–47s and the Uzis, street-sweeper shotguns, and high-capacity ammunition-feeding devices the same way for juveniles that we treat handguns. Private parties can no longer sell them to juveniles, and the juvenile needs parental permission to possess one unless he is in the military or uses it for self-defense.

What kind of weapons are we talking about that have been permitted to be sold to juveniles but would be prohibited under this amendment? The list includes: the AK–47, the Uzis, the Galil, Beretta AR 70, Colt AR–15, Fabrique Nationale FN or FAL, SWD M 10, M–11, M–11 1/9, the Steyr Aug, the TEC–9, street-sweeper shotgun, Striker-12 shotgun, and other semiautomatic rifles and shotguns with at least two military features, such as folding stocks, pistol grips, bayonet gloves, and grenade launchers.

These are serious firearms. Because they are serious, they create some new serious penalties. This amendment creates a new penalty of up to 20 years' incarceration for possession of handgun ammunition or semiautomatic assault weapon or high-capacity ammunition-feeding device with the intent to possess, carry, or use it in a crime of violence in a school zone. It raises the penalty for transferring a firearm to a juvenile, knowing that it will be used in a crime of violence or drug crime, to 20 years.

Mr. SESSIONS. Will the Senator yield?

Mr. ASHCROFT. I am happy to yield to the Senator.

Mr. SESSIONS. Mr. President, as chairman of the Youth Violence Subcommittee, I very much appreciate Senator ASHCROFT's leadership on this particular issue. But not just this one, on the entire package of legislation we have put together today. He has conducted hearings in Missouri, which I was pleased to be able to attend. We heard from victims of crime. We heard from police officers. We heard from young people. We went out and met with law enforcement officers who were breaking up drug labs. In the course of that, one of the things we dealt with was adult criminals using young people to commit crimes for them. Senator ASHCROFT has prepared that part of our bill in particular, which I think is invaluable, because young people do get treated less severely, and older adults are using them to commit crimes.

Zeroing in on some weapons that young people do not need to be able to receive in any fashion is good legislation. As chairman of that subcommittee, I appreciate Senator ASHCROFT, former attorney general of the State of Missouri, former Governor of the State, for his leadership throughout this process. I have enjoyed working with him and look forward to continuing to do so as we move this bill through to success.

Mr. ASHCROFT. I thank the Senator. I appreciate his work, coming to Missouri to participate in the hearing.

It became clear to us that adults using children to commit crimes—hoping the children would be excused because of their youth and they would all escape penalty—brings children into a criminal environment. It starts them down a path of crime. That is very dangerous, and this proposal which we are considering today obviously would elevate the penalties for that about threefold. I am delighted.

Again, let me refer to this amendment that really harmonizes the law so the same kinds of prohibitions apply to semiautomatic assault weapons as apply to handguns. There are a few clarifying changes in the existing law. It makes it clear that parental permission allows possession, either with parental supervision or with prior written permission of a parent. Even with this parental permission, juveniles can only possess these weapons for three narrow purposes: For target shooting; for gun safety courses; or if required for their employment in ranching, farming, or lawful hunting. Such a firearm being transported by a juvenile must be unloaded and in a locked case, under this amendment. So for a juvenile, even if he was transporting for one of these lawful purposes—that also relates to handguns, I might add—the law requires the weapon be unloaded and in a locked case.

Likewise, this amendment allows prior written permission to be retained by a parent instead of carried by the juvenile in the case of juvenile possession incident to employment, ranching, or farming activities. In other words, if on a ranch a youngster is carrying a pistol, obviously the written permission can exist in the ranch house while the youngster is doing chores or away from the house with the pistol.

Finally, the amendment clarifies the self-defense provision of the law by permitting possession in lawful defense of self or others in a residence against any threat to the life of the individuals there. I think it is only reasonable to conclude it should not be illegal for a young person to pick up a handgun to defend himself and his family in the event he is in his home and is the victim of a threat to his own life.

If parents want to teach children to use firearms responsibly, the law should not stand in the way. This law encourages parents to play an active role in the lives of their children and respects the judgment of parents. It does not suggest we in Washington know best and are better equipped than parents to make decisions. But it does say, as it relates to semiautomatic assault rifles and weapons, the provisions that relate to handguns ought to be the provisions that relate to semiautomatic rifles. That means this amendment would prohibit the private sale of a semiautomatic assault rifle to a juvenile and the possession of any assault rifle or similar weapon by a juvenile, absent the specific permission of a parent.

With that in mind, I think we take another step forward. We do not cure all the problems attendant to our society related to law-abiding responsibilities of young people. But we do take a step forward to bring the law to a place of rationality and to prohibit possession of semiautomatic assault rifles where pistols or handguns would be prohibited, and to prohibit such possession without the permission of a parent in a similar way to the way in which it has been prohibited for handguns.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to comment on the amendment the Senator has just submitted before the body. I believe directly following this amendment, I will be introducing an amendment. Last week, I announced I would be introducing an amendment which had essentially all the parts that Senator ASHCROFT has just introduced, plus one additional part. Let me comment on how his amendment differs from mine in the sense of the parts he has just talked about.

He has added exceptions relating to employment, ranching, farming, hunting, inheritance, target practice, and training. The exceptions in my amendment are military and law enforcement.

He also creates a new penalty of up to 20 years for a juvenile who uses these weapons with the intent to commit a violent felony. I think that is a very positive addition.

He does not make any transfer a felony, so the penalty would still be only up to 1 year. That is, if you transfer an assault weapon to a juvenile, the penalty is only up to 1 year. That is part of the problem. The penalty is so low, it is difficult to sustain or even make prosecutions. But I am very pleased he has seen fit to offer this amendment.

I want for a moment to talk about what is missing from the amendment, which I will talk about more deeply on my own time. What is missing from the amendment is plugging a major loophole in the assault weapons legislation which I presented to this body in 1993 as an amendment to the crime bill and which is now law.

When the amendment came before the body and we were standing down in the well, another Senator approached me and said: Would you mind if there were an amendment which would permit the continued grandfathering of big clips into this country, particularly for those that have bills of lading on them already and are in transit? I said no. The amendment went in and got broadened in the course of what turned out to be a rather cantankerous debate on the subject, back and forth between the two Houses.

This is significant because the failsafe in the assault weapons legislation has to do with clips, in that the domestic manufacture of clips, drums, or strips of more than 10 bullets is prohibited in the United States subsequent to enactment of the assault weapons legislation. That is now the law. The loophole is that these clips are coming in from all around the world.

Let me give a few examples. Between March of 1998 and July of 1998, BATF approved permits for over 8 million of these clips. They came in from countries all over—from Austria to Zimbabwe.

Let me tell you some of the things that come in from Great Britain: 826,000 clips, drums or strips, 250-round magazines, 177-round magazines, 71-round magazines, 50-round magazines; from Germany, 426,300; from Italy, 5,900,000, and on and on.

What is the significance of this? What gives an assault weapon the firepower is, first, you can hold it at your hip with two hands and spray fire; secondly, most of them are capable of having a very light trigger which you can pull very rapidly, and being semiautomatic, each time you pull it, it dispenses a bullet; and the clips are very big. The bigger the clip, the less the opportunity somebody has to disarm you.

Hence, they have become the weapon of choice of grievance killers, of drive-by shooters, of gangs, and of drug dealers. None of these big clips are necessary for hunting.

It always puzzles me why there is an exception. As a matter of fact, overwhelmingly, the great bulk of States prohibit more than seven bullets in a clip for hunting. Therefore, why you need to make an exception for hunting—I used to use a bow and arrow. I was pretty good at it. At least there was some sport in it. If you come along with a spray-fire assault weapon and you are hunting some poor deer, my goodness, I am rooting for the deer, that's for sure.

I really question why we cannot plug this loophole. I tried last year. We received 44 votes. I was told some people did not like the timing of it and, therefore, I am trying at a time now when the juvenile justice bill is before this body.

Unless we close this loophole, we will continue to build a nation that is awash with the kind of equipment that wreaks the devastation that is occurring all over this country.

What the Senator has done is commendable. He has put forward certainly some improvements. I have done the same thing with not as many exceptions and added one other item.

I will probably vote for that amendment. I will also, though, press my amendment because, as one who has lived this assault weapons issue now for the past 6 years, unless we close some of these loopholes, the point of the legislation, which is to dry up the huge supply of assault weapons as well as these big clips, essentially will not happen. This is an important loophole to be closed. That is essentially the difference between our two amendments.

How much time remains on our side, Mr. President?

The PRESIDING OFFICER. Fourteen minutes, 52 seconds.

Mrs. FEINSTEIN. Mr. President, I want to take this time, if I may, to do something I have never done before, certainly on the floor of the Senate, and share with you my personal experience with guns and why I feel as strongly as I do with what is happening in this Nation with respect to them.

In 1976, I was president of the board of supervisors in San Francisco. There was a terrorist group by the name of

the New World Liberation Front that was operating in the far west. They had blown up power stations throughout the West. They targeted me and placed a bomb in a flower box outside my house. The bomb had a construction-grade explosive which does not detonate below freezing. It never drops below freezing in San Francisco. It was set to detonate at 1:30 in the morning.

It did detonate, but the explosive washed up the side of the building and it did not explode. The timer went out in the street, and the next morning, we found the explosive on the side of the house. It was a very sobering thing because it was right below my daughter's window. Then this same group shot out about 15 windows in a beach house my husband and I owned.

I went to the police department and asked for protection, and I asked if I could learn to carry a weapon. So I received, in 1976, a concealed weapon permit to carry a weapon. I was trained at the police range. The weapon I carried was a chief's special 38, five shots. I practiced regularly.

My husband was going through cancer surgery at this time, and I remember walking back and forth to the hospital feeling safer because I had this small gun in my purse. A year later, arrests were made, and I returned the gun and, as a matter of fact, it was melted down with about eight others into a cross which I was able to present to the Holy Father in Rome in the early 1980s.

Subsequent to that time, a direct contradictory incident changed my life dramatically, when a colleague of mine on the board of supervisors smuggled a gun in, a former police officer, and shot and killed the mayor and shot and killed a colleague.

I spoke about this very briefly on the floor once before, but I was the one who found my colleague's body and put a finger through a bullet hole trying to get a pulse. I became mayor as a product of assassination in a most difficult time in my city's history.

Between those two incidents, I have seen the reassurance, albeit false, that a weapon can give someone under siege. With a terrorist group, one does not know when they will strike. I was very frightened. I decided I would try to fight back, if I could, and did the legal things to be able to do it. So I understand that reassurance.

On the other hand, I have seen the criminal use of weapons. Then I began to see very clearly, between the late seventies and today, the evolution of the gun on the streets of America and seeing these very high-powered weapons striking hard and killing innocent people. I actually walked a block in Los Angeles where, in 6 months, 30 people were mowed down by drive-by shooters carrying these weapons.

I went to 101 California Street and saw the devastation that an aggrieved man brought about when he walked in with assault weapons and mowed down innocent people.

Let me tell you a couple of the characteristics of some of these weapons. I will begin with the weapon that was used in Littleton.

The Intratech TEC–9, TEC-DC9, TEC–22 is a favorite weapon of drug dealers, according to BATF gun data. One out of every five assault weapons traced from a crime is a TEC–9, according to BATF. It comes standard with a 30- to 36-round ammunition magazine capable of being fired as fast as the operator can pull the trigger. It is one of the most inexpensive semiautomatic assault weapons available. The original pistol version, called KG–9, was so easily converted to fully automatic it was reclassified by the BATF in 1982 as a machine gun.

The TEC–22 is very similar to the TEC–9 and TEC-DC9 and fires .22 caliber ammunition, manufactured in the United States.

The other one widely used is the AK–47. It is the most widely used assault weapon in the world, now manufactured in many countries. An estimated 20 to 50 million have been produced. It comes standard with a 30-round ammunition magazine capable of being fired as fast as the operator can pull the trigger. Some models are available with collapsible stock to facilitate accountability, developed in 1947 in the Soviet Union.

These are two of the weapons most used—banned by the assault weapons legislation.

What is the problem? The problem is the gun manufacturers are so craven that whatever you write, they find a way to get around it, to produce a thumb-hole stock or some other device, but to continue the basics of the weapon—that it can be held in two hands, that it can be spray fired. And what enables it to be so lethal and used in grievance killings and used by drive-by shooters and used by gangs is the big clips. No one can get to you to disarm you if you have a 70-round clip, a 90-round clip, or two 30-round clips strapped together.

So the purpose of the assault weapons legislation was to dry up that supply, not to take one away from anybody but over time dry up the supply. Today, no one in this country can manufacture a clip, drum, or strip of more than 10 bullets. No one can sell it legally. No one can possess it legally if it is made postban. The loophole is that they are pouring in from 20 different nations.

I went to the President, and I said: Can you use your executive authority to stop it? Just as he did with the foreign importation of assault weapons. What I was told by Justice was, no, we need legislation to close the loophole.

So I say to the Senator, where my legislation differs from yours is in exceptions and plugging this loophole. I very much hope we can plug the loophole. I very much hope the intent of your legislation isn't to submarine my legislation, isn't to prevent the closure of this loophole, which, as submitted to me right down there—I will never forget where it happened—was simply a grandfather clause to permit those weapons that had bills of lading on them in transport coming into this country. And I believe it should be closed. I believe the supply should be dried up.

Let me talk about the school killings and how these clips come into it for a moment.

I sent my staff to buy some of these clips. Let's see if it is easy; let's see if it is hard.

On the Internet, no questions asked. It is $8, $10 for a clip; no questions asked. Give your mother's credit card and you get it in the mail within a couple of days. We bought a 75-round magazine for an AK–47. And we bought several 30-round clips for $7.99, $8. And then if it slips into the weapon, you have a gun that can kill 30 people before you can be disarmed. That is why I so desperately want to plug this loophole.

As I believe the time is up, I yield the floor and will continue this on my own time. I thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ASHCROFT. I am happy to yield such time to the Senator from Idaho as he might consume.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Missouri for yielding.

I stand in support of what I think is a very needed piece of legislation. While I stand always in defense of the constitutional right of law-abiding citizens to own guns, I also recognize the tremendously valuable linkage between rights and responsibilities and the ability of people to understand what those responsibilities are and to perform them in law-abiding ways.

The Senator from Missouri has recognized that in the laws we currently have, there is the potential, if not the reality, where we say to juveniles they cannot own handguns, up to a certain age, and that in fact we have seen there is a possibility, by definition of ''semiauto,'' that they could own one.

Certainly, in the case of Littleton, CO, the acts were illegal. That does not make the point. The point is, the law needs to be specific. That is what the Senator from Missouri is doing at this moment. He is making it very clear, as it relates to semiauto assault weaponry and the loading devices, that they be appropriately prescribed under the law as it relates to juveniles and that which we prohibit juveniles from possessing.

So I stand certainly in support of this. I encourage my colleagues to vote for it. I think it is the refinement of the laws of our country relating to gun ownership that clearly is deserving and appropriate in this legislation.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I inquire how much time remains.

The PRESIDING OFFICER. The Senator from Missouri has 3½ minutes.

Mr. ASHCROFT. Mr. President, I thank the Senator from California for her kind remarks about the intent that is expressed in making sure we provide the same kind of restrictions for semiautomatic assault weapons that we provide for handguns.

I just say this is an important amendment. This is the subject of legislation I have previously filed in the Senate. I think this is appropriate because this addresses the subject matter of this bill, which is the juvenile justice framework. This is not, obviously, a comprehensive approach to such weapons but it is very clear and specific in terms of its reference to juveniles and their possession of not only the weapons but the kind of expanded or substantial clips or magazines, and it simply says juveniles are ineligible to possess those kinds of expanded clips or magazines.

So I believe this measure is appropriate and it will harmonize the law to say that juveniles do not have greater authority to possess semiautomatic assault rifles than they do to possess handguns. This harmonizes the law and brings it into a place of reasonability.

I am grateful for the opportunity to present this amendment. I appreciate, and will appreciate, the support of colleagues who intend to vote on behalf of this amendment.

I yield the floor and reserve the remainder of my time.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. How much time remains on both sides, please?

The PRESIDING OFFICER. There is 1 minute 29 seconds for Senator ASHCROFT; and 4 minutes 27 seconds in opposition.

Mr. DURBIN. I thank the Chair.

Mr. President, I rise in support of the amendment to be offered by the Senator from California, Mrs. FEINSTEIN.

Let me tell you two things that happened yesterday on Capitol Hill which most people across America would find nothing short of incredible. We had a chance on the floor of the Senate to say that if you went to a gun show and bought a gun, you would be subject to the same law as anyone who walked into a gun dealer. In other words, we would check your background. Are you a felon; do you have a criminal record; do you have a history of violent mental illness?

Before we sell a gun at a gun show, we wanted to make sure there was less likelihood that people would walk in with those problems and walk out with a gun. We were defeated. The National Rifle Association defeated that amendment. Despite the best efforts of Senator FRANK LAUTENBERG of New Jersey and many of us, we were defeated.

Instead, this Senate passed an amendment by the Senator from Idaho which went in the opposite direction and made it easier for people to buy guns without background checks. In fact, the amendment offered by the Senator from Idaho, adopted by this Senate, said you could walk into a pawn shop and buy your gun back without any background check.

What is wrong with that? Five times as many criminal felons put their guns in pawn shops as regular citizens. So what the National Rifle Association did with this amendment by the Senator from Idaho was make it easier for those who use guns in crime to get those guns without a background check.

America has to be standing back and saying: Did the Senate learn anything from what happened in Littleton, CO? Can we do anything to deal with gun violence?

Then, last night, I went to a conference committee on the emergency supplemental bill, and I said to the gathered members of the House and Senate, please, we are considering a bill worth billions of dollars. Can we put some money in to help our schools—$265 million so we can hire more counselors in schools to help troubled children; $100 million for more afterschool programs so that kids can be in a constructive, positive, safe environment. They said no, not a penny. In this emergency supplemental bill, not one penny for America's schools, but $6 billion more for military spending than President Clinton asked for, billions of dollars to be spent around the world for problems which the United States is involved in, but not a penny to be spent on safety in schools.

What a message. What a message coming out of Capitol Hill yesterday. If these are truly representative bodies in the Senate and the House of Representatives, to whom have they been listening? They haven't been listening to the families across America who want us to stand up and do something about gun violence. They have been listening to the National Rifle Association. They haven't been listening to the kids that we met with this morning from all across the United States, who came in and talked about their worries and their concerns about safety in schools. And they sure haven't been listening to the parents, worried to death about another school year and more violence.

If this Senate is going to be truly representative of the people who sent us here, if we are going to do something to show leadership instead of powerlessness to groups like the National Rifle Association, we should pass the amendment of Senator DIANNE FEINSTEIN.

Stop these ammunition clips. Who on God's green Earth needs an ammunition clip with 250 bullets in it? If you need that kind of ammunition to go out and shoot a deer, you ought to stick to fishing.

The bottom line is, this amendment is sensible. She is trying to stop those who are buying ammunition clips that are designed to do one thing—kill human beings. Yet, the National Rifle Association says it is our constitutional right to buy these. Ridiculous.

Ask the families across America whether the Dianne Feinstein amendment makes sense and they will say yes. Ask them whether Senator FRANK LAUTENBERG's amendment, to make sure that we check the backgrounds of people before they buy these guns at gun shows, is the sort of thing we want to make certain it is safe for all Americans. They will say yes; that makes sense.

Time and again, we are going to give our colleagues, Democrats and Republicans, on the Senate floor a chance to stand up and decide whether they are going to be for the families across America who want safety in schools or whether they are going to shrink away in cowardice because of the National Rifle Association. Let us do the right thing. Let us adopt Senator FEINSTEIN's amendment.

The PRESIDING OFFICER. All time in opposition has expired. The Senator from Missouri has a minute and a half.

Mr. ASHCROFT. Mr. President, this is a simple amendment. It simply says that what we ought to do in regard to semiautomatic assault weapons in our schools, for young people, is to require them to have the same kind of rules we have for handguns. Most people think that a semiautomatic assault weapon is much more dangerous than a handgun. Yet, under current law, you are permitted to buy one as a juvenile. You don't have to have your parents' permission like you do with a handgun, where you are prohibited and you do have to have your parents' permission.

So what we are talking about in this law is, for semiautomatic weapons, you are prohibited from buying them as a juvenile. And you cannot even possess one unless you have a clear indication of your parents' permission.

We have also dealt with juveniles in these clips that are being spoken of and simply said that they are not eligible to possess these clips, that this kind of automatic ammunition-feeding device is not appropriate for and, therefore, is prohibited, in terms of selling to, in the same way that we would prohibit the sales to young people of semiautomatic assault weapons. It does not include traditional hunting weapons, and we are not talking about these kind of things that are mentioned as spray-firing weapons. As a matter of fact, semiautomatic is not spray firing. Spray firing is a machine gun.

We are simply making the rules for semiautomatic assault weapons the same as they are for handguns. It a change that ought to be made. I urge my colleagues to vote in favor of the amendment.

The PRESIDING OFFICER. All time has expired.

The Senator from California is recognized to offer an amendment.

AMENDMENT NO. 343

(Purpose: Relating to assault weapons)

Mrs. FEINSTEIN. I thank the Chair. I send an amendment to the desk on behalf of myself and Senators CHAFEE, KENNEDY, SCHUMER, TORRICELLI, DURBIN, LEVIN, LANDRIEU, MURRAY, and INOUYE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mrs. FEINSTEIN), for herself, Mr. CHAFEE, Mr. KENNEDY, Mr. SCHUMER, Mr. TORRICELLI, Mr. LEVIN, Mr. DURBIN, Ms. LANDRIEU, Mrs. MURRAY, and Mr. INOUYE, proposes an amendment numbered 343.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 276, below the matter following line 3, add the following:

TITLE V—ASSAULT WEAPONS

SEC. 501. SHORT TITLE.

This Act may be cited as the ''Juvenile Assault Weapon Loophole Closure Act of 1999''.

SEC. 502. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''(1) Except as provided in paragraph (2)'' and inserting ''(1)(A) Except as provided in subparagraph (B)'';

(2) in paragraph (2), by striking ''(2) Paragraph (1)'' and inserting ''(B) Subparagraph (A)'';

(3) by inserting before paragraph (3) the following new paragraph (2):

''(2) It shall be unlawful for any person to import a large capacity ammunition feeding device.''; and

(4) in paragraph (4)—

(A) by striking ''(1)'' each place it appears and inserting ''(1)(A)''; and

(B) by striking ''(2)'' and inserting ''(1)(B)''.

SEC. 503. PROHIBITION ON TRANSFER TO AND POSSESSION BY JUVENILES OF SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(x) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.''; and

(3) in paragraph (3)—

(A) in subparagraph (B), by inserting '', semiautomatic assault weapon, or large capacity ammunition feeding device'' after ''handgun''; and

(B) in subparagraph (D), by striking ''or ammunition'' and inserting '', ammunition, semiautomatic assault weapon, or large capacity ammunition feeding device''.

SEC. 504. ENHANCED CRIMINAL PENALTIES FOR TRANSFERS OF HANDGUNS, AMMUNITION, SEMIAUTOMATIC ASSAULT WEAPONS, AND LARGE CAPACITY AMMUNITION FEEDING DEVICES TO JUVENILES.

Section 924(a)(6)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''1 year'' and inserting ''5 years''; and

(2) in clause (ii)—

(A) by inserting '', semiautomatic assault weapon, large capacity ammunition feeding device, or'' after ''handgun'' both places it appears; and

(B) by striking ''10 years'' and inserting ''20 years''.

SEC. 505. DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.

Section 921(a)(31) of title 18, United States Code, is amended by striking ''manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994''.

SEC. 506. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, this amendment is designed to close several loopholes in laws that allow juveniles to obtain big guns. The amendment will ban juvenile possession of semiautomatic assault weapons. It will ban juvenile possession of large-capacity ammunition magazines. It will ban future importation of large-capacity ammunition magazines, and it makes the transfer of a handgun, semiautomatic assault weapon or high-capacity clip to a juvenile a felony, punishable by up to 5 years in prison.

It increases the maximum penalty for transferring a handgun to a juvenile, with knowledge that it will be used to commit a crime, from 10 to 20 years. It does that same thing for transfer of a semiautomatic assault weapon to a juvenile.

I think we have had a good discussion on the first part of the amendment with Senator ASHCROFT's legislation; that is, the amendment banning juvenile possession of a semiautomatic assault weapon. Current law already prohibits any person under the age of 18 from owning or possessing a handgun, with certain very limited exceptions. Yet, the law does nothing to prevent a juvenile from possessing the deadliest of assault weapons, those banned by our legislation of 1994. This would close that loophole.

Secondly, the amendment bans juvenile possession of large-capacity ammunition-feeding devices.

Now, what is a large-capacity ammunition-feeding device? It is something like this, where 30 rounds go into this clip. The clip goes up into the weapon, and you can use the weapon and spray fire, having a large number of bullets. Most assault weapons come standard with 20- or 30-round clips. These big drums or clips are the tools that allow a person to rapidly fire shot after shot after shot with no opportunity to be disarmed.

As I said earlier, they have no sporting purpose. Anybody who sees somebody deer hunting with one of these, root for the deer because you don't have much of a hunter if it takes 30 bullets in an assault weapon to take down a deer.

For both of these two provisions, the ban on juvenile possession of assault weapons and high-capacity clips, there are two exceptions. A juvenile may still use or possess a handgun, assault weapon, or high-capacity ammunition magazine if he or she is a member of the Armed Forces or the National Guard, and the use of such items is in the line of duty. Secondly, a juvenile may still use or possess a handgun, assault weapon, or high-capacity ammunition if these items are temporarily being used to defend a home. So, in other words, if there is one in the home and the home is invaded by a number of masked gunmen, the youth can certainly legally pick up that weapon to defend himself or herself. Throughout my amendment, a juvenile is defined as a person under the age of 18.

The third provision I have offered would finally stop the importation of large-capacity ammunition-feeding devices, and that is what the other side of the aisle wants to permit to continue to happen. As I mentioned earlier when we passed the legislation in 1994, a grandfather clause was in it to permit those shipments that have bills of lading on them to come into the country. What a mistake I made at that time. I should have fought it tooth and nail. It was then expanded, and you have the loophole that exists today. It has now been more than 4 years, and I believe anybody who has made pre-1994 assault weapons and clips has had an opportunity to import them into this Nation. My goodness, BATF, in 6 months, approves permits for 8.6 million of them. Now, look at the number of years that have gone by already. If you multiply every 6 months by 8.6 million, you will get a sense of the number that are coming in.

Let me say, once again, it is illegal to manufacture them domestically, sell them domestically, and possess them domestically, if they were made after the ban. The problem is, BATF has no way of knowing whether the clip, once it is in, was made before or after the ban because BATF can't go to Austria, or Great Britain, or Italy, or Zimbabwe, or Czechoslovakia, or East Germany, or any of these other places where these big clips are made and brought into this country.

Last year, the President stopped the importation of most copycat assault weapons into this country with an executive order. The Justice Department has advised that the President doesn't have the authority to ban the big clips and close the loophole. That is why the legislation is before us today.

Mr. President, I ask unanimous consent that a document entitled ''Firearms and Explosives Import Branch, High-Capacity Magazine Import Totals, 3/98 to 7/98'' be printed in the RECORD.

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

FIREARMS AND EXPLOSIVES IMPORTS BRANCH, HIGH CAPACITY MAGAZINE IMPORT TOTALS, BY COUNTRY OF EXPORT, 3/98–7/98

[This does not reflect the country of manufacture]

	No. of magazines per country	Total rounds approved
Austria:		
20 round magazines	300,000	6,000,000
Totals	300,000	6,000,000
Belgium:		
15 round magazines	3200	48,000
30 round magazines	500	15,000
Totals	3700	63,000
Chile:		
15 round magazines	30,700	460,500
20 round magazines	2,234	44,680
30 round magazines	35,482	1,064,460
32 round magazines	1,008	32,256
Totals	69,424	1,601,896
Costa Rica:		
15 round magazines	6,000	90,000
Totals	6,000	90,000
Czech Republic:		
15 round magazines	20,000	300,000
20 round magazines	25,000	500,000
70 round magazines	5,000	350,000
Totals	50,000	1,150,000
Denmark:		
32 round magazines	238	7,616
36 round magazines	840	30,240
Totals	1,078	37,856
England:		
20 round magazines	644,800	12,896,000
25 round magazines	27,500	687,500
30 round magazines	101,650	3,049,500
32 round magazines	28,490	911,680
50 round magazines	500	25,000
71 round magazines	3000	213,000
177 round magazines	200	35,400
250 round magazines	20,000	5,000,000
Totals	826,140	22,818,080
Germany:		
15 round magazines	10,000	150,000
16 round magazines	800	12,800
20 round magazines	34,500	690,000
30 round magazines	230,000	6,900,000
40 round magazines	100,000	4,000,000
75 round magazines	50,000	3,750,000
100 round magazines	1,000	100,000
Totals	426,300	15,602,800
Greece:		
30 round magazines	6,062	181,860
32 round magazines	55,900	1,788,800
Totals	61,962	1,970,660
Hungary:		
20 round magazines	20,800	416,000
30 round magazines	20,800	624,000
70 round magazines	500	35,000
71 round magazines	200	14,200
Totals	42,300	1,089,200
Indonesia:		
30 round magazines	100,000	3,000,000
Totals	100,000	3,000,000
Israel:		
20 round magazines	65,900	1,318,000
25 round magazines	17,000	425,000
30 round magazines	80,000	2,400,000
32 round magazines	2,000	64,000
35 round magazines	7,000	245,000
50 round magazines	65,900	1,318,000
Totals	172,900	4,502,000
Italy:		
11 round magazines	20,000	220,000
12 round magazines	506,318	6,075,816
13 round magazines	1,151,264	3,049,500
15 round magazines	1,940,556	14,966,432
17 round magazines	1,308,696	22,247,832
20 round magazines	1,000,000	20,000,000
Totals	5,962,834	46,559,580
Nicaragua:		
20 round magazines	10,000	200,000
50 round magazines	500	25,000
Totals	10,500	225,000
South Africa:		
20 round magazines	54,360	1,087,200
25 round magazines	23,500	587,500
Totals	77,860	1,674,700
Switzerland:		
20 round magazines	300	9,000

FIREARMS AND EXPLOSIVES IMPORTS BRANCH, HIGH CAPACITY MAGAZINE IMPORT TOTALS, BY COUNTRY OF EXPORT, 3/98–7/98—Continued

[This does not reflect the country of manufacture]

	No. of magazines per country	Total rounds approved
Totals	300	9,000
Taiwan:		
30 round magazines	1,000	30,000
Totals	1,000	30,000
Zimbabwe:		
30 round magazines	32,000	960,000
32 round magazines	42,874	1,307,968

Mrs. FEINSTEIN. Once again, this describes the countries—Austria, Belgium, Chile, Costa Rica, Czech Republic, Denmark, England, Germany, Greece, Hungary, Indonesia, Israel, Italy, Nicaragua, South Africa, Switzerland, Taiwan, and Zimbabwe—where during this 6-month period these big clips received permits.

The final provision in this amendment will increase penalties on any person who sells or transfers a handgun, assault weapon, or high-capacity ammunition magazine to a juvenile. Any transfer of a handgun, assault weapon, or one of these clips to a juvenile, under my legislation, would become a felony punishable by up to 5 years in prison. And any person who transfers to a juvenile, knowing that it is going to be used to commit a crime, is subject to a maximum penalty of 20 years. As I said earlier, the legislation applies the handgun prohibition to assault weapons as well.

Now, let me just speak for a moment about what we have seen happen in the last 3 years. Since I became, I might say, gun-sensitive in 1976, I have watched incidents develop in the United States. It is not hard for any of us to see that what has happened is a combination of things. In the first place, there are parents that, apparently, don't teach their youngsters values; schools that are too big; counselors that are too rare; the burgeoning group of youngsters who feel aggrieved or not accepted or not ''one of them,'' or is jealous, is going to essentially have the last laugh by going in and really taking out a large number of students. We saw it in Moses Lake, WA; Bethel, AK; Pearl, MS; West Paducah, KY; Jonesboro, AR, which involved 2 killers, one of them just 11 years old; Edinboro, PA; Fayetteville, TN; Springfield, OR; and now Littleton, CO. All of these took place not in Los Angeles, New York, Detroit, Chicago, Cleveland, or San Francisco, but in small suburban communities, many of them deeply religious, most of them middle to upper-class socioeconomically.

So what has happened? I believe that what happened is we have seen the fomenting of a culture of violence surrounding youngsters. I have used this before and I will use it again. I would like to read directly from the Washington Post article dated Monday, May 11:

Angry 5-year-old Took Gun to School. Memphis. Five-year-old kindergartner was arrested after bringing a loaded pistol to school because he wanted to kill his teacher for punishing him with a ''time out,'' according to police records. The .25 caliber semiautomatic pistol in the child's backpack was confiscated by teacher Maggie Foster on Friday after another pupil brought her a bullet. ''He said he wanted to shoot and kill several pupils as well as a teacher,'' the arrest ticket said. He stated he was going to shoot Ms. Foster for putting him in ''time out,'' a form of discipline for young children.

The boy was charged with carrying a weapon. It was unclear if he would be prosecuted. ''A five-year-old is not capable of forming criminal intent,'' juvenile court Judge Kenneth Turner said. ''The boy got the gun from atop his grandfather's bedroom dresser,'' said Jerry Manassass, juvenile director of court services. The boy and his mother live with the grandfather. ''The State's Department of Children Services will investigate the boy's home situation,'' officials said.

And that's that.

Doesn't that frighten you? Doesn't it make you think that this Nation is so awash with guns that it has even trickled down to a five-year-old who knows enough to pick up a gun and take it to school? It frightens me, and I believe it concerns the dominant majority of American people. We have a chance to do something about it.

We can't entirely change the culture. We can pass, as we have, certain pieces of legislation. We can use the bully pulpit. We can talk about parents keeping their guns safe. We can use trigger locks. We can make parents responsible—all of which I think we should do. But the one thing we can and we must do is keep large firepower out of the hands of juveniles. The more you proliferate these weapons and make it easy for youngsters to obtain the ammunition feeding devices, just by using their computer, just by punching in their family's credit card, we create the situation where more lives can be taken.

Almost 1 in 12 high school students report having carried a gun in the last 30 days. This is despite Senator DORGAN and my gun-free schools bill. In 1996, 2,866 children and teenagers were murdered with guns, 1,309 committed suicide with guns, and 468 died in unintentional shootings. Gunshot wounds are now the second leading cause of death among people aged 10 to 34. What a commentary on this Nation. The firearm epidemic in this country is now 10 times larger than the polio epidemic of earlier this century.

In the 1996–1997 school year alone, more than 6,000 students across this Nation were caught with firearms in school. Is there a Member of this body who saw guns in their classrooms as they were growing up? I don't think so. I sure didn't. But I will tell you this: I addressed the fourth grade class in Hollywood and I said: What is your greatest fear? And that fourth grade said being shot. I said: How many of you have heard shots? And every single hand in the class went up in Hollywood, CA, as having heard shots. What kind of a nation are we becoming when

our youngsters have to be reared in this kind of environment?

I notice the distinguished Senator, my cosponsor of this amendment, Senator CHAFEE of Rhode Island, is on the floor. If I might, I would like to yield time to him, as much time as he requires.

Mr. CHAFEE. I thank the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the Chair.

Mr. President, I am pleased to cosponsor Senator FEINSTEIN's amendment, which is designed to keep assault weapons and large capacity ammunition feeding devices out of the hands of children. Also, I am grateful to Chairman HATCH for the opportunity to discuss this important matter.

For years, Senator FEINSTEIN has been an ardent proponent of banning assault weapons and large capacity ammunition clips. In 1994, Congress wisely enacted legislation to prohibit domestic production of assault weapons and large capacity ammunition feeding devices. Regrettably, it took a terrible tragedy to give us that wisdom.

In January 1989, our nation was stunned when Patrick Purdy murdered 5 children and injured 30 others in a schoolyard in Stockton, CA. With the horror of that slaughter fresh in our minds and hearts, Congress enacted the assault weapons ban as part of the Violent Crime Control and Law Enforcement Act of 1994.

That legislation, principally proposed and fought for by the distinguished Senator from California, Mrs. FEINSTEIN, prohibits the manufacture, possession, and transfer of semiautomatic weapons and large-capacity ammunition clips that were not lawfully owned prior to enactment of the 1994 act. Regrettably, there are gaping loopholes in that law.

The amendment Senator FEINSTEIN and I have offered today is designed to close the loophole in the law that enables children to gain access to assault weapons and large capacity ammunition clips. It is intended to close the loophole that allows large capacity ammunition clips, which are manufactured abroad, to flood the United States. And it is designed to increase penalties on adults who provide children with handguns, deadly assault weapons, and large capacity clips.

This amendment is a matter of common sense. Common sense led us to prohibit possession of handguns by children. Nevertheless, we permit children to possess assault weapons and large clips. These are not weapons intended for hunting or recreational purposes. These are lethal weapons designed to make it easy to kill. Yet, the law says it's just fine for children to possess them.

There is a lot of discussion on the floor of this Chamber about the culture of violence.

We are asked to blame the ''culture of violence'' for the rash shootings that have rocked our nation and our schools. Children watch too much TV, therefore they are violent. Children go to violent movies, therefore they act out what they see. Children play video and computer games with violent themes, therefore they become killers. Perhaps there is truth in these conclusions, but there is a much simpler truth. It is foolhardy and irresponsible to allow children to possess assault weapons.

In America, a 15-year-old child can't drive a car, but he can own an assault weapon. An 18-year-old can't buy a beer, but he can own an assault weapon. There are age requirements for buying cigarettes or attending certain movies, but there are no age limits when it comes to assault weapons. The age requirements for certain activities are meant to keep children out of harm's way. That's what this amendment is meant to do, too.

We have an opportunity today to say enough is enough. We have an opportunity to use our common sense and take assault weapons and large capacity clips away from children. We have an opportunity to learn from the horror that all of American has witnessed in our nation's schools.

Assault weapons and large capacity magazines were used in two of the horrific shootings we all watched on the evening news. At Thurston High School in Springfield, OR, a 15-year-old, who was suspended for bringing a gun to school, returned the next day and opened fire in a crowded cafeteria. He killed two students and wounded 22 others, using a large capacity ammunition clip. Most recently, two boys in Littleton, CO, devastated their community by storming their school, murdering 12 schoolmates and a teacher, and finally killing themselves. One of the weapons the boys used was a Tec-9 assault pistol.

It's time to end the madness. It's time to take common sense steps to keep guns, particularly assault weapons and large capacity clips, out of the hands of children. We teach our children not to play with matches; to look both ways before crossing the street; we tell them not to talk to strangers. We teach them lessons to keep them safe, but we allow them access to the deadliest of weapons. It doesn't make sense. It is unjustifiable.

We have a chance today to close the loophole in the assault weapons ban that permits what our common sense tells us is insane.

Mr. President, clearly, it will be argued on the floor of this Senate that we have a host of laws on the books—I think somebody said 40,000 laws. I don't know whether that is accurate or not. But if it is, there is a mass of laws on the books, and all we have to do is enforce these laws and we wouldn't have these troubles.

There is no law dealing with assault weapons in the hands of children—certainly no Federal law. There ought to be one along with passage of these laws on the floor of this Chamber. Certainly, there should be greater enforcement than there is.

But, first of all, let's have the law making it illegal, not only to own one of these weapons—for a minor to or for a child to—but also the clip that goes with it.

It should not be lawful for children to possess assault weapons and large capacity ammunition clips. It should not be possible for foreign manufacturers to flood the United States with a product domestic manufacturers are forbidden to produce. Adults who provide these deadly weapons to children should be punished.

That is part of the legislation for which the distinguished Senator from California has pushed. Senator FEINSTEIN's amendment is about children and safety.

I urge my colleagues to rely on their common sense and vote to take assault weapons away from children.

I thank the Chair. I thank the distinguished proponent of this amendment.

Mrs. FEINSTEIN. Mr. President, I think the distinguished Senator from Rhode Island knows I hold him in very high regard, but I want him to know that my fondness for him has just increased exponentially.

Thank you very much for that very compelling statement.

Mr. CHAFEE. I am delighted to be associated with her. I want to say, regrettably, we haven't passed much gun control legislation on the floor of this Senate, but because the Senator from California was so dogged and determined in, I believe, 1994, some 5 years ago, we were able to take a big step forward. Now she has come up with legislation to eliminate some of the loopholes in that bill.

I thank the Chair and I thank the distinguished Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. I thank my good friend from California, and I commend her and the Senator from Rhode Island and others who are actively pursuing this very important amendment.

Mr. President, I believe that the tragedy in Littleton, Colorado struck a chord with every American. Three weeks ago, we watched in disbelief as children turned violent against other children, and we asked ourselves why. There is no single answer to that question. The violence in movies, on television, and in video games alarms us all. Our culture is surely far too violent. But, in these school shootings, we see one crucial common denominator: guns.

Guns kill some 35,000 people in the United States each year. We've grown so accustomed to the carnage that guns cause that only the most horrific acts of violence are capable of shaking us from our slumber. We paused in the Senate to observe a moment of silence to pay tribute to those who died at Columbine High School and to express our

sympathy for their loved ones. But now with this latest tribute for the victims in Littleton behind us, we need to be anything but silent.

There is no one cause of youth violence, the causes are many. But among them there is one that cannot be ignored or denied: the easy access our young people have to deadly weapons.

Violence in television shows, video games and movies horrifies us as parents and grandparents. But these same programs and those same games are the predominant entertainment in many other countries, as well, which have a small fraction of our gun murder rate. Look at our border with Canada. In 1997, the U.S. death rate involving firearms was about 14 per 100,000 people. The rate for Canada was less than one-third of that, about 4. Canadian towns on our border watch exactly the same T.V. and movies we do. Their kids play the same video games as ours. In 1997, there were 354 firearm homicides in Detroit; across the river in Windsor, Ontario, one fifth its population, there were only 4. The crucial difference is the easy availability of firearms in the U.S. If we equate the populations, that would mean that on an apples and apples basis, Windsor would have had 20 firearm homicides. They watch the same television, they watch the same movies, and they play the same video games. We had 354 firearm homicides in Detroit; Windsor has 20 on a comparable basis.

The crucial difference isn't, then, the atmosphere of violence which pervades too much of our environment; the critical, crucial difference is the easy availability of firearms in the United States.

No matter how severe this plague of gun violence is for society as a whole, for the young it is far worse. For young males, the firearm death rate is nearly twice that of all diseases combined. One hundred and thirty-five thousand guns are brought into U.S. schools every day, according to an estimate by the National School Board Association—135,000 guns every day brought into our schools. Guns are not the cause of violent emotion, but guns are the predominant cause of violent killings and murders when such violent emotions are acted out.

There are numerous loopholes in the Federal gun laws which I think would surprise most Americans. The Feinstein amendment before the Senate addresses loopholes which allow youth access to, for instance, the assault weapons which have been discussed. Most of these are commonsense proposals.

Ten years ago, maybe now a little longer than that, former Senator Barry Goldwater first heard that a madman walked into a schoolyard in Stockton, CA, with a rapid-firing AK–47 and shot off 100 rounds in 2 minutes, killing 5 children and wounding 30. Senator Goldwater said, ''I'm completely opposed to selling automatic rifles, and I have been a member of the NRA. I collect, make, and shoot guns. I've never used an automatic or semiautomatic for hunting. There is no need to. They have no place in anybody's arsenal.''

Senator Goldwater was right when he said that assault weapons have no sporting purpose. How many more tragedies will it take before, at a bare minimum, we take assault weapons and large ammunition clips out of the hands of children?

This amendment does that. I hope this Senate will give its support. I commend the Senators from California and Rhode Island.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from Michigan. A while back, a former Vice President said he is one of the great minds of the Senate. I certainly agree with that. I think you know that.

Thank you very much.

I see the distinguished Senator from New Jersey on the floor. I yield 5 minutes of my time to Senator TORRICELLI.

Mr. TORRICELLI. I thank the Senator from California for yielding.

Mr. President, all of us, after Littleton, grieved together. I believe all of those prayers and condolences were sincere. But we also pledged to finally take the issue of gun violence and young people in America seriously. Those pledges may not have been as sincere.

It was my hope in this debate that we would deal with some very fundamental issues—restricting the ability to buy handguns to one a month; stopping the wholesale transfer of these guns into our cities and small towns in States like my own of New Jersey.

I hoped we would extend the Brady period to give a cooling off period to people who buy these weapons. I hoped to regulate firearms like any other consumer product.

We decided not to do these things because we wanted to meet our opponents, those who are advocates for the gun lobby, halfway. So we restricted ourselves to the most reasonable, the least controversial. It might have been a mistake, because even those commonsense initiatives, which I think most Americans would subscribe to, are not succeeding.

Yesterday, this Senate failed in an effort to restrict sales at gun shows without background checks—4,000 gun shows that operate outside of the current checks for mental illness and previous legal convictions. Now we return again with another provision that should be equally noncontroversial. Most people in America wouldn't believe this provision is necessary. I would have a hard time convincing most people in New Jersey that this amendment is required, because most people would believe it was already law: That an 18- or 19-year-old can buy an assault rifle; that any child can buy a rifle or shotgun, including assault rifles such as the infamous street-sweeper; that any youth 18 to 21 can privately buy an assault pistol such as the TEC–9 used in Littleton.

Our country has recognized that there is an age of maturity to drive an automobile. We recognize there is an appropriate age of maturity to consume alcohol, to exercise the right to vote—the basic sovereignty of our people. Yet, with the power to take a human life by the exercise of the extraordinary power in these weapons, young people like those in Littleton who consumed so many lives operate without restrictions.

I believe those who responded to the massacre in Littleton were sincere in wanting to deal with this problem. But it requires more than words. It requires the one area of political life that I most admire and is in the shortest supply in our country—courage—the courage to go to those few advocates who believe they are so right and their privileges are so important that the larger good of the public must be compromised. I suggest to them they must compromise for the sake of the Nation.

That is the moment in which we now find ourselves. Senator FEINSTEIN has offered an amendment that would interfere with the rights of no parents who want to teach their child to use a firearm responsibly or want to have a firearm in their home. It deals only with that class of weapons for which there is no hunting purpose, no legitimate function for which any teenager in any school of America should want to own an assault rifle or a multibullet clip. That is all we deal with. Inexplicably, I do not know if we will succeed.

Last year, we lost over 3,500 young people to gunfire; 3,500 deaths. This is no perfect answer. It will not eliminate all of those deaths. It may not eliminate a majority of those deaths. But no one on this Senate floor can credibly argue that with the adoption of the Feinstein amendment some lives will not be saved; that the chances of a Littleton are not measurably reduced.

The Senate has a choice. Senator ASHCROFT has also offered an amendment and it would also restrict to minors access to some of these weapons.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes.

Mrs. FEINSTEIN. Mr. President, I yield the Senator an additional minute.

Mr. TORRICELLI. I thank the Senator for yielding an additional minute.

But only the Feinstein amendment offers not only restricting this class of weapon to young people, but also closes the loophole that allows these multibullet clips that allow the rage of a child who would take a single life to destroy a school, an entire group of people—to commit a mass murder.

I do not argue this alone will stop these tragedies. No one here can argue that any one formula, any one idea will eliminate this problem. But I will tell you this, Senator FEINSTEIN has the one proposal that can address the rage, the inexplicable rage that must be dealt with—by families and schools and churches and synagogues, exploding on

such a level—by taking both these weapons of mass destruction and these multibullet clips out of circulation.

I congratulate her for her amendment. I ask the Senate, with all the rage you felt after Littleton, with all the conviction you felt to solve this problem, and all the compassion you felt for those children, have that strength, that courage and that conviction now. For once, at long last, let's take a stand and cast a vote so, as the years pass, we will have real pride that we made some contribution. Just as we ask those parents, those schools, those churches, those synagogues to play their role and be part of this solution, let the Senate be part of this solution, too.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from New Jersey for his thinking. I very much appreciate it. It seems to me, those of us who have big cities in our States really understand what a lot of this is about. I think it is very important. When we get back here I think we forget what it is like out there, the ease with which youngsters can obtain these high-powered implements which are capable of killing so many people at one time. So I thank the Senator very much for his support in this.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 6 minutes 50 seconds.

Mrs. FEINSTEIN. Mr. President, let me once again state what is the fundamental difference between the amendment proposed by the distinguished Senator from Missouri and my amendment. My amendment has one thing that his does not. It closes the loophole in the 1994 assault weapons legislation.

Today, it is illegal for anyone, domestically, to manufacture these big clips. It is illegal for them to sell them. It is illegal for people to possess them. But it is not illegal to bring them in from abroad. So why wouldn't we straighten this out? Why would we disadvantage our domestic manufacturers and allow all of this stuff, these big clips, up to 250 rounds, to come in from abroad? It makes no sense. What is sauce for the goose is sauce for the gander. In a simple equity argument, we have closed the supply off domestically. Why permit these clips to come in from foreign countries?

Mr. President, I believe as soon as Senator SCHUMER comes he would like some time on this amendment as well. But I think we have an opportunity today for both parties to come together and do something important for our Nation. I deeply believe this legislation is supported by 80 percent to 90 percent of the American people. Why would we not enact it? Both of us want the same thing. We want to keep these weapons out of the hands of juveniles and we want to keep these big clips out of the hands of juveniles.

Does it make sense, then, to continue to increase the supply? I do not believe it does.

I suggest the absence of a quorum and reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask that the Senator from New York be recognized for the remainder of my time.

Also, I ask unanimous consent the junior Senator from Rhode Island, Mr. JACK REED, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

Mr. SCHUMER. I thank the Chair, and I thank the Senator from California, not only for the time but, far more important, for her leadership on this issue.

We were the coauthors of the assault weapons ban of 1994. She carried it bravely in the Senate, and then I followed in the House.

We still have unfinished work to do. That is what this amendment is all about. The Senator from California has well documented the need for this legislation. But let me say that this is such a simple, carefully drawn, and modest measure that to take half a loaf or a quarter of a loaf is not good enough, particularly in light of the tragedy in Littleton and the tragedies which have occurred throughout America.

The Senator from Missouri has tried to deal with a part of the Feinstein amendment, but it still leaves a giant exception for young people to get these clips for hunting, for employment, for a group of other exceptions.

I say, if we believe these clips are unnecessary—unnecessary for hunting, unnecessary for self-defense—because they kill far too many people, then why are we making such an exception? So I ask my colleagues, if you really believe in rational laws on guns, if you really believe that young people should not have the kinds of clips—30-round—from all across the world sent to this country for no other purpose than to harm and maim—no legitimate purpose—then how can you believe it is OK half of the time or a quarter of the time or three-quarters of the time?

So I urge my colleagues to pass this amendment, not to shy away from it with a modification that does not really do the job, but to take this well-thought-out and modest step.

Let me say something else about the climate around here as it relates to this amendment and all of the amendments that are here.

What a bitter disappointment it is that the response to Littleton is that a loophole which allows criminals to get guns just gets wider. The American people are scratching their collective heads and saying, What is going on in this Senate of the United States? There is the blood of young children on our schoolhouse floors, and not only do we fail to take the modest step of closing the gun show loophole, we actually make it wider. I don't get it. I am new in the Senate, but I just don't get it.

As the entire Nation turns its eyes towards the Senate to do something to keep guns out of the hands of criminals, we give criminals a new special pawnshop exemption, one that did not exist even in the months before Littleton. Shame on us.

On the amendment of the Senator from Idaho, there was some discussion between him and me about it yesterday, but now it seems that all of the provisions I mentioned that were in that amendment seem to be true. And, frankly, the Senator from Idaho was gracious enough to admit that to me in the well of this Chamber this morning.

Let me tell you what we passed into law yesterday.

A violent felon gets out of jail and has little cash, so he pawns some of his guns. At this point, he is not even allowed to own a gun by law. Later, he raises money—maybe through a job, maybe through a crime; who knows—and he goes to redeem his gun. And now there will be no background check because of the amendment of the Senator from Idaho.

In 1994, of the 5,405 people who redeemed their own gun at a pawnshop, 294 were caught in the Brady net. When America begged the Senate to do something about guns, they were not asking us to bring back the pawnshop loophole. Why are we back-peddling? And other places, too.

The PRESIDING OFFICER. The Senator from Utah controls 45 minutes.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask unanimous consent for 20 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. SCHUMER. Will the Senator from California yield for a question?

Mrs. FEINSTEIN. Of course.

Mr. SCHUMER. Will the Senator from California ask unanimous consent that I be recognized for an additional minute, just to finish my point?

Mrs. FEINSTEIN. I ask unanimous consent the Senator from New York be recognized for an additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, we yield a minute to each, if it is all right. Do you want more?

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

Mr. SCHUMER. I thank the Senator for his generosity.

Mrs. FEINSTEIN. You finish, and then I will go.

Mr. SCHUMER. I thank the Senator from California.

There were two other exceptions in the Craig amendment, two other loopholes that, again, made it easier for people—children, criminals—to get guns. One is an exemption from liability for certain gun dealers; another would allow gun dealers to actually set up shop out of State, something unheard of since 1968. I would caution my colleagues in the Senate, evidently the Craig amendment had other loopholes as well, which we will talk more about later.

So please, let us, everyone, if we are afraid to take a step forward—and I pray that we are not—not take three steps backwards, which up to now the Senate has done.

I yield back.

AMENDMENT NO. 343, AS MODIFIED

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to submit a small technical correction to my amendment at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 343), as modified, is as follows:

On page 276, below the matter following line 3, add the following:

TITLE V—ASSAULT WEAPONS

SEC. 501. SHORT TITLE.

This Act may be cited as the ''Juvenile Assault Weapon Loophole Closure Act of 1999''.

SEC. 502. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''(1) Except as provided in paragraph (2)'' and inserting ''(1)(A) Except as provided in subparagraph (B)'';

(2) in paragraph (2), by striking ''(2) Paragraph (1)'' and inserting ''(B) Subparagraph (A)'';

(3) by inserting before paragraph (3) the following new paragraph (2):

''(2) It shall be unlawful for any person to import a large capacity ammunition feeding device.''; and

(4) in paragraph (4)—

(A) by striking ''(1)'' each place it appears and inserting ''(1)(A)''; and

(B) by striking ''(2)'' and inserting ''(1)(B)''.

SEC. 503. PROHIBITION ON TRANSFER TO AND POSSESSION BY JUVENILES OF SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(x) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.''; and

(3) in paragraph (3)—

(A) in subparagraph (B), by inserting '', semiautomatic assault weapon, or large capacity ammunition feeding device'' after ''handgun''; and

(B) in subparagraph (D), by striking ''or ammunition'' and inserting '', ammunition, semiautomatic assault weapon, or large capacity ammunition feeding device''.

SEC. 504. ENHANCED CRIMINAL PENALTIES FOR TRANSFERS OF HANDGUNS, AMMUNITION, SEMIAUTOMATIC ASSAULT WEAPONS, AND LARGE CAPACITY AMMUNITION FEEDING DEVICES TO JUVENILES.

Section 924(a)(6)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''1 year'' and inserting ''5 years''; and

(2) in clause (ii)—

(A) by inserting '', semiautomatic assault weapon, large capacity ammunition feeding device, or'' after ''handgun'' both places it appears; and

(B) by striking ''10 years'' and inserting ''20 years''.

SEC. 505. DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.

Section 921(a)(31) of title 18, United States Code, is amended by striking ''manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994''.

SEC. 506. EFFECTIVE DATE.

This Act and the amendments made by this Act except sections 502 and 505 shall take effect 180 days after the date of enactment of this Act.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield myself such time as I might consume in opposition to the Feinstein amendment.

Mr. President, the Senator from California and I over our years together here in the Senate have remained good friends even though we find ourselves on occasion in disagreement. This is one of those occasions.

I wish I could join with the Senator from California and the Senator from Michigan and those who have spoken on the floor, in the most sincere of ways, in creating a magic wand that would take violence out of our schools and violence off our streets, and proclaim that our Nation is a violence-free nation. If we could do that together, then we would not be here debating this and our Nation would react differently than it is at this moment.

All of us have mourned the loss of those marvelous young people in Littleton, CO. But it would be unfair for anybody to stand on this floor and portray that passage of the Feinstein amendment will solve that problem. It will not. It will not solve the problem of violence in our youth today or the feeling of disillusionment or the frustration which has produced these episodes of extreme violence in juveniles that this society has never seen in its history.

I stand in opposition to the Feinstein amendment today because it would undo a provision of the law that was created in an interest of fairness, because in July of last year, when the Senator brought this to the floor, we argued it and 55 Senators said we ought not change this provision of the law. That is because, in 1994, Congress debated banning the future importation and manufacturing of high-capacity clips with more than 10 rounds of ammunition. Frankly, I was one of those who opposed banning this ammunition because I felt it had nothing whatsoever to do with controlling crime.

Enforcement controls crime: Cops on the street with the ability to make sure, when they arrest somebody who uses a gun in the commission of a crime, that some attorney will not plea bargain them back to the street. Adult crime is going down today because we are locking people up, in part. And yet we are going to have a bill on the floor in the next few minutes which is going to make it even tougher for Federal prosecutors to walk away from their responsibility under the law; and that is to put people away who use guns in the commission of a crime. That is how you make the streets safer.

Well, at least that is how you make the streets safer in relation to also protecting a private citizen's right to own and to collect.

I think, however, even the sponsor has acknowledged it would be unfair to outlaw existing clips or some clips. She did in 1994. In all fairness to her, she has honestly said on the floor she made a mistake. I do not think she made a mistake at that time. I supported her in that, and we voted on it, and it became the law of the land. The ATF proceeded to do everything in its power to frustrate the law we had created. Specifically, it held up imports of legal clips for years, claiming that Congress only intended to grandfather domestic clips. This reading of the statute was obviously so wrong that even the Justice Department went to ATF and said: Sorry, it is unenforceable. So ATF had to give in; they couldn't jawbone their way outside the law.

As a result of that, that importation was allowed as the law had designed. Consequently, the legal magazines finally were allowed to be imported years after the ban went into effect.

Today, those who wrote the law are now trying to undo it. Of course, that is the right of Congress—I do not dispute that—to change the law if they wish. But I hope they would have good grounds to do so.

I think the first provision of the Senator's law is the right thing to do. It is what the Senator from Missouri is doing, to tighten up on juvenile ownership and therefore force a greater level of juvenile responsibility. But hers is much broader than that, and I simply have to oppose it.

History is not the only reason that this amendment is unfair, however. It also is unfair because it would overnight make certain legal, lawfully owned firearms obsolete. These magazines are still being imported because there is a market for them, yes. She has spoken to that market. I think that is fair and responsible because of

the character in which we have tried to shape this particular market.

It was unfair in 1994 to ban these magazines, I believe. It is unfair today. Again, I hope the Senator and I can find that magic wand. Congress is struggling mightily at this moment, and this Senate is, with the juvenile crime bill, to change the definition of how we treat juveniles in our society and to change the law, to treat them more like adults, to look at other dimensions that we believe are causing these levels of frustration and violent outbursts, from movies to videos.

I wish we could even take our magic wand, if we found it, and make the parents of our society more responsible, but that won't happen either. We will try. In the end, I hope we can succeed.

It is my judgment, I believe a fair judgment, to suggest that the Feinstein amendment will not make the Littletons go away, or any other act of violence in this country, unless we bring a whole combination of things and change the way our culture thinks and reacts, as it relates to its children and its future.

I hope my colleagues will join with me this afternoon in opposing the Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I understand it, for the benefit of our colleagues, these next two votes will begin at about 3:45. We anticipate having a vote at 3:45, but that may be delayed in order to accommodate our Appropriations Committee conference. We will know within the next 10 minutes. If we don't begin voting at 3:45, then, if we can get the time yielded back from the distinguished Senator from Idaho and the distinguished Senator from California, we would then move to the Hatch-Craig amendment with the debate to continue for an hour evenly divided.

I ask unanimous consent that——

Mr. KOHL. Reserving the right to object——

Mr. HATCH. Mr. 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.

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

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

Mr. HATCH. As I understand it, all time has been yielded back on the part of the minority. Can we get the majority, Senator CRAIG——

Mr. CRAIG. Mr. President, I yield back the remainder of my time.

AMENDMENT NO. 344

(Purpose: To make an amendment with respect to effective gun law enforcement, enhanced penalties, and facilitation of background checks at gun shows)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. All time having been yielded back, the clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. CRAIG and Mr. MCCAIN, proposes an amendment numbered 344.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HATCH. Mr. President, for the benefit of our colleagues, it appears as though we don't know whether there will be a vote at 3:45 or not. It doesn't look like there will be, in my opinion. Those votes may be deferred for approximately an hour and 15 or 20 minutes. We will announce if we do have votes beginning at that time.

We are going to move ahead, keep moving on these amendments. This is the Hatch-Craig amendment. We would like to limit debate to an hour, but the minority needs to examine the amendment. We will certainly wait until they do before we ask for a limited period of time.

Mr. President, I ask unanimous consent that the previously scheduled votes now occur at 5:00 p.m. under the same conditions as stated earlier.

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

Mr. HATCH. I also ask that no second-degree amendments be in order prior to the scheduled votes.

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

Mr. HATCH. Mr. President, I ask unanimous consent that Senator MCCAIN be placed as a cosponsor of the Hatch-Craig amendment.

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

Mr. HATCH. Mr. President, in discussing several proposals with my colleagues over the last 2 days and nights, I am offering a package of amendments that will increase the effectiveness of S. 254 by sharpening the bill's focus on punishing criminals who use guns illegally, while protecting law-abiding people who use guns lawfully for traditional sporting and self-defense purposes. We want to punish the criminal without burdening law-abiding people.

Our amendment package has four parts: one, more aggressive prosecution; two, enhanced targeted penalties; three, expanded protection for children; and, four, enhanced background checks.

First, we propose an improved version of a program for the aggressive prosecution of the criminal use of firearms by felons or a program that is commonly known as CUFF, C-U-F-F. It is one thing to talk about putting criminals behind bars, and it is another thing to actually do it. We in the Senate must recognize that all the gun laws we could ever pass mean absolutely nothing if the Attorney General does not enforce them.

The Clinton administration talked about the Brady bill and stopping criminals from obtaining and using guns. The Attorney General talked about being tough on criminals, but the record shows otherwise. The chart that we are going to show to you shows that in the last 3 years the Democratic Department of Justice has had a dismal record in protecting the very crimes that the Democratic administration and Democrats in Congress said were an essential part of their program.

This chart shows the prosecutions of Federal firearms laws, cases reported, Executive Office, U.S. Attorney, requested firearms sections, counts charged, calendar years 1996–1998.

Now, for example, between 1992 and 1997, gun prosecutions under Operation Triggerlock—a proven gun crime prosecution program, started under President Bush—dropped nearly 50 percent, from 7,045 to 3,765. Now, these are prosecutions of defendants who use a firearm in the commission of a felony. They had been cut by 50 percent between the years 1992 and 1997. The Executive Office of the U.S. Attorney reports that between 1996 and 1998 the Clinton Justice Department prosecuted a grand total of one criminal who illegally attempted to purchase a handgun, but was stopped by the instant check system.

It is a Federal crime to possess a firearm on school grounds. However, the Clinton Justice Department prosecuted only eight cases under this law in 1998, even though they admit that more than 6,000 students illegally brought guns to school last year.

The Clinton administration had prosecuted only five such cases in 1997. Many believe that the actual number of kids who bring guns to school is much higher than the 6,000, but I think it is pretty pathetic when you stop and think that, in 1998, there were only eight cases prosecuted and in 1997 only five.

It is a Federal crime to transfer a firearm to a juvenile. However, the Clinton Justice Department prosecuted only six cases under this law in 1998, and only five in 1997. Think about it. It is illegal—illegal—to transfer a firearm to a juvenile yet only six cases were prosecuted in 1998 and only five in 1997.

Now, it is a Federal crime to transfer or possess a semiautomatic assault weapon. However, the Clinton Justice Department prosecuted only four cases under this law in 1998 and only four in 1997. Think about it.

In addition, the Clinton administration has requested only $5 million to prosecute gun crimes. We have a lot of rhetoric from this administration about gun crimes and how effective the Brady law has been. They claim hundreds of thousands of people are stopped from purchasing guns, many of whom they believed were felons. Please note that it costs $1.5 million to fund an effective project in the city of Philadelphia alone—just one city, $1.5

million—and they only requested $5 million for prosecuting gun crimes. Thus, not only has the Clinton administration failed to prosecute gun crimes in the past; it apparently has no plan to do better in the future.

This chart lists the prosecuted cases reported by the Executive Office of the U.S. Attorney.

Providing firearm to a prohibited person, unspecified category: 17 in 1996, 20 in 1997, and 10 in 1998.

Providing a firearm to a felon: 20 in 1996, 13 in 1997, and 24 in 1998.

Possession of a firearm by a fugitive: 30 in 1996, 30 in 1997, and 23 in 1998. That is an important category.

Possession of a firearm by a drug addict or illegal drug user: 46 in 1996, 69 in 1997, 129 in 1998.

Possession of a firearm by a person committed to a mental institution, or an adjudicated mental incompetent: 1 in 1996, 4 in 1997, 5 in 1998.

Possession of a firearm by an illegal alien, and we have millions of them coming into this country: 72 in 1996, 96 in 1997, and 107 in 1998.

Possession of a firearm by a person dishonorably discharged from the Armed Forces: 0 in 1996, 0 in 1997, 2 in 1998.

Possession of a firearm by a person under a certain kind of restraining order provision: 3 in 1996, 18 in 1997, 22 in 1998. Even though this administration has been complaining about domestic violence and the use of handguns and guns in domestic violence. Just think about it. This is the whole country. This is all the Justice Department has done. OK.

Possession of a firearm by a person convicted of a domestic violence misdemeanor: 0 in 1996, 21 in 1997, 56 in 1998.

Look at this.

Possession or discharge of a firearm in a school zone: 4.

Look at that. We have 6,000 kids that they admit came into schools with firearms in this country, and we know it is many more thousands than that; they know it, too. But there were only 4 in 1996, 5 in 1997, and 8 in 1998.

Now, we have heard a lot of mouthing off about the Brady bill and 100,000 cops in the streets. Let's talk about the Brady bill. According to them, hundreds of thousands of people have been prohibited from getting guns because of the Brady Act. Really, it is the check system that we insisted on that is causing these people to be caught.

Look at this: All violations under the Brady Act, first phase: 0 in 1996, 0 in 1996, and 1 in 1998.

Think about that, OK.

All violations under the Brady Act, instant check phase: 0 in 1996, 0 in 1997, 0 in 1998.

How about the hundreds of thousands of people they claim violated the law that they have caught:

Theft of a firearm from a Federal firearms licensee: 52 in 1996, 51 in 1997, and 25 in 1998.

Manufacturing, transferring, or possessing a nongrandfathered assault weapon: 16 in 1996, 4 in 1997, and 4 in 1998.

Transfer of a handgun, or handgun ammunition to a juvenile. We have thousands of cases like this: 9 in 1996, 5 in 1997, 6 in 1998.

Possession of a handgun, or handgun ammunition, by a juvenile: 27 in 1996, 3 in 97, and only 8 in 1998. Think about that.

Unspecified violations: 46 in 1996, 26 in 1997, and 21 in 1998.

Enhanced penalty use of a firearm or destructive device during a crime of violence or drug-related crime prosecutable in Federal Court: 1,987 in 1996, 1,885 in 1997, and 1,763 in 1998. Those are very small numbers compared to the number of people who they claim are misusing firearms.

Possession of a firearm by a prohibited person, unspecified category: 683 in 1996, 752 in 1997, 603 in 1998.

Possession of a firearm by a felon. Think about all these complaints about firearms causing everything in our society. They prosecuted 1,213 in 1996, 1,366 in 1997, 1,550 in 1998.

Who is kidding whom here? The fact of the matter is, this administration hasn't been serious about prosecuting gun cases, and now they want a lot more gun laws. Well, we are going to give them some on this bill, and we are going to give them some that some gun owners don't particularly care for. We are going to see if they do a better job in the future. We have to turn this around.

The CUFF amendment would fund—and we offer it in this amendment—an aggressive firearms prosecution program modeled after Operation Triggerlock, which was so successful during the Bush administration. It focuses on prosecuting gun criminals and obtaining tough sentences on the use of firearms in the commission of crimes of violence.

Mr. LEAHY. Will the distinguished Senator yield for a question?

Mr. HATCH. I am happy to yield for a question.

Mr. LEAHY. The distinguished Senator said the Republican package will offer some things gun owners won't like. Anything that I have seen in the Republican package, including a whole lot of things that were in legislation I had introduced, have been supported by virtually all gun owners. What were the ones the gun owners aren't going to like?

Mr. HATCH. Let me get to that.

Mr. LEAHY. I just didn't see any.

Mr. HATCH. The CUFF amendment, of course, they would like. Anybody who wants to do anything about crime would like that. In contrast to the $5 million requested by the Clinton administration to fund gun crimes, our plan provides $50 million to hire additional Federal prosecutors to prosecute gun crimes. This is just in the area of juvenile justice.

Our program expands to other cities a successful Richmond, Virginia program in which federal prosecutors prosecute as many local gun-related crimes as possible in federal court. Homicides have fallen 50 percent in Richmond since the program was implemented. This program works.

In addition to encouraging aggressive prosecution, our plan requires the Attorney General to report to Congress on the number of possible gun crimes and, if the crimes are not prosecuted, to explain why. I initially hesitated to support such a statute. However, after years of little enforcement of existing laws and after years of holding hearings at which the Attorney General consistently provides no satisfactory explanation, we have no choice.

If Congress passes a law to make an act a crime, it is the duty of the Attorney General to enforce that law. This reporting provision is a necessary step to ensure that the Clinton Justice Department does its duty and prosecutes the illegal use of guns by criminals.

Second, this package of amendments includes several penalty enhancements that I, Senator ASHCROFT, Senator MCCAIN, and Senator CAMPBELL have worked on. These enhancements target the illegal use of guns by criminals.

This proposal would impose the following mandatory minimum sentences:

Five years for the transfer of a firearm to another who the transferor knows will use the firearm in the commission of a crime of violence or a drug trafficking offense.

Ten years for criminals, including straw purchasers, that illegally transfer a firearm to a juvenile who they have reasonable cause to know will use the firearm to commit a violent felony.

Twelve years for discharging a firearm during the commission of a crime of violence or a drug trafficking crime.

Fifteen years for injuring a person in the commission of a crime of violence or a drug trafficking crime.

The proposal would also increase the mandatory minimums for distributing drugs to minors and for selling drugs in or near a school to 3 years for the first offense and 5 years for repeat offenders.

Our proposal would also increase the maximum penalty for knowingly transporting or transacting in stolen firearms, stealing a firearm from a dealer, and stealing a firearm that has moved in interstate commerce to 15 years.

This is strong medicine for the worst criminals that illegally use guns and drugs to harm elderly people, women, and children.

Third, our proposal would protect our children.

After reviewing Senator LEAHY's proposal, I must give the good Senator from Vermont and his colleagues on the Democratic side of the aisle credit. His proposal to expand the Youth Crime Gun Interdiction Initiative is a proposal that we can agree on.

This proposal would facilitate the identification and prosecution of gun traffickers that illegally peddle guns to our children.

The proposal would also facilitate the sharing of information between federal and State law enforcement authorities to stop gun trafficking.

The proposal would also provide grants to State and local governments to assist them in tracing firearms and hiring personnel to stop illegal gun trafficking.

I am glad that on this provision, we can reach a bipartisan agreement to protect our youth from illegal gun trafficking.

This proposal would also prohibit possession of firearms by violent juvenile offenders. This is the juvenile Brady provision, another provision they weren't particularly happy of in the eyes of some people in our society. But it is in this bill, and in this amendment.

It extends the current ban on firearm ownership by certain felons to certain juvenile offenders.

Under this proposal, juveniles who are adjudicated delinquent for serious crimes will not be able to own a firearm—ever.

When they reach maturity, they will not be able to own a firearm.

To ensure that this law will be enforceable, however, we make it effective only after records of such offenses are made available on the Instant Check System.

Finally, this proposal would aid in the overall enhancement of the Instant Check System. Senator DEWINE has played an instrumental role in drafting this provision that will help bring the Instant Check System into the 21st century, something that all on our side have been for from the beginning, and it is the only thing that really is working.

This amendment will fund a feasibility study on the development of a single-fingerprint computer system and database for identifying convicted felons who attempt to purchase handguns.

Under this system, a person will be able to voluntarily put his thumb or index finger onto a scanner at a gun store and a computer would instantly compare his finger print to a national digital database of finger prints for convicted felons. This would provide a truly accurate and truly instant check of a potential purchaser. This would prevent criminals with false identification credentials from purchasing a handgun.

The amendment would also close a loophole in current law. It would require the Attorney General to establish procedures to provide the Instant Check system with access to records not currently on the database. This would include records of domestic violence restraining orders. This will help protect vulnerable women from abusive spouses.

After the shooting at the library in Utah by a mentally disturbed person, I have been in contact with the representatives of mental health organizations to discuss this important problem. My constituents in Utah are very concerned about this issue and so am I, and everybody else is as well who reflects on this matter.

This proposal takes a small but important step on this issue. It directs the Attorney General to establish procedures for including public records of adjudications of mental incompetence and involuntary commitments to mental institution in the Instant Check database. This provision would protect the public, but would also respect the legitimate privacy interests and treatment needs of those with mental health problems.

Mr. President, this package of amendments will increase the prosecution of firearm crimes, increase penalties on criminals that illegally use guns and drugs, protect our children from gun trafficking, and expand the availability of background checks to stop convicted felons from illegally purchasing guns. The package accomplishes this without overburdening the lawful and traditional use of firearms by law abiding citizens for sporting purposes and by our most vulnerable citizens for self-defense purposes. Mr. President, I strongly support this package of amendments as an excellent addition to S. 254.

In addition, Mr. President, this amendment would also punish the solicitation of the violation of federal gun laws over the Internet. It would not require advertisers who do not actually sell a firearm over the Internet to become federally licensed firearms dealers.

The amendment provides that if a person knows or has reason to know that his Internet advertisement offering to transfer a firearm or explosives in violation of existing federal criminal statutes, he will be punished severely.

The amendment imposes fines and prison sentences that escalate for repeat offenders.

The amendment also provides an affirmative defense. If the advertiser is a licensed dealer, he can avoid the penalty imposed by this statute by posting a notice stating that sales of the firearm will be in accordance with federal law and will be made through a licensed dealer.

If the advertiser is a non-licensed individual, he can avoid the penalty imposed by this statute by:

(1) Sending a notice to the solicited party stating that the sale will be made in accordance with federal law; and

(2) Providing that as a term of the sale, the sale will be consummated through a licensed federal firearms dealer. Thus, there will be a background check before the firearm is transferred.

Mr. President, this amendment solves the problem of a non-licensee soliciting an illegal transfer of a firearm over the Internet. It punishes the knowing solicitation of a criminal transaction, and it allows an affirmative defense if the ultimate transaction includes an agreement to transfer the firearm through a licensed firearms dealer. Under current law, a licensed firearms dealer is required to run the buyer's name through the Instant Check system before transferring the firearm. This is a far superior alternative to requiring advertisers who do not sell firearms to become federally licensed firearms dealers and to act as middlement in the sale of firearms.

This amendment would punish those who solicit violations of federal law, but would not over burden law abiding citizens who lawfully advertise legal products.

Yesterday the Senate did two things related to background checks at gun shows. First, it rejected, on a bipartisan basis, the Lautenberg amendment. This proposal was unacceptable to many Members because of the incredible regulatory burden it would have imposed and because of the privacy implications for lawful citizens. Specifically, members were concerned with:

(1) excessive costs of the proposed background check system;

(2) centralized record keeping of lawful gun transactions; and

(3) a new bureaucracy for regulating gun shows designed to do far more than perform background checks.

Second, the Senate passed, on a bipartisan basis, the Craig amendment which represents a great step forward for gun safety while protecting the rights of lawful gun owners: It gave access for the first time to the instant check system, the NICS system, to nonlicensed individuals who want to sell their firearms; ensured there will be no unlawful recordkeeping by the FBI; established means for people to become licensed dealers of firearms if they want to sell them at a gun show; and provided liability protection when the instant check system tells a seller that a perspective purchaser is eligible to purchase.

Today, we include in our omnibus gun prosecution control package improvements to the Hatch amendment which will ensure that all gun sales at gun shows pass the muster of an instant check background check. This is due to the efforts of the distinguished Senator from Oregon, Mr. SMITH; the distinguished Senator from Arizona, Mr. MCCAIN; Senator CRAIG, and myself.

We want all gun sellers to have the peace of mind that they are selling their firearm to a lawful purchaser. We want gun shows to be a place for legitimate business transactions and for collectors to enjoy their hobby, but never at the expense of public safety.

I ask unanimous consent that Senator SMITH of Oregon be added as an original cosponsor of this amendment.

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

Mr. HATCH. I yield to my colleague from Arizona, Senator MCCAIN.

Mr. MCCAIN. Mr. President, I thank the distinguished Senator from Utah, Mr. HATCH, for his stewardship and his incredible efforts today on this issue. This package and this amendment that I intend to address briefly would not

have been possible without his effort. I thank also Senator CRAIG and my colleagues, Senators SMITH, COLLINS, SNOWE, ABRAHAM and many others who have taken an active role in this legislation today that would establish background checks in a manner which is fair and workable.

To start with, I want to point out that this amendment closes a loophole, and it requires instant background checks at all events at which at least 10 exhibitors are selling firearms, or at least 20 percent of the exhibitors are selling guns. This prevents any sale of a gun or a weapon at one of these shows without an instant background check. That is the effect of this amendment.

Specific language says a person not licensed under this section desiring to transfer a firearm at a gun show in his State of residence to another person who is a resident of the same State and not licensed under this section:

> Shall only make such a transfer through a licensee who can conduct an instant background check at the gun show or directly to the perspective transferee if an instant background check is first conducted by a special registrant at the gun show on a perspective transferee.

These background checks must be completed within 24 hours. This is not an overly burdensome requirement in the face of the Columbine High School tragedy; rather, it is a responsible means of lessening the likelihood of unlawful gun purchases. I believe this is something every Member of the Senate should be able to support.

It is my understanding this amendment has been cleared by every Member on this side of the aisle. I hope it will be cleared by Members on the other side. If they desire a rollcall vote on this, that would be fine. I think it should receive the unanimous support that it deserves.

I repeat one more time: This now provides for instant background checks at gun shows, and it effectively closes a loophole that was created. I am very appreciative of the Senator from Idaho for his cooperation in closing this loophole. It is a very strongly held belief on his part. I think he showed great statesmanship today.

I thank so many of my colleagues under the leadership of Senator HATCH, Senator COLLINS, Senator SNOWE, and especially my friend from Oregon, Senator GORDON SMITH.

Mr. SMITH of Oregon. Mr. President, I join in thanking those who have submitted this amendment today. I especially thank Senator HATCH for his indulgence and his leadership; Senator CRAIG, for allowing this to go forward; Senator MCCAIN, for his doggedness and determination to help a number of Members to make sure that what we began yesterday to close this loophole, we, in fact, closed today.

I am proud to stand on the floor of the Senate and proclaim myself a defender of the second amendment. I say that and also qualify it only in this respect: I defend the second amendment for law-abiding citizens to bear arms—not for nuts and crooks. I think it is possible to defend this constitutional right and also defend kids in the school cafeteria. But to do that, we need to make this technical amendment today.

I am proud to stand with my colleagues. I hope the other side will allow this to clear. This is something our country needs. It is something I am proud to be a part of.

I yield the floor.

Mr. CRAIG. Mr. President, the Hatch-Craig amendment package is a very broad-based package bringing greater enforcement, aggressive prosecution that this administration has been very reluctant in pursuing. It enhances penalties across a broad cross section of illegal activities to assure that the criminal simply is not going to fall through the cracks.

As my colleagues from Arizona and Oregon indicated, once we were able to defeat the Lautenberg amendment and establish some very clear parameters for creating the permanency of the national instant check system and the funding of that check system and assuring that we were not creating extraordinary liability for private citizens who wish to involve themselves in sales, then I thought it was right and appropriate that we begin to move to clarify and define gun shows and how guns are sold at those gun shows.

That is exactly what we have done this afternoon. I think it is a major step on an issue that has brought a great expression of concern across our country.

What is important to understand is that there is no placebo. Many would rush to the floor hoping we can pass a myriad of laws. As I said with the Senator from California a few moments ago, the world would become instantly and dramatically safer. We hope what we do today will change the thinking in America. Law-abiding citizens have and will always have constitutional rights to own and bear arms for a variety of reasons. What we don't want to do is create a huge Federal bureaucracy that has so many tentacles in its webs that private law-abiding citizens get caught up in them.

That is what would have happened in the Lautenberg amendment. Along with that was the fear that a promoter could be almost anyone who said they were in support of a gun show. They would have to become a licensed Federal firearms dealer. That is not the case nor should it be the case.

Like many people know, when you go to the local drug store today and you want to charge it, you bring out your Visa card, they pass it through the machine and tell you nearly instantly if your credit is good, if you can charge against the card.

What we want to be able to do to free up law-abiding citizens and to catch the criminal in the web, is to make sure that this instant background check is embodied in the law, and that the Justice Department and the politics of any Justice Department—be it Janet Reno or someone else, cannot manipulate the law. That is to assure an instant computerized check system which assures that felons are on it and adjudicated others are on it, those who find themselves defined by the law as being not sufficiently responsible for the ownership of guns. That is what it is all about. That is what we are about here today—in the area of gun shows, that this be done.

Somehow, gun shows have been cast as some bazaar in which illegal criminal activity goes on. That is not true and everybody but a few politicians knows it is not true. Less than 2 percent of the guns sold through gun shows find themselves in criminal activity. We would argue that is too much. We are now asking law-abiding citizens to become involved with us in making sure that guns at gun shows, now that law-abiding citizen is protected, will not be sold to a criminal or to a juvenile. So we do that and I think we strengthen the provisions by doing so.

We also deal with another area my colleague from New York will be dealing with, potentially, later, and that is Internet sales. We are suggesting Internet transactions that are known to be legal activities or that could be legal activities are against the law. What we are not saying is you cannot advertise on the Internet. That is a first amendment right and I do not think the Senator from New York would want to infringe on the right of commerce, to speak out.

Let me correct for the RECORD a dialog that the Senator from New York, who is now on the floor, and I had yesterday. He felt, reading my amendment that was agreed to yesterday, there was a problem. That problem dealt with the potential of interstate transactions, that are now prohibited, being opened up. In all fairness—I said he was wrong. As he read my bill, he was reasonably accurate, because the bill had been mishandled in its typing. What we were trying to define was the temporary situation of a gun show, because when we do tracking and when we do background checks and records, we are dealing with addresses, permanent locations—permanent locations of a business, a dealer of guns. A gun show is not permanent, it is temporary. It is at the convention hall or the fairgrounds. In doing the typing, legislative counsel misqueued the wrong paragraph.

I must say, in all fairness, the Senator from New York was right. He found it. I agreed with him. We corrected it. We are now clearly back to Federal law being absolutely as it is. Interstate sales of guns are banned. Only under certain conditions of the Federal law can that happen. So we have corrected that also in this omnibus amendment, the Hatch-CRAIG amendment, that we think is right and responsible to do.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. CRAIG. I will be happy to yield for a brief explanation by the Senator from New York.

Mr. SCHUMER. I thank the Senator from Idaho for yielding.

First, I thank him for his graciousness in correcting the RECORD of yesterday, which I very much appreciate.

Second, I say to the Senator, we have received this new amendment about 45 minutes ago. My copy is a little warm, but I think that is because of our Xerox machine, not because of his. We are in the process of analyzing it and hope to very shortly be able to either agree or disagree. But given what happened yesterday, we want to make sure we know what is in the bill and that it is the same thing the Senator from Idaho thinks is in the bill. I appreciate his indulgence.

But I do appreciate his words. They are meaningful to me, and I am glad we can conduct this debate, where we disagree so strongly, in a civil and fine tone.

Mr. CRAIG. I thank my colleague from New York.

Mr. DURBIN. Will the Senator yield for a question?

Mr. LEAHY. Will the Senator yield for a question?

Mr. CRAIG. I will not yield for a moment. Let me correct another area the Senator from New York and I had a disagreement on, but that is a gentlemanly disagreement. We still disagree. That deals with pawnshops.

In the Brady environment—that was the period of time in which we were building the national background check—a 3-day period was instituted, not to keep the gun from a person, but to check a person's background for the purpose of finding out whether it was legal for that person to own a firearm, whether the person was a felon or not. If, during that period of time, you pawned your gun at a pawnshop and then you went back to retrieve it, the pawnshop owner gave it back to you, no questions asked. It was your gun, your name was on it, you had the pawnshop ticket; as long as you could show ID, you got your gun back.

ATF and this administration are now interpreting this differently through instant check. They are saying you have to go through a background check again, and there are lawsuits out there in the marketplace today because of that.

It is very important for the RECORD to show what happens. If I am the person who takes a gun to a pawnshop and I pawn my gun, if I have my pawn ticket, within 24 hours the pawnshop owner must not only report the pawning of that gun to the local law enforcement authority with the serial numbers of the gun and my name—that is what goes on today in the law. So there is a background check, per se, because if my name happens to come up the name of a felon, I will never get that gun back; the law enforcement can go and collect it.

But what is happening now is that I go in 3 months later to get my gun. I have my money and my ticket and my record is clear. The ATF, and this administration, are saying: Foul. You have to go through a background check.

We are saying that is wrong. We are reinstating the Brady environment during the period of the 3-day waiting period.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. CRAIG. I am happy to yield to my colleague from New York.

Mr. SCHUMER. Again, I want to go over the language. I agree with much of what the Senator said on the factual situation, but I would make one correction. The pawnshop exception was not part of Brady; it was added in. I remember this because I fought with then Chairman Brooks of the Judiciary Committee about it. It was added in the 1994 crime bill. Brady would have required the background check as is required today. The Brooks amendment exempted pawnshops from that check. And now, with the Craig amendment, we would go back to where the Brooks amendment was. Am I correct in that?

Mr. CRAIG. To the Brooks amendment, yes. I was not in the House at that time. Of course, I knew Jack Brooks was a strong defender of second amendment rights. That sounds like a pretty reasonable rendition.

Mr. SCHUMER. Just one point on the pawnshop exception. The reason it was put in Brady, no exception, the closing of the exception—the reason the administration went ahead and said that instant check required it was that, without the recheck, many people who were felons would get guns.

Of the 5,000-some-odd people who went to pawnshops in this period between the Brooks amendment and the ATF's regulation, over 300 were found to be felons. In other words, they were missed in the first check and the second check found them.

So I say to the Senator—and on this one we do not have to wait for the language because the Senator from Idaho has said the pawnshop exception in the language of yesterday will stay in the bill. I think that is a serious mistake. It will take us, in my judgment at least, a step back because many, many, many—in this case, close to 300; 294 people who were missed in the first check—were stopped in the second check. These are felons. These are not people whom the Senator from Idaho or I generally bend over backwards to help get guns.

So what is wrong with the second check when it is working? I urge the Senator from Idaho to reconsider and take the pawnshop exception out of this amendment.

I yield my time. I appreciate the Senator's courtesy.

Mr. CRAIG. I thank the Senator for his discourse on this. We believe pawnshops are now effectively regulated and their gun pawning activity is fully reported on a 24-hour basis to local law enforcement officers and that check goes forward. We think that is adequate and appropriate and right. That is the way it ought to be. I am not saying people who pawn guns ought not be checked, because they currently are.

Mr. LEAHY. Will the Senator yield for a question?

Mr. CRAIG. I will yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, yesterday I questioned the Senator from Idaho on his exclusion, which at that time was to ''determine qualified civil liability actions should not include an action—'' and then there was nothing further until we got down to ''immunity.''

Now he has added a couple of other sections in there which were not in the bill yesterday.

Mr. CRAIG. Will the Senator yield?

Mr. LEAHY. If I might complete my question, I suggested yesterday, the way it was written we were giving immunity against suits. In fact, the court-stripping part further on would actually include suits against gun manufacturers.

The Senator from Idaho suggested I was wrong in that, but I notice now it has been changed. Is that because I was right?

Mr. CRAIG. No, it is not because you were right. It is because there was a section misqueued that was not included that was intended to be included.

If I can go forward, because you deserve this explanation and you deserve this clarification because you raised the question in all fairness and honesty, all the immunity and exceptions within this section are tied to gun show transactions. It is very important to understand that. We are not talking about an environment outside gun shows; we are talking about an environment inside gun shows.

The pending exceptions that the Senator from Vermont raised in question is a unique situation at a gun show. You and I go to a gun show. You are from Vermont, and I am from Idaho. We wish to transact the sale of a gun, but the gun is not there. It is at home in Vermont. You are selling it to me. You and I cannot do that under the law, because we cannot transact business interstate. So we go to a dealer at the gun show, and we agree that the dealer will handle the transaction. That dealer will do a background check on me, the purchaser, because you are selling it. You send the gun to the dealer, and the dealer sends it to me.

That is the way it is currently being done in a voluntary way so that you and I do not find ourselves astraddle the Federal law on interstate transactions. That is what this section deals with.

Mr. LEAHY. I am aware of that. I have purchased both handguns and long guns that way. I have had them shipped from out of State to a gun dealer in my own State.

What I am concerned about—and the question I raised yesterday and the

Senator from Idaho, apparently by this redrafting, feels I raised a valid question yesterday—at the end of this, you say:

A qualified civil liability action that is pending on the date of enactment of this subsection shall be dismissed immediately by the court.

Does this contemplate some cases that are now pending?

Mr. CRAIG. It is possible at the time we get the law enacted that there could be pending litigation within this section of operation.

Mr. LEAHY. Is the Senator aware of litigation now pending?

Mr. CRAIG. I am not.

Mr. LEAHY. But if there is some in any Federal or State court, whether it is Idaho or Vermont or Ohio or anywhere else, does not the Senator's legislation take out, not just Federal court, but even if there is a State court where there is a case pending, it would simply dismiss it?

Mr. CRAIG. In these categories where people have found themselves immune if they do the following things—background check, through the registrant, under the conditions—it is important, do not think beyond the box. Think of the box of a gun show and gun show activities and the definitions therein of a special registrant and a new licensee. I am suggesting that we are trying to encourage people to become active in background checks and become increasingly legal by that.

Mr. LEAHY. I understand this, and I find sometimes I am frustrated, but I accept that any time I purchase a weapon in Vermont, even though I am probably as well known as anybody in Vermont, they have to go through the usual record check. That is fine. I accept that.

Mr. CRAIG. They better.

Mr. LEAHY. They do, I can assure you, just as I accept easily the fact that I have to go through metal detectors and x ray machines when I get on an airplane. I am for that. I think it makes a great deal of sense.

What concerns me, I tell my friend from Idaho, is that what this is saying, in this court-stripping part, this says my State of Vermont is being told, even if they have a case, a qualified civil liability action pending, it will be dismissed by this. We do not even know whether there are such cases pending around the country, but we are telling the 50 States of this country and their legislatures: If you have a case pending, tough, the Senate has just decided it for you.

I am wondering, for example, whether this is covering current city lawsuits that are based, in part, on gun show sales. Some cities have brought some lawsuits based on gun show sales. Are we throwing their suits out?

Mr. CRAIG. Let me reclaim my time to discuss that briefly, and then I will yield the floor because others wish to debate.

Mr. LEAHY. Does the Senator understand my question? I think it is a valid question.

Mr. CRAIG. Here is what we are saying. We are saying in this law that the people who abide by the law have done nothing wrong. If they go through the background check and do all the legal things, they have done nothing wrong; they are within the law. If the gun happens to fall into the hands of a criminal and is used in a crime and somebody wants to trace it back to them and make them liable, we are saying, no, no; you were a law-abiding citizen. You cannot say that they were wrong because their gun at sometime in the future fell into the hands of a criminal and was used. The Senator knows today those kinds of lawsuits are going on out there.

Mr. LEAHY. Do we also dismiss the lawsuit against the manufacturers?

Mr. CRAIG. No.

Mr. LEAHY. It is hard to read it otherwise.

Mr. CRAIG. I read it that way because of the transaction within the gun show. Think inside the box. Everybody likes to find the bogeyman outside the gun show. We are talking about a unique class of operatives inside a gun show. We are encouraging them to become increasingly more legal by using background checks. Legal in this sense: Law abiding citizens like you and me who might own a gun——

Mr. LEAHY. I own a lot of guns.

Mr. CRAIG. Want to make darn sure it does not fall into the hands of criminals. If we go through the background check as we sell it and the guy or gal is pure, we are OK. What if down the road the gun falls into the hands of a criminal and here comes your city or a city that says: You are liable because you are the seller we can trace to because of your record. I can say to you under this: Because you did it in a legal way, you are not liable. That encourages you to pursue legal activities. It does not deal with manufacturer liability. That is another issue for another day, not addressed anywhere in these amendments.

Mr. President, that is as thorough as I can get with the Senator from Vermont. Let me conclude, because there are others who wish to debate.

Mr. DURBIN. Will the Senator yield for a question?

Mr. CRAIG. No, I will not. I will let the Senator seek the floor to debate on his time.

I suggest that the Hatch-Craig amendments are a major step toward the enforcement of gun laws in this Nation, of stopping criminals who use a gun in the commission of a crime, to make sure that the transaction does not result in guns falling into the hands of criminals, and still recognizing that the Internet is a fair and first amendment-protected expression as long as those expressions are not found to be illegal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I see the following people on the floor who want to speak and want to be factored into this.

On our side is Senator COLLINS, Senator DEWINE, and Senator SESSIONS. Can I ask how much time they want.

Ms. COLLINS. Five minutes.

Mr. SESSIONS. Ten minutes.

Mr. HATCH. Five minutes for Senator COLLINS; 10 minutes for Senator SESSIONS; 10 minutes for Senator DEWINE.

We have Senator DURBIN, Senator SCHUMER, and Senator LAUTENBERG on the other side.

Mr. LEAHY. If I might, I say to the distinguished chairman, if he will yield to me——

Mr. HATCH. Yes.

Mr. LEAHY. Some of these amendments, at this point particularly, that have just arrived—I think the Senator from New York described it as being still warm from the copying machine. We have several Senators in the Cloakroom who are just looking at it, who have just received it. We are getting calls. My beeper is going off here. I am reading: Somebody wants to check this one, wants to check this one. Let's let the debate continue here for a bit while we try to do it.

Mr. HATCH. Yes. But I want to figure out how we do it. I think we should go back and forth.

Mr. LEAHY. I agree with that.

Mr. HATCH. Can I ask the Senators on this side, how much time would you like, at least initially?

Mr. LEAHY. We do not know.

Mr. SCHUMER. Will the Senator yield?

Mr. HATCH. Sure. I yield to know how much time.

Mr. SCHUMER. In response to his question, I say to the Senator that probably, when at least my staff's analysis of the proposal is finished, I would like to speak for maybe 10 minutes on it, maybe a little more. But I say to the Senator that I could not agree to any kind of time limit until we analyze the bill.

The Senator from Idaho came over to me early this morning and said that I had been right in some of my complaints, I guess, about his proposal. I said, fine. Get me language and I will analyze it and I will not delay in any way.

Mr. HATCH. We understand.

Mr. SCHUMER. We got the language at 3:30, or maybe a little before that. It takes a little while to analyze. I do not think any of us want to go through the same problems we went through yesterday where we did not understand what was in the bill.

Mr. HATCH. Let me put you down temporarily for 10 minutes, or more if you need it. I want an idea of the time.

Mr. DURBIN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. DURBIN. I really have questions that get down to the basics of whether or not the Craig amendment replaces yesterday's amendment or is added to yesterday's amendment. That is it. He left the floor, I am sorry, because it was a question I had.

Mr. HATCH. I will try to answer those questions if I can. And Senator LAUTENBERG has indicated to me that he will need some extensive time here.

Would you have any objection to allowing Senator COLLINS to go first for her 5 minutes?

Mr. LAUTENBERG. Will the Senator yield?

Mr. HATCH. Yes.

Mr. LAUTENBERG. Is it a gun-related issue?

Mr. HATCH. I am afraid it is.

Mr. LAUTENBERG. It is.

Mr. HATCH. It is on this amendment. She just wants to speak to this amendment for debate only.

Ms. COLLINS. For 5 minutes.

Mr. HATCH. Is there any objection to that?

Mr. LAUTENBERG. I would be happy to yield to the Senator.

Mr. HATCH. We can get some of these shorter remarks over, and then you could have adequate time. Could I then go to Senator SESSIONS for 10 minutes?

Mr. LAUTENBERG. I do think we need some time on this side to respond, but I do not want to close down the debate, very honestly, because we have patiently, or impatiently, listened to a fairly extensive debate.

Mr. LEAHY. Mr. President, let's go back and forth from each side, as the Senator from Utah suggested, without locking down the time. One of the reasons why we have a concern, I say to my friend from Utah, is that yesterday we were trying to rush some of these votes forward. I raised the problem with the distinguished Senator from Idaho. I said: I thought there was a whole part of the bill missing. Basically, my argument was dismissed.

Let's go on with the vote.

This afternoon, they say: Oh, by the way, this part you said was missing, yes, it was. Now we have added it back in.

I did not raise it nonchalantly. I thought it was serious. So I think that we ought to at least, if we have just gotten a hot piece of legislation still warm from the Xerox machine, get a chance to see it. It would be a lot easier to take a few minutes longer and make sure it is done correctly and we know what we are voting on than we go through as we did yesterday when the concerns that Senator SCHUMER and I raised were sort of dismissed, and now we find, yes, we were right, and we are back into the thing.

Let's make sure everybody understands where we are going.

I say to the Senator from Utah, maybe during the votes at 5 o'clock he and I might meet with interested parties to see if we can work times out.

Mr. HATCH. Let me make this suggestion. I hope it will be found acceptable to colleagues on the other side. Since they are studying this amendment—and have had it for over an hour—since they are studying this amendment and need to finish their studies, I ask unanimous consent that Senator COLLINS be permitted to proceed for 5 minutes and that Senator SESSIONS be permitted to proceed for 10 minutes, and if Senator DEWINE is here, let him get his until 5 o'clock.

Mr. LEAHY. Can anybody on this side speak?

Mr. HATCH. Sure. If they need more time to study it—

Mr. LEAHY. Couldn't we go side to side as we normally do?

Mr. HATCH. That is fine. We would start with Senator COLLINS on our side for 5 minutes, and then on your side, and then back on our side.

Mr. LAUTENBERG. Just to be sure.

Mr. HATCH. Let the Senator go, and then Senator SESSIONS.

Mr. LAUTENBERG. If the distinguished manager would yield, we are talking about a sequence including the Senator from Maine for 5 minutes, then over here?

Mr. HATCH. Sure.

Mr. LAUTENBERG. Then back to the other side? I have no problem with that as long as the time that we get over here is a reasonable slot of time.

Mr. HATCH. I ask unanimous consent that the time between now and 5 o'clock, when the votes start, be divided equally.

The PRESIDING OFFICER (Mr. DEWINE). Is there objection?

Mr. LEAHY. Between the two leaders?

Mr. HATCH. Between the two leaders.

Mr. LAUTENBERG. Reserving the right to object.

Mr. HATCH. There will be more time afterwards.

Mr. LAUTENBERG. If you eat crow, you have to do it when it is warm.

Mr. LEAHY. I yield to you.

Mr. LAUTENBERG. Thank you. Because what happened is we had an extensive delivery by the distinguished Senator from Idaho. And if we are now going to divide up the time, it is a little out of balance. So I say this to the Senator from Utah, that if we agree to give up 10 minutes now, and reserve, perhaps, 15 for our side, just to get a little bit of balance in here, and we are going to continue the debate——

Mr. HATCH. That is fine.

Mr. LAUTENBERG. Let's divide it equally.

Mr. HATCH. OK. And I ask unanimous consent that the first speaker be Senator COLLINS.

The PRESIDING OFFICER. Is there objection to dividing the time equally?

Mr. LEAHY. Between now and 5?

The PRESIDING OFFICER. Between now and 5.

The Chair hears none, and it is so ordered.

The Senator from Maine.

Mr. HATCH. Our first speaker is the Senator from Maine.

Ms. COLLINS. I thank the distinguished chairman for his patience in working this out. And I also thank the Senators from Vermont and New Jersey for agreeing to this arrangement.

Mr. President, I rise to support the provisions in the Hatch-Craig amendment requiring background checks at gun shows. I believe we have very carefully crafted provisions that strike the right balance. I support the requirement that sales of firearms at gun shows pass the muster of an instant background check. Gun shows are a popular mechanism for buying and selling guns, and these legitimate business transactions should be made with the knowledge that the sellers are selling their firearms to lawful purchasers.

What I opposed yesterday is something I will always oppose—and that is the creation of a Federal centralized recordkeeping system of gun owners. That would be a heavy regulatory burden that would seriously infringe on the privacy rights of millions of law-abiding American citizens who own guns. That is why I voted against the amendment offered by the Senator from New Jersey.

I would like to make one brief comment regarding gun shows. I am very concerned that the publicity surrounding this issue has created the false impression that gun shows are somehow gathering places for criminals, anarchists, and mercenaries. Nothing could be further from the truth. In reality, thousands of Americans go to gun shows every weekend in this country. People who attend these shows live in every State in the Union. They come from all walks of life. They share a common interest in a part-time hobby that is deeply ingrained in our American culture. Many are sportsmen or target shooters; many others are collectors who enjoy showing, buying and selling their antique firearms.

These are people who enjoy the tradition of responsible gun ownership in this country. This is a tradition—and a right—that we need to preserve.

Our gun laws should be directed at the illegal misuse of firearms, not the lawful ownership of guns by law-abiding citizens. The first step we should take is to address the concerns the Senator from Alabama will speak on shortly that gun laws are not being strictly enforced. The Senator from Alabama has documented an appalling drop in prosecutions of gun-related offenses, gun control laws under this administration.

That should be our first step.

Second, the Republican package puts together reasonable restrictions that will ensure that guns do not fall into the hands of criminals through the mechanism of a gun show.

I know the people who attend gun shows across America want to make sure they are selling to people who will use firearms in a responsible way that is the American tradition.

This legislation before us strikes the right balance, and I urge support of the amendment. I commend those who have worked on this to respond to the concerns we raised yesterday.

I yield back the remainder of my time to the chairman of the committee.

Ms. SNOWE. Mr. President, I rise today in support of the Hatch-Craig

amendment to S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act. This amendment provides four important components in the efforts of combating juvenile violence and crime.

I also want to thank the Majority Leader, Senator LOTT, Senators HATCH, CRAIG and MCCAIN for listening to my concerns and working with me to ensure the National Instant Check System applies to all sales made at gun shows.

This amendment provides for more aggressive prosecution of criminals who use guns to commit crime, enhances penalties on criminals who use guns, increases protection of children from gun violence. Most importantly, this amendment mandates that individuals purchasing weapons at gun shows must undergo a background check through the National Instant Check System. This is the same requirement currently in place for purchases made at gun shows, when buying a weapon from a licenced gun dealer.

Mr. President, gun shows are community events, usually held over a weekend at State Fairgrounds, convention centers, or exhibit halls. These shows have been going on for years and attract a wide cross section of gun owners. At the shows, people not only buy, sell, or trade firearms, they also exchange tips on hunting, gunsmithing, and firearm history.

By implementing an instant check system at gun shows, law abiding gun buyers can receive their background check within minutes and be able to obtain the firearm they wish to add to their collection. On the other hand, criminals and other people who are not allowed to possess firearms can be identified and arrested for trying to purchase a weapon, in violation of the law.

Mr. President, this amendment, of which I am a co-sponsor, provides a good balance between allowing law-abiding citizens to purchase weapons at gun shows without burdensome regulations and preventing criminals from obtaining weapons from individuals at gun shows.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. LEAHY. Mr. President, parliamentary inquiry: What time is the vote scheduled for?

The PRESIDING OFFICER. Five.

Mr. LEAHY. How much time is there for the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. LEAHY. I yield to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from Vermont, and I thank the Chair.

If the audience here or out there is mystified, I wouldn't be surprised, because I think we, too, are mystified. We are buried under a volume of language and words, and we are not addressing the point.

The point is whether or not we are willing to say, if guns are sold, there has to be a measure of identification of the buyer. That is the question. Ask the parents in Littleton, CO, what they think. Should we have identified everybody who walks into a gun show? Describe the gun show as you will, we will talk about that in a minute. Should everybody who buys a gun at a gun show be identified? I think yes.

The shallow arguments about, we have 40,000 laws on the books and therefore why do we need one more—well, you tell me what happened when Terry Nichols and Timothy McVeigh were out at a gun show selling guns to raise money for their terrorist operation. What is the point?

Obviously, the laws that we have do not cover all of the situations. I say this. I just heard the distinguished Senator from Maine say it, I have heard the Senator from Idaho say it and others. There is no blanket accusation here that says everybody who goes to a gun show is a felon, an anarchist, a crook, a thug—not at all. But we want to protect those families who do go to gun shows with an earnest interest in seeing what is around and maybe buying a hunting rifle or what have you. Why should they be ashamed? Why should anybody be ashamed or unwilling to leave their name behind when they take this lethal weapon and stick it in their pocket? That is the problem. No matter how much language is thrown out here, we ought to try to cut through it and see what the mission is.

The mission is to try to protect the NRA, not to protect the people of our country, the innocents who send their kids to school every day of the week and now pray that the children come back not only learned but safe and sound. That is the message we are trying to get across here.

We hear this obfuscational language: Well, if they had this and they had that and they didn't have measles and they had some other condition, then it is all right.

Stop with the loopholes. I offered an amendment yesterday which was clear and concise, which said that everybody who buys a gun ought to be identified and that those dealers who are unlicensed dealers, call them what you will, who can sell guns out of the trunk of their car in any quantity they want, to anybody they want, without getting so much as a name, except the cash on the barrelhead, walk away, someone buys 10 guns, there is not an ounce of suspicion raised about that.

We heard the Senator from Idaho yesterday say, well, a measly 2 percent, that is all, 2 percent of the guns sold in these gun shows, only 2 percent, are unlicensed. Then he was gentleman enough and sincere enough to say, I made a mistake; it wasn't 2 percent; it is 40 percent. Forty percent. Two percent. That is a significant difference.

So he said he realized only too late that 40 percent of the people who bought guns at gun shows bought them from unlicensed dealers—or 40 percent of the guns sold, forgive me, were from unlicensed dealers.

Well, that is pretty significant. That is a lot of guns floating out there that nobody has any record of, unless someone volunteers to leave their name. I do not see a lot of volunteers coming up throwing their photo ID on the counter and saying, hey, give me a dozen guns, will you. You don't see that happening.

We ought to clear the air, clear the language here, tell the American people, as they were told yesterday—I want everybody within earshot to remember this—yesterday there were 47 of us who voted to close a loophole. There were 51 people who voted to leave it open, to make sure that those who want to buy a gun without identifying themselves could still have the liberty to do so.

We hear all kinds of specious arguments—another bureaucratic imposition on free citizens in this country. We have laws in this country. We are a country of laws. It says so in our Constitution. If you have laws, you have to have a structure. You have to have an orderly process by which those laws are developed and enforced. Our job here is to develop them.

So what is wrong with having people enforce laws that we think otherwise might bring harm and injury to innocent people? I do not want my grandchildren going to school with other kids who might be able to get their hands on a gun because a father or a relative left the gun unattended. I think it is terrible. I think they ought to be responsible for the actions that that child who takes the gun brings upon his or her classmates or friends.

So we ought to clean up the language here so the American people know what we are talking about. Some of us are for closing the loophole and some of us are for leaving it open.

The vote yesterday was quite a revelation. It should have been for the American public. Yesterday 51 percent of the people in this room said: Do not close the loophole. Do not take away the rights of someone who wants to be unidentified, anonymous, buying guns out there. Permit them to do it, because otherwise it is an infraction of their rights. If a neighbor wants to sell a gun to a neighbor, why shouldn't he be able to do it without having to go through the trouble of identifying him?

Try to give your neighbor your car and not take note of the transfer. If that neighbor has that car and it still has your name on it, you are responsible for it, whatever it is that happens.

We see immediately now in the presentation today some apologies. The apology is not for the American people. The apology is to those who might be inconvenienced because they have to identify themselves when they buy a

gun. We ought not to be apologizing to them. We ought to apologize to every parent, to every family, to everyone who might be injured by a gun that is bought, 40 percent of those guns that come out of gun shows without any identification. That is what we are talking about. We are clearly divided on the issue.

Now what has happened, there is kind of a fail-safe that has developed, because yesterday not only brought the picture into focus, but it also said to the American people, who are enraged by what is happening in these schools, enraged, pained—87 percent of the people in this country said close the loophole. But in this Senate, 51 percent said: No, don't close the loophole; we want to protect the rights of those who would buy guns as if it was in the dark of night.

So today we see an attempt at a legislative redress for the error that was made yesterday that was caught by the newspapers. It was caught by television. It was caught by the public at large, who are indignant. We hear it couched in flowery phrases—I didn't know there was that exception, or I didn't know there was this exception—when they heard from their constituents and the constituents were angry and mortified by the fact that their representative voted to keep open the loophole.

So now we are trying to figure out what it is exactly that is being proposed. If we are cynical and suspicious, we should be, because yesterday the vote was one way and today it suddenly dawns on them that maybe people who buy guns ought to really leave their name behind, regardless of whether the dealer is a federally licensed dealer or just someone who throws up a table and pays a $10 fee at a gun show. We are talking about the definition of ''gun show'' and the definition of ''dealer.'' Nonsense. We ought to talk about the lives that we can save, about the children that we can protect. I hope that the debate is going to get into that area before this discussion is over.

I hope that we look carefully at what is being proposed and study it because it came up all of a sudden—suddenly, to have an agreement that, OK, some people ought to have their names identified with their purchase but not for others.

Mr. President, I yield back my time with the understanding that we are going to be discussing this after the votes we are going to take.

Mr. HATCH. Mr. President, I yield such time as remains to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, all of us agree we need to do a better job of keeping track of guns that might fall into vulnerable young hands. That is why I support the amendment offered by the distinguished chairman of the Judiciary Committee, Senator HATCH, which contains several measures that I have developed that would help to achieve these goals.

Mr. President, the most effective method to assure that gun sellers and dealers are selling their products to law-abiding citizens is the background check. In 1993, Congress passed the Brady bill, which is designed, in part at least, to move us toward the National Instant Check System for gun sales. Due to this initiative, we have expanded and made more accessible the National Instant Criminal Background Check System, also known as NICS. Now, could this system be improved? The answer is, yes, it could be. For example, today, handgun checks are ''name only'' checks, which frequently come back inconclusive because a potential purchaser may have a similar name as a convicted offender, or that potential purchaser could be using a false name, or an alias. When this happens, a manual check has to be performed.

Mr. President, one way we can improve the instant check system is through technology that is now available, which can check a purchaser's fingerprint against a single print database. The time has come for this idea; it is an idea worth exploring. Our amendment would direct the Attorney General of the United States to study the feasibility of creating a single print instant check system and database to enable a voluntary, rapid, and accurate search of potential gun purchasers. Currently, there are 40 million fingerprint cards in the master criminal fingerprint file from which convicted offender prints could be placed online for an instant search. With a single print database, firearm dealers could facilitate the completion of a gun sale. A single print system could reduce the potential for felons to obtain firearms through the use of false identification. It would close a major loophole.

Mr. President, we can also improve the system by ensuring that our records are accurate and up to date. I have often said that type of information is absolutely critical and vital to good police work. Information can and does save lives. Mr. President, our background check system is only as good as the information that is in it. The unfortunate fact is that serious record backlogs exist in many States. Many of our State databases are simply incomplete, and many are very inaccurate. We have improved it over the years but we have a long way to go. Since the instant check system became effective last November, over 900 individuals who have been convicted for class one felonies—murder, rape, serious assaults—were able to buy guns because the appropriate records were simply not available.

Mr. President, States desperately need financial help to eliminate this dangerous records gap and to plug this loophole. Our amendment would provide $25 million to central repository directors to facilitate logging in, dispositions, including assistance to courts to automate their current records systems.

Everybody will benefit from this more-thorough criminal history—law enforcement and the public, in general. We can improve our background check system by expanding it to include records of those who have not broken the law, but who are still prohibited under current law from possessing firearms. These people include involuntary commitments to mental health institutions and those subject to domestic restraining orders. Those are the people who, many times, are also falling through the cracks of our current system.

This amendment would direct the Attorney General of the United States to develop procedures by which nonconviction and other data can be available for the instant check system, stopping people who are currently prohibited from possessing a firearm, but who the current system is not watching. This amendment would fully fund the National Instant Check System to pay for the operation costs of background checks. The FBI would be provided operations costs of performing instant checks, and also States serving as point of contact States will be reimbursed by up to $7 per background check.

Finally, we need to better provide information not just on the lawbreakers, but on the guns they use to commit crimes. To accomplish this goal requires a strong investment in the national integrated ballistic identification network. This system combines the ballistic and forensic capabilities of the FBI and ATF to create one enhanced ballistic system for State and local law enforcement agencies. This amendment before us would provide funds, much-needed funds, to expedite this process.

Mr. President, a greater investment of innovative thinking and resources is urgently needed to improve the National Instant Check System. This amendment would provide that investment. It would make the system more responsive, more accurate and, yes, more thorough. Most important, it would make our efforts to keep guns out of hands of children and criminals more effective. Mr. President, this amendment will save lives.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The remaining time is 1 minute 46 seconds controlled by the Senator from Utah.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, may I inquire of the state of time?

The PRESIDING OFFICER. There are 15 seconds remaining before the 5 o'clock time for voting, and there will be 5 minutes equally divided between the two sides. At this point, the Senator controls 2½ minutes.

Mr. ASHCROFT. It is my understanding that I am eligible to spend the 2½ minutes in favor of the Ashcroft amendment at this time.

The PRESIDING OFFICER. The Senator is correct.

Mr. ASHCROFT. Thank you, Mr. President.

The Ashcroft amendment is a very simple amendment. It recognizes that in addition to handguns, which require some special responsibility and, therefore, are prohibited for sale to minors, and are even prohibited in private sales to minors, and for them to be in the possession of a minor requiring the permission of parents, that the same kind of rules ought to apply to semiautomatic assault rifles as apply to handguns as it relates to minors.

Right now, where handgun sales to minors are prohibited, semiautomatic assault rifle sales to minors are permitted. Where a minor, in order to have a handgun, has to have parental permission, a minor can own an assault rifle, a semiautomatic assault rifle without parental permission.

The Ashcroft amendment simply wants to remove this disparity, because it expresses a belief that a semiautomatic assault rifle, assault weapon, ought to have the same level of responsibility attendant to it as a handgun.

The Ashcroft amendment would prohibit private sales of semiautomatic assault rifles to minors, and it would require that they have parental permission in order for one even to be in the possession of a minor.

This really makes the rules about handguns and semiautomatic assault weapons identical for all basic intents and purposes. There are some exceptions in the law for purposes of the possession of handguns that relate to employment. There are some minors, for instance, who are required in their employment to be involved with a handgun. Those exceptions would be the same basically as well.

The thrust of this amendment is to say that this situation where semiautomatic assault weapons were not required to have the level of responsibility that we had assigned to handguns for juveniles, that should be changed so that assault rifles and the semiautomatic assault weapons have the same kind of responsibility requirements that had previously been applied to handguns resulting in the requirement that there be parental permission before there can even be possession, and that there would not be a potential for purchase in private sales.

I urge my colleagues to vote in favor of this reasonable and simple change in the law.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator's time has expired. Who yields time in opposition to the amendment?

Mr. LEAHY. Mr. President, I will take this side's time.

I have listened to the debate and read the amendment. It is deja vu. It is very similar to the Leahy law enforcement amendment that the Republican majority voted down yesterday. The Leahy amendment, which was the Democratic consensus position on gun control, included the enhanced parental penalties for the transfer of handguns, assault weapons, and high-capacity ammunition clips to juveniles and the ban on the juvenile possession of handguns, assault weapons and high-capacity ammunition clips. This amendment has a couple of changes. It increases the exceptions for such transfers.

But if imitation is the highest form of flattery, then I guess I should be flattered where all the Democrats signed onto the one amendment that was voted down by the Republicans yesterday. Of course, I am going to support this amendment, because it is so similar to the form of what we had yesterday.

I just wish it had adopted a couple of other consensus positions. I wish it included our gun ban for life for dangerous juvenile offenders. For the life of me, I cannot understand why the other side opposes my proposal, the Democrat proposal, that if you have a juvenile who is convicted of assault with a deadly weapon, is convicted of murder, or attempted murder, why that person should not be banned for life from owning a gun.

I wish it had the money that we put into mine that was dedicated just to Federal prosecution of the firearms violations. I wish it had the resources for firearm tracing that we put under the youth crime interdiction initiative. But perhaps when they look at the rest of my amendment that will be in the next Republican package. I hope it is.

To the extent that this primarily includes a number of the things that I had in my amendment yesterday, of course, I will be consistent enough to vote for it again this time.

Ralph Waldo Emerson once said: ''A foolish consistency is the hobgoblin of little minds.'' There are no hobgoblins on the other side. They don't mind being inconsistent in voting for it today when they voted for it yesterday.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I ask unanimous consent Ms. COLLINS be added as cosponsor of the Hatch-Craig-McCain-DeWine-Smith amendment that is pending.

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

Mr. HATCH. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. HATCH. I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 342. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN), are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), would vote ''aye.''

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—96

Abraham	Edwards	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Fitzgerald	McCain
Baucus	Frist	McConnell
Bayh	Gorton	Mikulski
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Harkin	Roberts
Bryan	Hatch	Rockefeller
Bunning	Helms	Roth
Burns	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Campbell	Hutchison	Schumer
Chafee	Inhofe	Sessions
Cleland	Jeffords	Shelby
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden

NAYS—2

Enzi	Smith (NH)

NOT VOTING—2

Inouye	Moynihan

The amendment (No. 342) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. I thank the Chair.

Mr. President, I know all the Senators are interested in what the schedule might be. It is that time of the week when we begin to have to make some decisions. I would like for us to finish this bill tonight. There have been a dozen or more amendments that have been considered and others I am sure have been accepted. We still have a large number of amendments, though, that are pending.

I hope Senators will consider either not offering their amendments or agreeing to put them in a package of amendments. We are encouraging Senators on this side of the aisle to do that, and we have at least one that has been done that way.

If we finish the bill tonight, then we will not have any votes tomorrow. If we do not finish it tomorrow, then it is essential we stay in tomorrow. This is important legislation. A lot of amendments have been offered. Others will be offered that are critical amendments and very important to Members on both sides. I have discussed this with

Senator DASCHLE, and I know Senators on both sides and the managers are trying to work through a list of amendments that probably is still in the range of 40 or 50. We have to work very fast and hard to get through those.

With that in mind, I say, again, that we will go as late as we can tonight. I know we have a delegation of eight or so Senators that is supposed to leave for Kosovo at 6:30 in the morning. We will have to ask them to delay that. We can keep going tomorrow and we can keep going, if it is the desire of the Senate, even into Saturday. I have to check with Senator HATCH and Senator LEAHY. They are committed to getting this bill done.

The reason we have to complete it this week is that next week we have to deal with supplemental appropriations, which I hope will be ready then. We hope to have something we can vote on concerning Y2K next week. We have the bankruptcy bill. We also have State Department authorization, defense authorization and defense appropriations and a satellite bill, all of which we would like to consider and get done before the Memorial Day recess.

It is not a question of not wanting to complete this bill. It is just we do not have time next week. So we will either have to work through these amendments quickly or we will have to keep going tonight and over into tomorrow. Please work with the managers. They are trying to do the job and they need your cooperation. I say to those of you who are looking to leave tonight or tomorrow morning, right now it looks as if we will not be able to finish tonight and we will have to be in session tomorrow. We cannot even give you assurances that we will finish by noon. We will just have to keep going until we get it done.

If we really cooperate with these managers, which happens quite often, I believe we can finish tonight. I looked down the list, and I think there are maybe four to six amendments that we really need to have discussion and votes on. I think we can find a way to complete that tonight or early in the morning.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 343, AS FURTHER MODIFIED

Mrs. FEINSTEIN. I thank the Chair. Mr. President, it is my understanding that I have 2½ minutes to wrap up the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mrs. FEINSTEIN. Mr. President, in light of the action the Senate just took in adopting the ban on juvenile possession of assault weapons and large clips, I ask unanimous consent to modify my amendment by striking sections 503 and 504 which will do essentially the same thing.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Can the Senator from California clarify for us—we have all studied her original amendment, but what are you changing in your amendment that would be subject to a vote?

Mrs. FEINSTEIN. I will be very happy to answer that question. Essentially, a part of my amendment was also Senator ASHCROFT's amendment, with some technical changes, particularly in the exemptions. What we are doing by this is accepting Senator ASHCROFT's amendment and separating out the part of my amendment which would close the loophole in the assault weapons legislation and ban the importation of the big clips, just as these clips are now prohibited from domestic manufacture in this country.

Mr. CRAIG. Will the Senator yield for an additional question?

Mrs. FEINSTEIN. I will be happy to yield.

Mr. CRAIG. In the original amendment, the Senator bans a class of firearm that is used in schools and colleges for professional target shooting and target practice. Has she taken that particular provision out?

Mrs. FEINSTEIN. That is correct.

Mr. CRAIG. All right.

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

The amendment, as further modified, is as follows:

On page 276, below the matter following line 3, add the following:

TITLE V—ASSAULT WEAPONS

SEC. 501. SHORT TITLE.

This Act may be cited as the ''Juvenile Assault Weapon Loophole Closure Act of 1999''.

SEC. 502. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''(1) Except as provided in paragraph (2)'' and inserting ''(1)(A) Except as provided in subparagraph (B)'';

(2) in paragraph (2), by striking ''(2) Paragraph (1)'' and inserting ''(B) Subparagraph (A)'';

(3) by inserting before paragraph (3) the following new paragraph (2):

''(2) It shall be unlawful for any person to import a large capacity ammunition feeding device.''; and

(4) in paragraph (4)—

(A) by striking ''(1)'' each place it appears and inserting ''(1)(A)''; and

(B) by striking ''(2)'' and inserting ''(1)(B)''.

SEC. 505. DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.

Section 921(a)(31) of title 18, United States Code, is amended by striking ''manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994''.

SEC. 506. EFFECTIVE DATE.

This Act and the amendments made by this Act except Secs. 502 and 505 shall take effect 180 days after the date of enactment of this Act.

Mrs. FEINSTEIN. Mr. President, if I may then discuss what is in the division of the question. When we passed the assault weapons legislation in 1994, there was a grandfather clause which permitted the continued importation of shipments of clips, drums and strips of large size, large size being defined here by more than 10 bullets.

In the legislation passed in 1994, the domestic manufacture of these same clips and the sale of these same clips and the possession of these same clips was made illegal. The loophole is permitting the importation of foreign clips while we close off the manufacture of them domestically, the sale of the domestic clip. These new clips, manufactured after the ban, the fact of the matter is, are coming in.

I submitted for the record BATF statistics that in 6 months 8.6 million clips are approved for entry from 20 different countries, many of them as big as 250 rounds, 90 rounds, 70 rounds, 50 rounds, by the hundreds of thousands. We are trying to cut off that loophole.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I will be very brief.

I do stand in opposition. Last year, we had the same vote on the floor, and it was to overturn the 1994 law that creates some exceptions. It is the exception that the Senator disagrees with now as it relates to the importation of a form of automatic loading device, better known as a clip.

The vote last year was 54 to 44 in opposition to that amendment on a tabling motion. I hope we can continue to maintain that position. I think it is consistent with the law that we passed in 1994.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified. The yeas and nays have been ordered.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. I move to table the Feinstein amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 343, as further modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) are necesssarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''no.''

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—39

Allard	Craig	Kyl
Ashcroft	Crapo	Leahy
Baucus	Enzi	Lott
Bingaman	Gorton	Mack
Bond	Gramm	McCain
Breaux	Grams	McConnell
Brownback	Hagel	Murkowski
Bunning	Hatch	Roberts
Burns	Helms	Santorum
Campbell	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)

Snowe	Stevens	Thompson
Specter	Thomas	Thurmond

NAYS—59

Abraham	Feingold	Lincoln
Akaka	Feinstein	Lugar
Bayh	Fitzgerald	Mikulski
Bennett	Frist	Murray
Biden	Graham	Nickles
Boxer	Grassley	Reed
Bryan	Gregg	Reid
Byrd	Harkin	Robb
Chafee	Hollings	Rockefeller
Cleland	Hutchinson	Roth
Collins	Jeffords	Sarbanes
Conrad	Johnson	Schumer
Coverdell	Kennedy	Sessions
Daschle	Kerrey	Smith (OR)
DeWine	Kerry	Torricelli
Dodd	Kohl	Voinovich
Domenici	Landrieu	Warner
Dorgan	Lautenberg	Wellstone
Durbin	Levin	Wyden
Edwards	Lieberman	

NOT VOTING—2

Inouye	Moynihan

The motion was rejected.

Mr. LEAHY. I ask unanimous consent that we vitiate the yeas and nays on the underlying amendment.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of Senator FEINSTEIN.

The amendment (No. 343), as further modified, was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor to the Hatch-Craig amendment.

Mr. LAUTENBERG. Mr. President, the Chamber is not in order. I was unable to hear the request. I would like to hear it before it is agreed to.

The PRESIDING OFFICER. Will the Senator renew his request?

Members in the well will take their conversations to the cloakroom.

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor to the Hatch-Craig amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I want to call to the attention of the Senate that we have possible Democrat amendments of 51 and possible Republican amendments of 22. We have disposed of 12 or 13.

Look, this is ridiculous. We have been very fair. Both sides have had an opportunity to present what they wanted to present. We have had some terrible amendments here from one side or the other, and we fought them through and we have done what is right.

Let me tell you something. I would like to move through this matter as quickly as we can. I would like to have colleagues on both sides reduce the number of amendments. If you absolutely don't have to have the amendment, let's withdraw it. This is a very, very important bill. We are talking about kids all over this country who are getting away with murder.

We are talking about vicious, violent juveniles who are wrecking our country and wrecking our schools and creating gangs and doing things that are really causing this country chaotic conditions.

We have a bill here that is bipartisan that really will do something about that. There have been wins on both sides, and I think to the betterment of this bill. I think it is time for us to get down and start working on it and get it done.

I can't imagine why anybody in this body wouldn't want to get this bill done, especially with 2 years of work and all kinds of effort and work here on the floor by both sides.

I want to compliment my Democratic leader on this bill for the good work he has done on this, and the work we have been able to do together. It is clear we can't pass this bill with 77 amendments.

Mr. LEAHY. Mr. President, the Senate is not in order, and the Senator from Utah is going to be heard, especially if he is going to be praising me. I want him to be heard.

The PRESIDING OFFICER (Mr. BROWNBACK). We will please have order in the body.

The Senator from Utah.

Mr. HATCH. We clearly can't pass this bill if we have to have 73 amendments. There is just no way we have time in this legislative session to do it. This bill has virtually everything in it to help us to resolve these problems. We all have pet projects in the amendments that we bring up. It is time to start restraining ourselves and quit delaying this particular bill.

I am getting to the point—we are not there yet, but we are getting to the point where I am going to start moving to table every doggone amendment that will come up. I am going to table them right off the bat, because I think we have gone way too far here. If we had a big partisan thing here where your side or our side was being mistreated, that is another matter, but this has been very fairly conducted, and everybody knows it.

I think it is time to get serious about solving these juvenile justice problems in our society. This bill has been improved to a large degree. Some of us believe it has been hurt a little bit, but that is the process. Now it is time to sit down and get this done.

Look, we have the Hatch-Craig amendment. Admittedly, our side has had more time on that amendment.

I would like to get a time agreement. The minority has had that amendment for well over 2½ hours, maybe 3½ hours. I can't remember, but it has been a long time. We have had major, major amendments from them. But we have taken one-half hour to get it prepared. It is time to argue it. It is time to get it over with. We are willing to grant most of the time to the distinguished Senator from New Jersey, or others on the minority side. But I would suggest we set a time to vote on this amendment. I would like to get that over with, because I believe this is an amendment that virtually everybody in this body ought to support, because we have made real efforts to try to accommodate people on both sides of the floor. And we have incorporated Democrat ideas in this amendment as well. We have done it to try to bring this matter to an effective and decent conclusion.

I know this: The majority leader means it. We are going to be in here all week, and it is just ridiculous to do that, especially when we have come this far and we have had this kind of an open debate. We have debated some of the more controversial and difficult issues, and both sides have been given every chance to speak on it.

I suggest we come to a time agreement that gives most of the time to the distinguished Senator from New Jersey and those who are on the minority side who deserve a right to debate this amendment. We are willing to go ahead and do that.

I just would like to get a time limit on it and then move on from there, and move to the similar amendment, which we would get a time agreement on.

Mr. LAUTENBERG. Mr. President, if the manager will yield.

Mr. HATCH. I yield for a question only.

Mr. LAUTENBERG. Mr. President, this is a fairly complicated change, as I see it, from the original Lautenberg amendment. But certainly it has to be considered, in all due respect to the Senator from Utah. I know how hard he worked and how serious he is about it. We have great respect and friendship. But I wonder, because we are not able to reach an immediate time agreement, whether or not we could put it aside so that we can discuss our differences and see if we can come any closer together to try to resolve it. I, too, like everyone else, wish to see this bill moved, but I think we have not had enough time to really debate it.

Mr. HATCH. If I could respond to the Senator, we have people on our side who are going to move to table this amendment. I would like to avoid that by having a reasonable time for the Senator from New Jersey to argue this amendment. There is nothing complicated about it. We explained it in detail. It is easy to understand. Frankly, there is not one thing in here that is new and that can't be understood readily.

I would be happy to sit down with the Senator and go over the detail of this amendment. I think he would be pleased with most all of it. But I would like to avoid a motion to table. I would like the Senator to have time to debate this amendment. But the way things are going, he is going to be cut off on his time. I don't want to have that happen, nor do I want this to evolve into a situation—we have been trying to be cooperative and trying to make this thing work. And it is apparent some people around here are trying to delay it.

I am not accusing the distinguished Senator from New Jersey, but I believe

we could get this bill finished tonight if we would sit down and get it finished. I don't see any reason we shouldn't. The sooner we get it finished, the sooner the kids in our society are going to understand what the game is and that we are going to stop some of this violent juvenile crime in this country. We are giving the tools to law enforcement to be able to do it. We have $50 million in here for additional juvenile prosecutors, just to name one thing out of that $1.1 billion in this bill. I would like to get a time limit. I am willing to give the Senator all of the time, but let's get a time limit on this and go from here.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. HATCH. I am glad to yield to my friend.

Mr. LEAHY. Mr. President, let's be realistic.

First, I yield to nobody in this body in my support of good strict law enforcement. I would like to see this bill wrapped up and voted up or voted down. There are different suggestions I made to the distinguished Senator from Utah that might do that. But what I would suggest is that we be serious on this. Unfortunately, on something that should be a nonpartisan issue—juvenile crime—there are some things that have delayed us unnecessarily.

Wednesday, Senate Republicans voted against a Democratic package, and then today voted for the exact same thing when it was introduced on the other side.

For example, the Leahy amendment, which proposed stiffer penalties for the transfers to or possession of handguns and assault weapons, or high-capacity ammunition clips to juveniles, was voted down by the Republicans yesterday, and voted up by the Republicans today.

Moreover, the Leahy amendment also proposed the ban of juvenile possession of handguns, assault weapons and high-capacity ammunition clips, which was again voted down by the Republicans yesterday, and voted up by the Republicans today.

Mr. HATCH. Will the Senator yield on that point? The reason is it was part of an overall package that the Republicans couldn't accept. So we can certainly accommodate.

Mr. LEAHY. Almost everything that was in that Leahy package is now being proposed on the Republican side. The $50 million for more vigorous enforcement of gun laws, ''juvenile Brady,'' the lifetime ban on gun ownership by dangerous juvenile offenders, the youth crime gun initiative on gun tracing, increased number of cities eligible for grants under the YCG–II. All the Democratic proposals of yesterday are now in the Hatch-Craig amendment of today.

Mr. HATCH. Will the Senator yield?

Mr. LEAHY. Let me finish that one sentence, if I might. And I mention this one. I am pleased that when you voted it down yesterday that you are willing to vote it up today when you bring it up. That is OK. I will support a number of those things that come back. But that is what we have to avoid.

I think, frankly, one way out of this—I just suggest it and I have suggested it to others—is that we debate the Craig-Hatch amendment, and the amendment of the distinguished Senator from New York, Mr. SCHUMER is going to have—we debate those as the Members want, set that vote for an early hour tomorrow morning, and when that debate is finished, let the Senator from Utah and the Senator from Vermont stay here and try to get through as many amendments either on the Republican or on the Democratic side that can be handled by voice vote, even if we have to stay here all night long to do that, so we then have a very clear shot of finishing.

It is one suggestion.

Mr. HATCH. If the Senator will yield.

Mr. LEAHY. Of course, I yield.

Mr. HATCH. First of all, those suggestions you had were in the $1.4 billion comprehensive amendment you made that had less than 9 percent for accountability. We have 45 percent on this bill on the money for accountability and 55 percent for prevention.

I said at the time, many of those amendments we could accept and that we would present them later, which is what we have done. We have tried to do it in a reasonable, short period of time. It is to the Senator's credit that we all agree on those particular amendments.

What I would like to do is finish the Hatch-Craig amendment. Assuming we do need a little bit more time on that, I suggest we set that aside so the Senator can have a little bit more time, and go to the Schumer amendment, which I believe we can do in 30 minutes equally divided.

Mr. SCHUMER. Or more.

Mr. HATCH. We will try for 30 minutes. If we need more, we will certainly give it every consideration.

Mr. SCHUMER. Will the Senator yield?

Mr. HATCH. I am happy to yield to the Senator.

Mr. SCHUMER. Just a couple of points here.

Mr. MCCAIN. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Thirty minutes equally divided on Schumer, and then we can be back with a time agreement on——

Mr. SCHUMER. Will the Senator yield?

Mr. HATCH. Of course.

Mr. SCHUMER. First of all, two questions. One, the Hatch-Craig amendment is a major overhaul of the way we license gun dealers in this country. The provision of special registrants, which is brand-new, could create——

Mr. HATCH. That was in the underlying amendment. Hatch-Craig basically does the four things I discussed, and that is not a major——

Mr. SCHUMER. We did not have any opportunity to address this special registrants issue. As I understand it, Hatch-Craig elaborates on the reporting requirements of special registrants and other important things. Let me say to my good friend from Utah, it is a major new way of dealing with firearm licenses.

I understand the urgency that my friend from Utah places on the $50 million for more juvenile prosecutors. It is something I share, because lives might be saved.

How can we rush through a whole new way of dealing with firearm dealers, something that we first saw at 3:30, something we are vetting? That is my concern. We could rush it through and find that this type of provision has totally changed things.

For instance, as I understand it——and I want to know about it before giving any permission for time limits——these special registrants don't have to keep any records. Someone could go to a gun show, be a special registrant, sell a gun, and there would be no way to see to whom they sold the gun, why, and where.

That, to me, is extremely serious. I don't think it is fair, given that this is a major change, admittedly, to a gun show provision. I want to move this bill, but I would like to know more about that.

Mr. HATCH. Yesterday, the Senator voted for the special registrant.

Mr. SCHUMER. I voted against it.

Mr. HATCH. You voted aye. We would like to make it mandatory, which we think corrects the problem.

I worked hard to get that done and to resolve that because there was such a conflict between both sides.

Mr. SCHUMER. Will the Senator yield?

Let's rehearse the history. The Craig amendment was added at the last minute. I asked the Senator from Idaho whether it had these provisions in it. He said no. He said I didn't understand the amendment.

It was then voted on with the feeling by many Members, if not most, that those provisions weren't in the bill.

Then this morning we hear—in all consideration, the Senator from Idaho was very gentlemanly, saying he was wrong—those new provisions were in the bill.

So we have never had a serious debate on one of the most fundamental changes in the way we sell guns in this country.

Mr. HATCH. Will the Senator yield?

I am prepared to do that. We argued it on our side. What I am suggesting is that your side has had this amendment now for a lot longer than we have had any amendment of yours and some of your amendments were much more extensive than this.

I suggest we set aside the Hatch-Craig amendment, move to your amendment at this time, with 30 minutes equally divided, and then agree to

a time agreement as soon as we are through with yours.

We can stack the votes. That would be fine with me.

Mr. SCHUMER. I say to the Senator, I have no problems with moving——

Mr. HATCH. Then why don't we do that?

Mr. SCHUMER. Again, I think it is significant. We ought to move. Would we vote on it immediately after the debate?

Mr. HATCH. Let's make that determination then.

Mr. SCHUMER. I would like to get a commitment that we would have a vote immediately after the debate on the Schumer amendment, and then I would like to take a little more time on it.

Mr. HATCH. Mr. President, let me suggest to the Senator we work with the Senator on when the vote should take place. We are talking about protecting some Senators, we are talking about——

Mr. SCHUMER. In all due respect, I cannot set a time limit until I have some assurance as to when we would vote on that amendment.

Mr. HATCH. I will move to table everything that comes up. I am getting sick of it. If we can't get some reasonable time agreements, which we have done time after time after time, this could go into the quagmire that defeats the bill. I am not going to put up with that kind of stuff, after what we have done here for 3 days in a row on a bill that everybody should want.

Look, I am trying to be reasonable. If the Senator insists on having votes when the Senator wants the vote, and I am trying to protect Democrat Senators, I think that is the wrong thing to do. I am prepared to table everything that comes up. I don't care. I will table Republican amendments, too, if that is what it takes. I will be fair to both sides; I will table everything.

Mr. SCHUMER. If the Senator will yield, I am not trying to delay, but I think we should have a vote.

Mr. HATCH. That is what it looks like to me.

Mr. SCHUMER. I spent a lot of time on this amendment. It is a significant vote.

Mr. HATCH. Then give me a vote on my amendment. Go to my amendment. I will give you all the time on your side. We have debated it. We won't even make a point on our side. We will give you the time and vote on mine, bring yours up and vote on yours; or we will stack them together to accommodate Senators here, some of whom are Democrats.

Mr. SCHUMER. The Senator made a proposal to me on my amendment. I think it involves discussion with some of my colleagues. If the Senator would yield on the whole package——

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. I yield the floor.

Mr. MCCAIN. Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 344.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii, (Mr. INOUYE), the Senator from Wisconsin, (Mr. KOHL), and the Senator from New York, (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York, (Mr. MOYNIHAN) would vote ''no.''

The result was announced—yeas 3, nays 94, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—3

Enzi	Inhofe	Smith (NH)

NAYS—94

Abraham	Edwards	Mack
Akaka	Feingold	McCain
Allard	Feinstein	McConnell
Ashcroft	Fitzgerald	Mikulski
Baucus	Frist	Murkowski
Bayh	Gorton	Murray
Bennett	Graham	Nickles
Biden	Gramm	Reed
Bingaman	Grams	Reid
Bond	Grassley	Robb
Boxer	Gregg	Roberts
Breaux	Hagel	Rockefeller
Brownback	Harkin	Roth
Bryan	Hatch	Santorum
Bunning	Helms	Sarbanes
Burns	Hollings	Schumer
Byrd	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerrey	Stevens
Conrad	Kerry	Thomas
Coverdell	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Lautenberg	Torricelli
Daschle	Leahy	Voinovich
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden
Dorgan	Lott	
Durbin	Lugar	

NOT VOTING—3

Inouye	Kohl	Moynihan

The motion was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HUTCHINSON). The question is on agreeing to the amendment.

Mr. LEAHY. Mr. President, the question is on which amendment? Is it the Hatch-Craig amendment?

The PRESIDING OFFICER. Yes.

Mr. LEAHY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. LOTT. Mr. President, if I could say this so Members will understand how we are going to proceed and how we are going to deal with this issue and others, I regret that we have had that much time on this vote. We had been trying to work out some way to make progress on this bill tonight and, hopefully, even get some amendments done tonight or complete it. At this point, it is obvious we are not getting enough movement to achieve that tonight. I know there are a lot of Senators who have commitments tomorrow and hoped we could complete it tonight. At this juncture, sufficient progress is not being made and it is unrealistic to attempt that.

I have a unanimous consent request to deal with two of the amendments that are in line now, and we would have the two votes in the morning at 9:30. After that, during the process of the night, hopefully more amendments can be accepted, combined, or even worked out, where we could have more than just the two votes in the morning, or the next couple of amendments would be in order.

What I am saying here is, with this consent request, we would expect two votes at 9:30 a.m., and we would expect to keep going, and we will see where we are in the morning. Something short of that has not been achievable at this point.

Mr. President, I ask unanimous consent that with respect to amendment No. 344—that is the Hatch-Craig amendment—debate be limited to 2 hours equally divided in the usual form with no amendments in order to the amendment prior to the vote, and following that debate the amendment be laid aside.

I ask consent that Senator SCHUMER be recognized to offer an amendment regarding Internet firearms, and that the debate be limited to 1 hour, that following that debate the amendment be laid aside and the Senate proceed to a vote in the order in which the amendments were offered, with 5 minutes prior to each vote for explanation.

So we will come in at 9:30, have 5 minutes of explanation on the amendments, equally divided, and the votes will begin at 9:40 a.m. Friday.

Mr. DASCHLE. Reserving the right to object, and I will not because I think this is a very good proposal, I wish we could actually be asking for more than this. I appreciate the managers' efforts to get us to this point. As I have noted to the majority leader, we started with 89 amendments and we went down from there to about 40 amendments. I thank Senators REID and DORGAN on our side. We are now down to around 20 amendments. But those 20 are amendments where the authors have waited patiently for the opportunity to present them and have a debate. I hope they will do it tonight and tomorrow, and I hope we can do it on Monday. I believe we ought to use those days to have the remaining debate about these amendments. They are good amendments and they ought to be voted on. Senators have waited patiently.

We also have a right to expect Senators to come forward and present their amendments in good faith and have debate. We are going to be here

tomorrow, I assume, and I hope we will continue to conduct ourselves the way we have all week. This has been a good debate. We have had about the same number of amendments on both sides, Republican and Democrat. We have had good votes. Nobody has been playing political games here. We offer the amendments and have the debate in good faith. I hope we can continue to do that. I have no objection to the unanimous consent request.

Mr. REID. Mr. President, reserving the right to object, I say to the two leaders that Senator DORGAN and I have worked very hard. As a suggestion, I think we are to a point on this side where we can lock in the full breadth of all the amendments in numbers and probably, with rare exception, as to time. So that is something the two leaders should look at tomorrow morning.

Mr. LOTT. Mr. President, if I could respond, I encourage Senator REID to continue that effort, and I ask Senators HATCH and NICKLES, who will work with him on that, to continue. I urge the managers, Senator LEAHY and Senator HATCH, during the debate tonight, to sit down and see if we can't squeeze this down. Some of you are thinking that if we just stay with it and keep working tonight, we might actually see this thing concluded at 11, 12, 1, or 2. We have been thinking in those terms, but we have not been able to get an agreement beyond what we have right here. It is going to take, apparently, 3 hours of debate to get through these two amendments, which will put us to 10:15 or 10:30. At that point, it would be physically impossible to complete this action.

So I hope we can complete it tonight, but I think there is no choice other than to be in session on Friday and have votes, which we have told the Members we would do up until at least noon on Friday. In this case, it could actually go beyond noon. The good news is, as we announced some time ago, there will not be recorded votes next Monday or Friday because of conflicts which we identified to the Members 2 months ago. But that also makes it difficult for us to do the other things we have to do next week, including the supplemental appropriations, Y2K liability, and bankruptcy reform. We must conclude this bill either tomorrow or Saturday or sometime before we have to go to these other bills.

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object, as the leader knows, this is a resolution which I and others had suggested earlier this evening. The leaders know that the Senator from Utah and I have talked probably a dozen times every hour on this, trying to get it through. I have worked with the leadership staff and the whip on this side, our leader, and others, as Senator HATCH has with those on the Republican side, trying to get these numbers down. I tell my friend from Mississippi that we have knocked down the numbers considerably. The Senator from Utah and I will be here this evening to try to get it down more. It is a difficult bill. The last crime bill took 11 days. We have a number of things on which we are unified, and we have some things that are going to require votes because they do divide us. But with good faith it can be done and should be done.

I support the unanimous consent request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I wasn't going to say anything—reserving the right to object, and I will not, but listening to this discussion, can I reinforce—I as one Senator don't want to delay tonight and going into tomorrow, but can I reinforce the remarks of Senator DASCHLE?

Some of us have amendments that are on point on this piece of legislation. We have patiently waited for days and were glad to do so. We don't intend to trivialize our amendments. We don't intend to trivialize the debate. We think these are important issues. That is why we are in the Senate, and we intend to go forward.

I will tell you something else. It probably will be hard in the future to get cooperation from Senators who wait, and all of a sudden we find the debate relegated to midnight and on weekends with most Senators gone. That doesn't seem really acceptable to me.

We will see what we agree to tomorrow. But I want to express my reservations about the direction of this. There is a whole lot of substantive debate that needs to take place, that hasn't taken place, and will take place.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah.

Mr. HATCH. Mr. President, one reason I wanted the Hatch-Craig amendment voted on this evening is because all day long the President has been bad-mouthing the Republicans and the Attorney General has been bad-mouthing the Republicans, and I think taking unfair political advantage because of some of the votes we had yesterday. One of the things they are bad-mouthing the Republicans on is because we have closed that loophole with regard to gun shows. Today, the Hatch-Craig amendment does it. Then we find ourselves unable to vote on it.

I am happy we are going to vote in the morning, but I suggest we move on ahead this evening. We have the unanimous consent agreement locked in. I suggest we line up some more votes for tomorrow right after we finish those two votes.

If Senator WELLSTONE has an amendment he would like to bring up tonight, let's do it, and we will see what we can do. We will try to alternate between the two sides.

If you are serious about your amendments, let's go at it tonight. We have about 3 hours of debate ahead of us right now. We will go from there.

I ask unanimous consent that Senator MCCONNELL be the next one to lay his amendment down, following the debate on these two, and then—could I have the minority leader's attention, and also Senator LEAHY?

I ask unanimous consent that we go with the McConnell amendment right after we debate the two that we have the unanimous consent agreement on.

Mr. LEAHY. I want to make sure I understand. What is the Senator from Utah requesting?

Mr. HATCH. We have a unanimous consent to proceed to the debate on these two amendments tonight. As soon as that is completed, I suggest Senator MCCONNELL be able to lay down his amendment, and we debate that tonight and schedule that for a vote tomorrow.

Mr. LEAHY. For how long?

Mr. HATCH. I think we can do that in a half hour or less; I ask unanimous consent.

Mr. LEAHY. Why don't we start this debate, and we can interrupt the debate to make that request. Let me see what the amendment is.

Mr. HATCH. All right. Let's just proceed.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would like to urge the two managers, if you would tonight, to work to get a McConnell and a Kohl—or what other amendments are in order—get those two locked in, and a vote, and do it tonight. The Members would like to know what the timeframe is going to be tomorrow morning. If you could get that locked in tonight during the process of the debate, that will help facilitate moving forward.

Having said that, then, we have had the last vote of the night. The next votes will be the two votes stacked in the morning at 9:40.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The time is under the control of the Senator from Utah and the Senator from Vermont.

Who yields time?

Several Senators addressed the Chair.

Mr. KENNEDY. Will the Senator from Utah yield? Are we under controlled time?

The PRESIDING OFFICER. We are under 2 hours of debate.

Mr. KENNEDY. On which amendment?

The PRESIDING OFFICER. Amendment No. 344.

Mr. KENNEDY. That is fine. I had indicated to the floor manager that after the disposition or the general debate, I would wish to address the Senate on the underlying bill. I am glad to yield an hour, or do it tomorrow afternoon. I am glad to do whatever.

Mr. HATCH. How much time does the Senator desire?

Mr. KENNEDY. I would say 15 minutes. If other Senators have amendments and want to debate them, I will wait until they conclude that. If I can just have the assurance that I do it at the end of the debate on amendments tomorrow, that is fine with me.

Mr. HATCH. That is fine with me.

Mr. KENNEDY. I thank the Senator.

Mr. LEAHY. Mr. President, I yield the time under my control to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from Vermont.

Mr. President, just to put some order to the debate, to confirm that there is an hour available on each side, I ask what happens in the event of a quorum call in the debate?

The PRESIDING OFFICER. A quorum call is charged to the side that suggests the quorum call. If no one speaks, the time is charged.

Mr. LAUTENBERG. Thank you, Mr. President.

Mr. President, if we could have order, we can get this debate started.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. LAUTENBERG. Mr. President, I heard the distinguished Senator from Utah say that the loopholes have been closed in what was initially the Lautenberg amendment request to close the loopholes and now the redesign of the Craig-Hatch response. It says that they closed the loopholes, that they have taken care of the problem.

I submit the problems are not taken care of. Maybe it is viewed by those who would like to just get this out of the way that the problems have been dealt with.

What were the problems initially? Mr. President, the problem was simply around whether or not there were loopholes through which lots of determinations would be made as to who is the purchaser of a gun.

The Senator from Idaho has said his revised amendment is going to close the gun show loophole. But it won't. And I think what we are seeing this evening is a response to what happened yesterday after the public had the chance to see the result of the vote count. It was 51 to 47 against closing the loopholes that derive from gun shows. We had a strong debate. There were six Republicans who joined in with all but two Democrats to say close the loopholes. We don't want people to be able to buy guns. We don't want people to be able to be induced by a so-called dealer at a gun show.

Over 4,000 gun shows a year are held, by the way. We don't want a dealer selling guns, someone selling guns who doesn't ask for your name, doesn't have to ask for your name, doesn't have to ask for your address, doesn't have to talk about anything that identifies this buyer. We are talking about buyers anonymous. That is what we are talking about—gun buyers anonymous. That is a pretty horrible specter to contemplate—gun buyers anonymous.

Mr. President, I want to make sure everyone understands what is happening here.

Yesterday, we had a vote that was defeated on an amendment that I wrote, a vote of 51–47. The 47 votes included all but two Democrats and did include six Republicans.

The fact of the matter is, when all was said and done, not enough was done because we lost the opportunity to close a loophole that applies especially to gun shows.

Let me take a moment to describe what a gun show is for those who don't know. It is fairly popular across this country. The President, in an address he made a couple of weeks ago, talked about how as a child he would go to gun shows. It was a family event. People would go to see what was being offered. They were curious.

I want to remove any suggestion, innuendo, or insinuation that says that gun shows are the gathering place for the degenerates, the thugs, the criminals. That is not suggested at all.

There are over 4,000 gun shows a year across this country. That is pretty significant. That is 80 a week, on average. There are lots of legitimate hunters, sports persons, et cetera, who go to these shows.

There is, however, an enormous loophole that should scare the life out of everybody in this country. That is the anonymous buyer, the buyer who can go in, step up to an exhibitor's table and say: I want to buy some guns.

The person on the other side of the table says: How many?

Give me 25. What do you have? Some nice sporting models, small ones with a comfortable pistol grip, those that we can trigger off a lot of shells? Because I like to do some target shooting.

The seller doesn't have to say: Who are you? All he has to say is: These 25 guns will cost you $2,500. The man says: OK, here are 25 fresh, hundred dollar bills, take these.

They shake hands. The guy gathers up his 25 guns and off he goes, we know not where. We don't know who he is; we don't know what town he comes from; we don't know whether he just got out of a mental institution or, worse, a prison. We do not know anything about this man. Why in the world would there be resistance to closing that loophole? I do not understand it, I must tell you.

I come from New Jersey. Maybe we do have different cultural views about how life functions. We do not have much room for hunting and we do not have as many hunters as in our great wide open Western States. But all of us—whether from the East, West, North, South—respect life. I never saw a family whose principal interest was not the safety of their children, the education of their children, the caring for those children. Yet they are willing, in this house of the people, the U.S. Senate, to say: Listen, one thing you have to do is you have to protect citizens' rights to buy guns. Why do we need more bureaucratic interference with that process?

I don't understand, says one. Another says: Why should you have to wait a couple of days to get a gun? If you want to buy a gun, you ought to be able to buy it like a postage stamp—go to the store and buy it and get out of here.

Frankly, I think that is the wrong way to go. I am smart enough to know we are not about to propose legislation to take away everybody's gun. There is a serious debate about how guns should be managed. I think it is an earnest debate that ought to be carried on here. But to simply dismiss it because they say it is a bureaucratic intrusion, it is yet another law? I remind everybody that America, this country of ours, is a nation of laws. That is what makes this society as great as it is. When you have laws, you have to have law enforcers, whether it is police, whether it is drug agents, whether it is the FBI, whether it is the Army; we enforce our laws. To deny that is something that ought to be done because we want to protect the anonymous buyer who walks up and says, ''Give me a couple of guns, here is the money'' and not think about protecting the well-being of the children is not to look at Littleton, CO.

By the way, that is not a phenomenon that just existed there —Pearl, MS; West Paducah, KY; Oregon; Illinois. It has been throughout our society. School violence—we all tremble at the thought that our children are in a classroom where other kids have a gun, where other students are bent on violence, where they may be deranged, on drugs, psychotic. We all worry about that. I saw one of the parents from Columbine High School who said: This gun-toting society of ours is out of control. The worst thing is the accessibility of guns.

We get into a perennial argument here about whether or not it is the gun or the person who does the killing. It is not just criminals, unfortunately, who do the killing—until sometimes they become criminals for the first time—an enraged husband; a mentally deranged person, young, old, who suddenly, in a fitful moment, takes out a gun and commits his or her first crime with the murder of another person.

So what are we talking about? Frankly, I think at times we are talking gibberish, because the American public will not understand it. In a recent poll, 87 percent said it is necessary to close the loophole of anonymous buying at gun shows. That is what we are talking about. We failed to agree to that yesterday. Honestly, it was a very sorry defeat for us. Not for me personally—the fact that I authored the law. I authored the law with people's faces in mind, with an understanding about how much I love my children, four of

them, and my six grandchildren. Heaven forbid anything ever happens to them.

I know there is not a parent who can hear me who does not feel the same way about his or her children. There is no asset more valuable than our children—money, jewelry, houses—nothing means anything when it comes to our children.

Why do we insist that the buyer, the anonymous buyer of a gun, has to have protected his right or her right to be free from this bureaucratic society, this great country that everybody loves? Everybody wants to move to America, but we call it the great bureaucracy at times, instead of the great democracy. It is foul language, as far as I am concerned.

So we are offered a substitute. It is a substitute produced by two distinguished Senators, one from Utah and one from Idaho, who say they are going to close the loophole. But it does not. It does not require a background check for all gun sales at gun shows. Some licensees, Federal licensees, on a special form, do not require a background check. The provision for people who are not licensed would enable them to sell guns without, again, going through a background check.

There is another loophole. There is a category now called ''special licensees,'' that the Hatch-Craig amendment would create—a new bureaucracy, by the way, strangely enough. They are willing to concede a bureaucracy that would issue these special licenses is OK. But other bureaucracies are dangerous, dangerous to your individual rights. They would not have to conduct background checks. He did not change his original position, which makes background checks voluntary for special licensees. So, if you want to sell a gun and you are a special licensee, you can do it if you feel like it. But you do not do it unless you feel like it. You do not have to go through that nonsense—background check. It could take 10 minutes for a background check. Who wants to waste 10 minutes when you have a hot deal and you have other people there?

What happens at the gun shows, as I understand it—and I have never been, but this is as I hear it—is that there are often discounts by these unlicensed dealers who have acquired their guns—who knows how in many cases. They could say: We are special collectors. It has been established some of these collections are from criminals. Special collector? Hey, we will give you a cheap deal on these guns. Where a legitimate licensed dealer has a price, it is out there, it is public. They do have some expenses in maintaining their license—not a lot, but the unlicensed dealer: Here, I'll give you a real discount. Come here young man. You want to buy some nice guns?

It ought not be that way. These loopholes are still available.

It would not cover a flea market where there are tables with 100 or 200 or even more guns. It would not cover a gun show that had 10 exhibitors or fewer. Ten exhibitors could sell 500 guns, but they would not be covered. That is, if you will forgive me, a nonsensical hurdle. A couple of people could get together and say: You know what, let's put up one table. I have some of these to sell, she has some of those to sell, he has some of these to sell, and we will sell at one table, and that gets rid of two others, and we can reduce ourselves to 10 tables. Then we do not have to worry about those bureaucrats who want our names. Who are they? Imagine, those guys want our names, while we buy these lethal weapons.

Then there is another category. It says that if firearm exhibitors are not more than 20 percent of all exhibitors, they are exempt as well. So you have to have more than 20 percent of the materials being exhibited—it could be sporting materials, could be lifeboats, could be all kinds of things, skis, you name it—but if the firearms people do not have more than 20 percent, they do not have to do anything to get these people registered who are buying these guns.

It creates other loopholes. Even though prohibited persons are five times more likely to pawn their guns at a pawnshop than other citizens, this proposal from that side, those who say they are closing the loopholes, would say that anyone who has a claim ticket—whether they borrowed the money, they borrowed $200 for the gun—if they have the claim ticket, even if they do not show up for 60 days, if they pay the interest, they say the pawnshop dealer/owner has to just give them their gun without any questions—no questions asked.

This bird may have been in jail for 60 days, but they are not allowed to ask: Where have you been for the last 60 or 90 days?

Oh, no, that is a bureaucratic imposition; we do not want that. Another loophole. I do not, frankly, understand that.

Why are we protecting those who might be criminals who want to redeem their guns when the ordinary citizen who goes to buy a gun from a legitimate licensed dealer has to identify himself and undergo a background check?

There have been so many suggestions that the people who man this agency, the Bureau of Alcohol, Tobacco, and Firearms, are some kind of ogres, they are out to rob you of your independence, rob you of your thought. That is not true. They are there because we want them there to enforce the law.

The right to own a gun is one that is often debated, but so far I have not seen anything that confirms the fact that every citizen has a right to bear arms. We are not considering that question now, but the Court has ruled many times since 1939 that in order to have a well-regulated militia, the citizenry shall have the right to bear arms. That is quite a qualification.

In addition to the pawnshop loophole, there is another loophole, and that is, now suddenly federally licensed gun dealers who may be in the State of Massachusetts or the State of New Jersey or the State of Illinois—you name it—now can only sell firearms at a gun show in the same State as that specified on the dealer's license. The Craig amendment will give dealers an out-of-State license. It will broaden the geography of where that license can be used to all across the country without any checking. Without any further discussion, that license now is a lot broader than what was intended.

That is not closing a loophole to me; It is creating another one. It will make it harder for law enforcement people to crack down on shady dealers, and we do have some.

Years ago, there were more gun dealers than there were gas stations in this country. Not too many years ago, there were over 250,000; now it is slightly over 100,000. What we did was change the fee for licensed gun dealers from $30 for 3 years—$30 for 3 years, $10 a year and you never were checked or asked any questions—to $200 for 3 years, and that includes some kind of a check and some kind of a test you must pass in order to get that license. While we have reduced the number of dealers, the Craig amendment will open it up.

Everyone knows what the NRA response is going to be. That is the National Rifle Association. Their views were represented amply on the floor of the Senate. They say gun laws do not work; otherwise we would not have the kinds of killings that we do.

I do not think it is the gun law. I think it is the accessibility of guns. But I do point out that the number of murders by guns have reduced somewhat, not significantly enough, but they have been reduced. This country of ours, this wonderful democracy in which we live, sees 35,000 people a year die from handguns—35,000; 13,000 of them are murdered. Thirteen kids die every day from handguns, 4,000 a year. In 20 years, over 75,000 children will have died from gunshots. We have 18,000 suicides. We have 3,000 accidents from guns—guns, guns, guns, guns, guns, and people are dying from them.

Yet, I hear this cry through this place: Protect the liberty of the gun owner. I want to hear them say one time: My God, we are sorry about what happened in Littleton, CO. Our hearts bleed for them. When we look at the families, when we look at the children who lost their schoolmates, when we look at those who were so frightened, we have to ask: What kind of protection are they entitled to? I think they are entitled to a lot of protection, but we continue here with loophole heaven.

I thought that Littleton would shock some of our friends into the realization that the public is sick and tired of it. They do not want it, and I do not understand why it is that the NRA insists that this is an encroachment on their

freedom just to say: Put your name down if you want to buy a gun. If you want to buy a car, you better put your name down or you are not going to buy the car.

Yet, that rage, that sense of grief, that sense of anguish has not yet reached this place. Mr. President, 87 percent of the people in America in a poll said they want these loopholes closed. We lost that vote yesterday, and now they come back with this wolf in sheep's clothing wanting to pretend that the loopholes are closed. But they are not.

I hope we will be able to get some control of gun violence in our society. There are a couple of ways we can do it: make parents responsible for what their kids do. If you give your child who is underage a car and he or she goes out and kills somebody, do you know who is responsible? It is the parent. Why then shouldn't a parent be responsible when a child takes a gun and kills his brother or his sister or his friend accidentally? We ought to get ahold of these things. This is an opportunity to show good faith to the American people, but we failed to take advantage of that opportunity to close it down. This will not take away their guns, except those we know do not qualify.

We hear complaints about the Brady bill. The Brady bill stopped over 250,000 unfit persons from fulfilling their desire to buy a gun—250,000. That is a lot to me.

I see my friend and colleague from Illinois is on the floor. If he wants to make some remarks, I will be happy to yield 10 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from New Jersey.

To recount where we are in this arduous debate over gun control in light of the Littleton tragedy, yesterday my colleague from the State of New Jersey, Mr. LAUTENBERG, offered a very clear amendment that said: If you want to purchase a gun at a gun show, you are going to be held to the same standards as a person who buys it from a licensed firearms dealer.

In other words, we will do a background check and make sure that you are not a prohibited person under the law, make certain you do not have a criminal record, a history of violent mental illness or something of that nature.

It was a very good amendment, and I commend my colleague from New Jersey for his leadership. He envisioned this problem long before many of us did and, frankly, put before us a very straightforward option. I was happy to support him.

Unfortunately, it did not receive a majority of support in the Senate. The sad reality is that 6 of the 55 Republican Senators voted for it and 41 of the 45 Democratic Senators voted for it—2 were absent—and it was not enough, so the Lautenberg amendment went down in defeat.

That was a bitter disappointment. But even worse was the fact there was an amendment offered by the Senator from Idaho, Mr. CRAIG, which he purported to offer as an alternative to Senator LAUTENBERG's amendment.

Let me tell you what has happened in the 24 hours since the Senate adopted that amendment. People have seen through it. It is transparent. It not only did not deal with the problem of gun shows and stopping the sale of guns to people who should not own them, it took a step backwards and made it easier for those sales to be made.

So there has been a mad scramble in the last 48 hours from the other side of the aisle. Once the public had an opportunity to look at this Craig amendment, there has been a mad scramble to undo what the Craig amendment sought to accomplish.

The NRA, the National Rifle Association, shot the Republican Senate leadership in the foot yesterday, and they have been hopping around all day today trying to figure out how they are going to salvage this mess. So they have come up with another amendment. It is unclear to me what they are thinking about, because they took a bad amendment, the Craig amendment, and added another bad amendment to it.

In this case, two wrongs will not make a right. What we have now in this so-called Hatch-Craig amendment is an abomination. It doesn't address the gun show problem. Senator LAUTENBERG did that clearly.

Let me tell you how bad this bill is, this Hatch-Craig second bill. This is Senator CRAIG's Thursday bill.

This bill, sadly, sets up at least two, maybe three different categories under the law for sales at gun shows. In his original bill, he had some special licensee category, voluntary category, that you could sell a gun at a gun show under that category. No background check was necessary; it was not necessary, of course, to send the name and address and gun serial number into any group that might check to see if it had any criminal history, if that weapon might have been used in a crime to kill someone or in a drug deal that went bad. No.

Then he came back today, and in this amendment they have created some more categories of how to sell guns at gun shows and they are just as difficult to follow.

One says, licensed gun dealers at gun shows can sell a gun. I do not have a problem with that. That is what we are seeking here. That is what Senator LAUTENBERG is seeking here, so that the background check is accomplished.

Then they had a provision in there that violates the Brady law we have lived under for so many years. Instead of giving law enforcement 3 days to check on the background of a would-be purchaser at a gun show, they give them 24 hours. And if they don't get the completed inquiry back in 24 hours, they sell the gun. The presumption is on the side of the purchaser. We are saying to those in law enforcement: Take a back seat. We want to keep these guns moving. This is big business.

Is that really what America wants? I do not think so.

So we have these categories of who can sell guns at gun shows. It is a labored attempt by the National Rifle Association to accomplish nothing—nothing—other than to take away from law enforcement their authority to do what American people ask for under the Brady law.

In this country what they said under the Brady law is, do not sell a gun to someone who has a history of having committed a felony or has a violent mental illness. The NRA has never liked that. They have tried to keep this gun show loophole alive. And they do it with this latest Republican amendment.

What a sad, sad situation, where those with serious mental illness, fugitives, stalkers, straw purchasers can still run to these gun shows, and under this Hatch-Craig amendment they can find a way to get their hands on the guns. Is it a problem? There are 4,000 gun shows a year across America. They are in my home State of Illinois, and over 200 in the year 1998.

When they had an investigation into these gun shows to find out who they were selling guns to without background checks, they found out it included a lot of felons prohibited from acquiring firearms who have been able to buy them at gun shows.

In fact, the Department of Treasury and the Department of Justice found that felons buying or selling firearms were involved in more than 46 percent of the investigations involving gun shows. This is a loophole that is producing guns right and left.

We are still trying to trace the guns used by those two kids in Littleton, CO. At least three, if not all four of them, came out of gun shows. Is it important that we know how they were bought or sold? Of course it is. You go to any police department in America—start with Chicago; pick your hometown—and ask them whether tracing a firearm is an important part of a criminal investigation. They will tell you it is critical. Where did that gun come from? Who sold it to them?

Let's try to establish a chain of purchase here and get down to the root cause of crime in America. The National Rifle Association talks about the second amendment and what they want to protect. And yet they come in with this amendment which literally takes away the power of law enforcement to try to enforce the laws and reduce crime.

That isn't the end of it. One of the most insidious aspects of this amendment was put in that would exempt pawnshops from doing a background check on a gun that is resold to someone who pawns it.

Picture this: A person needs money, picks up a handgun, walks into a pawnshop, hands it to the pawnshop owner, and says: How much are you going to give me? $20. He takes the ticket and the $20 and leaves.

That pawnshop owner may, but is not required to, report to law enforcement where that gun came from, the source of it, as well as the serial number. If they do not, under the current law, when the person walks back in and says: Here is the $20 and the ticket; I want my gun back, they are required to say: First, we have to check and make sure you are qualified under Brady. If you have a criminal history of mental illness, we will not sell it back to you.

The National Rifle Association, in this amendment, takes out that requirement. So the pawnbroker turns around and hands that gun back to the street.

Is it important in a pawnshop? Consider this: It is five times more likely that criminals are going into pawnshops with guns than those who have not committed crimes—five times more likely. And the National Rifle Association, which insists they want to keep guns out of the hands of criminals, puts this provision in the law, which many on that side of the aisle are now lauding as a great improvement. It is not. It is a step backwards.

Then there is the question about all the records of these gun purchases. If these records are not kept, we are basically tying the hands of law enforcement. It is no wonder to me that law enforcement across this country cannot understand the amendment that is being offered on the Republican side of the aisle.

This is a sad situation. We have a national tragedy on our hands—270 million Americans, 200 million guns, more gun crime than any country on Earth. We stiffen the penalties right and left. We are determined to reduce gun violence. Yet, when it comes to the most basic thing, to keep guns out of the hands of people who do not need them and should not have them, to keep them out of the hands of kids, we face amendments such as this.

It is really, in my estimation, unsettling. I cannot understand where a notion like background checks at gun shows—which enjoys the support of 87 percent of the American people—has such a tough time passing. Senator LAUTENBERG deserved 87 votes at a minimum on his amendment, an honest straightforward amendment to deal with gun shows. We could not get half of the Members of the Senate to vote for it.

The best thing for us to do is to defeat the Hatch-Craig amendment. It is a step in the wrong direction. We are going backwards instead of forwards.

The NRA, incidentally, put in one provision which they now put in everything. If you get involved in one of these purchases, and you sell a gun to somebody who kills another person, the National Rifle Association said, well, you should not be sued for that, should you? Of course you should be liable and accountable for that, as we all are for our actions.

They build immunity into this law from civil prosecution, immunity in the law. Who is immune from prosecution in America? Foreign diplomats and some health insurance companies. That is it. And now the National Rifle Association says, and, of course, the people who sell guns at gun shows, make them immune from liability, too. That is so far over the line it is hard to explain, let alone defend.

I salute my friend from New Jersey for his leadership on this issue. I hope my colleagues in the Senate will not be misled by this new Hatch-Craig amendment. If this is an effort to undo the damage done to those who voted for Mr. CRAIG's original amendment, they did not accomplish it. This second amendment compounds the problem. It makes it that much worse.

Let's get back to the basics. Let's support Senator LAUTENBERG's amendment—a straightforward amendment, supported by law enforcement and families across America who are sick of school violence, sick of gun violence, and expect this Senate to meet its constitutional responsibility to pass laws to accomplish these goals and make America a safer place to live.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FITZGERALD). Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield myself such time as I may consume.

A lot of people have had a lot to say since the shooting in Littleton, CO. Much of it was sad, but some of it was thoughtful and even inspirational. So it was particularly unfortunate when a couple of weeks ago President Clinton added some comments to the mix that were not just unfair but outrageous and downright unforgivable. I bring this up this evening because even though his rhetoric and some of the rhetoric here on the floor has changed in the last 2 weeks, his sentiments are alive and well and regrettably evident on the floor of the Senate in this debate.

I am referring to the President's comments on April 27, when he laid the blame for the Columbine High School tragedy on our culture. Except the President was not talking about the same cultural crisis that we are talking about here today and tonight—the breakdown of families, the powerlessness of communities, the alienation of young people, and the violence and brutality promoted by the entertainment industry. No, what the President chose to blame was, and I quote from the speech that was later released by the White House and printed on its web page, ''the huge hunting and sport shooting culture of America.''

He proceeded to talk about ''Americans' rights to responsible hunting and sport shooting'' and said that the:

> movement will evaporate [w]hen people from rural Pennsylvania and rural West Virginia and rural Colorado and Idaho start calling their congressmen and saying, hey, man, we can live with this, this is no big deal, you know?. . .We would gladly put up with a little extra hassle, a little wait, a little this, a little that, because we want to save several thousand kids a year.

That was the President's quote. Now, where do you begin to list what is wrong with those comments? Well, let's start with the concept that all gun owners live in rural parts of the country or that the second amendment protects the right of hunting and sport shooting. Excuse me. I misspoke. The President limited it to responsible hunting and shooting. I am not sure what that means, but it probably involves new Federal regulations. What is more clear is the President's suggestion that those who take their individual civil liberties seriously are ignorant rubes who need reeducating in their responsibility to what he calls ''the larger community.''

All of this would have been merely insulting to the tens of millions of Americans who own and use firearms for legitimate reasons, but then he gets to the truly unforgivable part. What is truly unforgivable is that he insinuated that law-abiding Americans are somehow responsible for what happened in Littleton and, worse, that if they refuse to tolerate encroachment upon their liberties, they do not care about the lives of children.

It is a sad day in America when a President of the United States speaks to and implies that thought. That is right. The leader of the free world accused those who uphold the law as being responsible for those who flaunt the law. He accused those who would passionately defend their civil liberties as being bad citizens. He accused those who may have a firearm for the sole purpose of defending themselves and their families, accused these people of not wanting to save children's lives. Now, that is what is unbelievable.

I can only say shame on him for attacking decent, law-abiding citizens, and shame on any in this Chamber who would follow his lead. To say that the hunters and sport shooters of America are responsible for what happened in Littleton is to say that safe drivers are responsible for the road-crazed, road-raged killers who drive others off the road. But it is worse than the automobile analogy, because unlike an automobile, a gun has the capacity to save lives as well as take lives. A firearm is a tool. In the hands of a criminal, it is used for evil. But in the hands of a law-abiding citizen, it can save lives. And it does save lives—an estimated 2.1 million times per year, generally without a shot even being fired. Of the 65 million Americans who own firearms, more than a fair number purchase them not for hunting, not for sport shooting purposes, but self-protection.

They live in parts of the country where they really feel they need protection, and they have an American

right of self-defense. They arm themselves for that purpose in a legal, law-abiding way. While hunters may do it for sport or they may do it to put food on their tables still in rural America, there are many Americans who own guns to protects themselves. It is in this area of self-protection that the question of encroachment on second amendment rights becomes not just a political question but one of life and one of death.

Unlike President Clinton, the woman in a crime-ridden inner city does not have a personal security force protecting her night and day. Some choose, and women are choosing in increasing numbers, to obtain a firearm in a legal way to protect themselves. The obstacles to firearm ownership the President talks about—''a little wait, a little this, a little that, a little extra hassle,'' are to the woman, to the oftentimes single woman of America who chooses to go out and buy a gun for her self-protection.

Think about it. She is doing it to prevent harm to herself and, if she is a single mother in a crime-ridden neighborhood, she may be doing it to protect her children. If you are wondering why law-abiding gun owners think gun control is a big deal, that is why. It is not because they are ignorant, nor have they been duped by the NRA or stampeded into making up horror stories. It is because they understand the purpose, the legitimate purpose, the constitutional right and purpose of the legal and appropriate use of firearms.

A gun is a great equalizer. It enables the feeble, the disabled, the old, the small to defend themselves against a more powerful aggressor. But with the right to keep and bear arms comes a solemn, a very solemn responsibility to use those arms safely and within the law.

Those who do should be celebrated for their exercise of civil liberties in the great tradition of our country—not make the tragedy one of a cowardly cheap shot from the White House and the President.

Let me say this about hunters and sports shooters in America, not to mention the collectors and the skilled crafts people who enjoy the history and artistry of firearms as a hobby: They have already been plundered, in some instances, by gun laws. Again and again in the past, when some effort to grab headlines was made, lawmakers reacted with another restriction, and another and another and another. Yesterday, when the Senator from New Jersey and I were debating an important issue, I talked about 40,000 gun laws. Many of those were the result of an illegal action and a political reaction.

I am not saying that all of them are bad. But 40,000 at the city, county, State, and Federal levels? Do these 40,000 gun laws, stacked one upon another, make America a safer place? Well, in Littleton, CO, tragically enough, 20 of those 40,000 gun laws were violated by those 2 young men, and some by other people who got guns for them. Some of those people have been arrested. Some of those are working, as they should, and those are the kinds of laws I support; law-abiding citizens support them, and guns rights defender organizations support them. But we haven't stopped violent crime and we have only piled all of these problems one on top of another.

Perhaps it is time for a sea change in our thinking. Instead of forcing law-abiding citizens to put up with inconveniences, as our President might suggest, or outright erosion of their civil liberties, perhaps we should demand that this administration's inconveniences are the armed criminal. By prosecuting them, by going at them, as the juvenile crime bill does, and as the Hatch-Craig amendment does, to strengthen the hands of the law enforcement officers to make sure we enforce at least some of the 40,000 gun laws we have—that is what we should be doing, and that is what the chairman of the Judiciary Committee of the Senate is trying to do—to build on and strengthen the body of law that can be enforced, and to say to our U.S. attorneys: Enforce the law. Get out in the field and put those people behind bars who are breaking the law with the use of a firearm.

So as we move through this debate, let's not follow the President's lead. Judging by the calls and letters and visits I am getting in the wake of the President's speech, the movement to secure the second amendment is not going to evaporate anytime soon. Law-abiding gun owners in America flatly reject the argument that the only way to control crime is through putting more burden on the exercise of their rights.

Any Senator who takes his or her constitutional responsibility seriously should carefully consider what a vote for more gun control is going to do. What is it going to do? Prevent crime? On rare occasions, it might. But it will be a political pill, so that we can go home and say we did the right thing. Yet, Littleton happened. I suggest that we have the opportunity to make changes, and they are here tonight, they are here in the juvenile crime bill. It is outrageous and unforgivable to suggest that anybody in this body needs to vote in favor of more gun control in order to prove that he or she cares.

Why don't we make changes in what our children are doing, in the access they have to violence on television, in the movies, in videos. That is what we are trying to do in ensuring that those who would prey upon others with the use of a gun in the commission of a crime be locked up and put behind bars. That is the message I am told Americans want to hear. That is the message my citizens in Idaho want to hear. They want to know that those who violate the laws will be arrested and, most assuredly, that the criminal element will be denied access to firearms.

If you vote for the Hatch-Craig amendment, that is what you vote for. If you vote for the juvenile crime bill, as amended, you broaden the entire arena of changing the way we have done business in the past in dealing with violent juveniles and crime in America. We turn to this administration and we turn to the Attorney General and we say: Enforce the law. Go after the criminal. Make this country safe for those who are willing to defend their civil liberties and who believe strongly in their constitutional rights.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield such time as he needs to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank the Chair and the chairman of the Judiciary Committee, who is managing this bill.

Mr. President, I want to say how much I have admired his skill, ability, and knowledge in moving this important juvenile crime package forward. It makes positive steps in every area that deals with juvenile crime and violence.

We were shocked and saddened by the events in Colorado. It caused us all to rethink and rededicate ourselves to making improvements. We have been working for 2 years to try to get this bill up for a final vote. Maybe now we can have that become a reality.

I hope we can continue to debate the issues and debate the amendments and vote. I just hope we don't have a group of Members who, for one reason or another, would rather not see a bill pass. If that is so, I think some people need to be held accountable for that. I am willing to debate and hear the amendments, vote on them, and put my record on the line and do what we can to pass this legislation. Without any doubt, there is a major step forward in putting additional regulations on gun shows, which has been discussed here today. We have several other amendments and provisions in this bill that crack down on the illegal use of guns, including substantially increasing penalties for a lot of different gun violations.

Mr. President, I had the occasion to be a Federal prosecutor for 12 years, a U.S. attorney. I served, before that, as an assistant U.S. attorney. I also was attorney general of Alabama. What I have been hearing in the last few weeks about what we need to do about law enforcement and what is wrong in this country really frustrates me. The President of the United States, after this tremendous tragedy in Colorado, proposes that we need to do something about it. As I recall, his basic solutions were that we need a juvenile Brady bill, which was already in our juvenile crime bill pending at that time. He said we need to step up liability for parents whose children go out and commit

crimes, which is a very difficult thing to do if you adhere to the traditional rules of American and English criminal law: you have to have criminal intent to be guilty of a crime. We have never made people guilty of crimes unless they had reason to be responsible criminally for somebody else's crime. Maybe we can make progress and the States will make progress, but there is not a lot you can do there. The President proposed a couple of other matters that dealt with guns, and they are minor, not a realistic way to deal with what is happening with crime in America.

I want to say that I have, from my experience, noted a real shortcoming in President Clinton and Attorney General Janet Reno's Department of Justice.

They have not prosecuted the laws effectively. They simply have not done so.

In 1992, before President Clinton took office, President Bush had a program called Project Triggerlock. It enhanced, increased, and intensified the prosecution of criminals who use guns illegally, felons who possess firearms, people who carry firearms in the commission of a drug offense, or other criminal activity, people who traffic in stolen guns, people who have sawed-off shotguns and fully automatic weapons. They were prosecuted intensely.

In 1992, there were 7,048 cases of prosecutions under those laws that existed at that time.

I direct your attention to this chart. It is the Executive Office of U.S. Attorneys' statistical data, which the Department of Justice lives by, which shows the number of prosecutions that have been going on in this country. In 1992, there were 7,048.

I know that number, because I had a trigger lock prosecution team in my office. I was directed by the President and the Attorney General to do that. I was delighted to comply.

I sent out a newsletter to share it with the chiefs of police. It was dedicated solely to laws and information on how to be more productive in prosecuting these criminals who are using guns and killing people, because I knew then and I know today that can save lives.

Since this administration has been in office, look what has happened with those numbers. They have gone down now to 3,807, a 40-percent decline in prosecutions. That is a dramatic number.

It really offends me. I consider it astounding that the President of the United States and the Attorney General of the United States would go around and say, ''Oh, we are the toughest people in America about guns; we want to do more about guns, and if you Republicans in Congress won't pass every law that we can think of to make some other event criminal.'' They do not care about prosecuting criminals. I have a record of it.

In my tenure, we increased dramatically the number of gun prosecutions. I don't take a backseat to anyone over my commitment to prosecute people who use guns.

This administration wants to prosecute innocent people with guns, people who have no criminal motive whatsoever, while they are allowing the serious cases to erode dramatically.

They have more prosecutors today than they had in 1992, and they have a 40-percent reduction. It is just an offensive thing to me.

I will also pull these charts, because I know how to read the U.S. attorney's manual. I did it for 12 years. They had to have several new laws, and some of them are pretty good. I am supportive of them. These are going to fight crime, they said.

Look at this chart. This is shocking.

Here is one:

''Possession of firearms on school grounds''—922(q).

There are a lot of subparts: 922(c), for carrying a firearm in the commission of a crime by a felon carries 5 years without parole, if you are convicted of that.

This is 922(q): ''Possession of a firearm on school grounds.''

It was reported, I believe, that the First Lady at this press conference, when they wailed about gun laws and gun shows, said there were 6,000 incidents last year of firearms on school grounds.

That is what they said.

In 1997, this Department of Justice—and every U.S. attorney in America is appointed by the President of the United States—prosecuted five cases. In 1998, eight. That is nationwide. That is for the whole country.

How is that stopping crime and making our communities safer? That is what I am saying. Is that making us safer?

''Unlawful transfer of firearms to juveniles''—that is a pretty good law—922(x)(1). That law passed and closed a little problem there, a loophole. It was closed several years ago.

''Unlawful transfer of firearms to juveniles.'' In 1997, this Department of Justice, which makes guns its priority, only prosecuted five cases; in 1998, six.

Look at this one: ''Possession or transfer of a semiautomatic weapon''—that is the assault weapon ban that was allowed. There have been a lot of disputes about it, and a lot of debate about it, because it is really a semiautomatic weapon, but it looks bad. So they banned it.

In 1997, there were 34 prosecutions; and, in 1989, 84.

I think that begins to make a point.

We don't need to be dealing in symbolism or politics. There is a Second Amendment right to bear arms. It is in my Constitution. I don't know. Somebody else may read in certain amendments they like and certain ones that they don't. But it is in the Constitution. And it gives the people the right to keep and bear arms. That is not going to be given away.

We passed a lot of rules that are considered to be reasonable restraints on that. I prosecuted gun dealers for violation of regulations. So we expect them to adhere to the regulations we passed.

But I will just say with regard to these cases that what we are suggesting: what we are hearing today, or in the last day or so, is an attempt to distract attention from the merits of a good, sound, tough, compassionate juvenile justice bill, and derail it on the basis of whether or not we have a sufficient bureaucracy at a gun show, where I will assure you that probably not more than 1 out of 1,000 guns in America are bought at gun shows, as if that is going to save crime. It is not going to save crime anymore than this law did, or this law did, or that law did.

Next year, we will probably come in here and they will have a half dozen prosecutions under that law, and they want to have that kind of thing.

What we need to do is go back to a serious prosecution, back to the seven, or maybe 10,000 prosecutions under the gun laws that are already in existence, and focus on them.

I would just share this story with you because I think it is revealing.

I have been raising this very issue with this very chart for over a year—this chart which I have been holding up for the Attorney General, the Chief of the Criminal Division, and the Associate Attorney General of the U.S. Department of Justice, and I have been asking why they are not doing their job. They don't have a very good answer, if you want to read the transcript.

What has happened? Early this year we held a hearing. We set it for Monday, March 22, just a few months ago. It had been set for some time. We had asked the administration to come and testify, because we were going to ask them about this failure, this collapse, in Federal efforts on prosecutions.

We had heard that U.S. attorney Helen Fahey, down in Richmond, was doing a triggerlock-type program, and being very successful. The chief of police in Richmond was just delighted. They had a 41-percent reduction in murder and a 21-percent reduction in violent crime. We wanted to highlight this.

So we had a hearing. It made the administration nervous. We said: We are going to ask you about these numbers. We are going to ask you why you quit President Bush's Project Triggerlock, and why aren't you replicating and repeating what you are doing successfully down in Richmond?

That was going to be on a Monday.

On Saturday, March 20, the President of the United States—I guess the word got up to them that they had a little problem.

So he had a radio address to the Nation. He focused it on gun prosecutions. He had the United States attorney Helen Fahey in his office, and the chief of police in his office. She was going to testify on Monday. And he talked about the very thing we talked about.

I thought: Wasn't that interesting. Maybe we have finally gotten through to somebody.

This is what he said:

Today I am directing Treasury Secretary Robert Rubin and Attorney General Janet Reno to use every available tool to increase the prosecution of gun criminals and shut down illegal gun markets. I am asking them to work closely with local, State, and Federal law enforcement officials, and to report back to me with a plan to reduce gun violence by applying proven local strategies to fight gun crime nationwide. My balanced budget——

He always says that—''my balanced budget.''

What that has to do with this, I don't know.

My balanced budget will help to hire more Federal prosecutors and ATF agents so we can crack down on even more gun criminals and illegal gun trafficking all across America.

That was his radio address.

On Monday, U.S. Attorney Helen Fahey testified that

Project Exile [what they called the project in Richmond] is essentially triggerlock with steroids.

They basically took the Project Triggerlock activities and enhanced it.

Plus community involvement and advertising . . . Project Exile is simple and straightforward in its execution and requires relatively limited prosecution and law enforcement resources. The program's focus and message is clear, concise and easily understood, and most importantly, unequivocal. The message: An illegal gun gets you 5 years in Federal prison.

That was President Clinton's U.S. attorney in the Eastern District of Virginia.

On May 5 we had oversight hearings with the Department of Justice in the Judiciary Committee. I asked Attorney General Reno if she had gotten this directive, and what she was doing about it. She indicated:

The prosecution by Federal Government of small gun cases that can be better handled by the State court . . . doesn't make such good sense.

I cross-examined her a good bit about that because it was stunning to me. I said: Did you get a directive from the President? Did he send it to you in writing or did he call you on the phone or were you supposed to listen to the radio? How did you get this message? Are you going to do it?

She steadfastly refused to make a commitment to replicate and reproduce the Project Exile in Richmond, VA, and to use that around the country—even though her own people are telling her of the 41-percent reduction in the murder rate and a 20-percent reduction overall of violent crime.

This bill provides money for that. We have a proposal to increase substantially, perhaps as much as $10 million or $50 million to the Justice Department to replicate this project. We are going to insist on it. We believe it will save lives.

The chart shows from 7,000 to 3,000 prosecutions, a 40-percent reduction. There are those who talk about caring about innocent victims of crime and doing something about crime. There are innocent people in America who have died because those cases weren't prosecuted, those criminals using guns were not prosecuted. They have gone on and killed other people. It is a shame and a tragedy.

I believe what we have to do first and foremost is to create a climate and a mentality in this Department of Justice that they are going to use the laws they have been given and not to excuse themselves by discussing some new law that they have little or no intent on prosecuting effectively.

That is the true fact of the matter. We are talking about thousands of cases.

My view is if it is a good law and it is not unconstitutional and it is not too burdensome and we can figure a way to make it work, I am all supportive of it. I voted for and support several.

The real problem is cracking down on the criminals who are using guns. The laws already on the books are the ones that are going to be used 99 percent of the time when those cases are prosecuted. If used effectively, we can remove dangerous criminals from our streets, reduce violent crime and murder, and save the lives of innocent people.

I thank Chairman HATCH for all the work he has done, the leadership he has given, and the patience he as demonstrated in moving this legislation forward.

Mr. HATCH. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator has 19 minutes 44 seconds and the minority has 22½ minutes.

Mr. HATCH. I yield 8 minutes to the distinguished Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the chairman of the Senate Judiciary Committee, the Senator from Utah.

I rise to address a number of provisions in the Hatch-Craig amendment that I am particularly concerned with, provisions that I have sought to move forward over the last several months and in the last several years, provisions that set or increase mandatory minimum sentences for gun crimes and drug crimes which endanger juveniles.

First, we need to address federal firearms offenses and impose substantial penalties on violent firearms offenses. Those who misuse firearms to commit crimes impose a tremendous cost on American society and on our culture. They destroy lives, they destroy families, they destroy businesses, they destroy neighborhoods. We need to have a Federal policy with a zero tolerance for those who are misusing firearms to perpetrate violent crimes or to traffic in drugs—the kind of criminal activities that are destroying the very fabric of our culture.

An essential part of this zero tolerance policy are mandatory minimum sentences that creates a serious deterrent for those who commit Federal violent and drug crimes, including carjacking and violent crimes on school grounds.

In order for mandatory minimum sentences to provide such a deterrent, they need to be long enough to make the offenders think about committing these crimes. They need to think twice about what they are going to do. Those sentences also need to be long enough to protect our law-abiding citizens from these criminals for a long time, by putting the criminals away for substantial period of time.

Current Federal law provides mandatory minimum sentences for possessing or using a firearm in the commission of a Federal crime of violence or drug trafficking. The current minimum sentence for possessing a firearm during such a crime is 5 years. This is a serious penalty for simply having a gun, not even showing it or firing it; just having it on your person. My amendment doesn't increase this penalty. We think it is sufficient as it is, particularly because there is truth in sentencing in the Federal system.

We do, however, seek in this amendment to change the current minimums for using a firearm during such crimes. The current minimum sentence for brandishing a firearm in a violent Federal crime or drug trafficking crime is 7 years. In this amendment we raise that penalty to 10 years. We would raise the penalty for discharging a firearm and thereby endangering life and limb from a 10 year minimum to 12 years. The law does not presently provide any mandatory minimum for wounding, injuring or maiming with a firearm. We create a minimum 15-year penalty for those who actually cause physical harm with a firearm.

Finally, the law currently provides a maximum penalty of 10 years imprisonment for knowingly transferring a firearm, knowing that it will be used in the commission of a crime. We would impose a mandatory minimum sentence of 5 years for knowingly facilitating gun violence by transferring a firearm to someone whom you knew was going to commit a crime.

These penalties are serious, but the problem is serious. These penalties will help create a real set of incentives to tell criminals they better leave their guns at home.

Let me also address mandatory minimum sentences for federal drug crimes. The current penalties for adults who target vulnerable juveniles by distributing drugs to minors or by selling drugs in or near schools are the same—both of these crimes currently carry a 1-year mandatory minimum for both the initial and subsequent offenses. This amendment raises the mandatory minimum term for each of these crimes from 1 year to 3 years for the initial violation, and 5 years for subsequent offenses.

This amendment is similar to two other provisions in the core bill we are debating, S. 254. One provision already included in S. 254 increases the mandatory minimum penalties for adults who use minors to commit crimes. Adults should not be able to use minors to

commit their crimes for them in order to escape penalty. Another provision in S. 254 increases the penalties on adults who use juveniles to commit crimes of violence. Penalties are doubled for first-time offenders and trebled for repeat offenders.

Together, these provisions send a clear message to adults who would prey on our children, attempting to ensnare them in the dangerous life of committing crimes, and often in the violent world of illegal drugs.

Last year, I introduced all of these provisions in a package designed to target adults who use and exploit juveniles to commit crimes. It is time for us to send an unmistakably clear message that we will not, as a culture, tolerate those who use juveniles, who lead them or point them in the direction of lives of crime in an effort to avoid penalties for their own criminal action. The system already lets young people off with a slap on the wrist and a clean slate when they turn 18. Why should any adult risk serious jail time by committing the crimes themselves? Instead, have a juvenile commit it for them. I think it is time to make it clear that we will deal harshly with adults who use juveniles in the commission of crimes.

Sadly, our current treatment of juveniles gives adults an incentive to exploit children in this way. We need to make sure it cannot be done. If a store sold candy for $5 to adults, but $1 to children, there would be a lot of adults sending kids in to buy candy for them. The same is sadly true with the criminal justice system. Lenient treatment of juveniles has too frequently caused adults to think they can get juveniles to perpetrate the crimes for them. We must make it clear that no adult can escape crime by having a juvenile commit a crime on his or her behalf. It is no wonder that in my home State of Missouri, a 20-year-old in Poplar Bluff had her 16-year-old accomplice take the lead in a recent armed robbery. Why should she risk serious adult time in prison when she could have a juvenile do the crime for her? We cannot continue to encourage this intolerable behavior. Those who would corrupt our children deserve our stiffest sanctions. We need these enhanced penalties on adults who use juveniles to commit federal violent offenses and drug crimes.

The provisions in S. 254 and those in this amendment correct the perverse incentives in the current system by severely punishing adults who endanger our children and attempt to ensnare them in the world of drugs and crime.

Mr. President, I ask how much time is remaining?

The PRESIDING OFFICER. The Senator has 40 seconds remaining.

Mr. ASHCROFT. I thank the Chair. I yield the remainder of my time to the chairman.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I yield 10 minutes to my colleague from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from New Jersey for the time and for his leadership. I understand there is movement on the other side to try to deal with the gun show loophole. I appreciate that. But I say to all my colleagues, if we pass the amendment sponsored by the Senators from Utah and Idaho, we will not close that loophole and we will be back here hearing about more tragedies from guns emanating from gun shows. There are six reasons for that which we should talk about.

First and most egregious, the amendment creates and deals with someone called a ''special licensee,'' a person who would be licensed to sell in volume at gun shows who would not require background checks. This is overturning 31 years of having federally licensed firearms dealers with a new system that is as weak as a wet noodle. The licensees will not have to——

Mr. HATCH. Will the Senator yield on that? My gosh, they do not have any controls at all on gun shows. This puts controls on it. It actually does what those on your side of the floor wanted to do yesterday, and our side of the floor did not do. Now we are correcting that. But right now there is no limit at all. We put limits on. We do exactly what the President was bad-mouthing Republicans for not doing today.

Mr. SCHUMER. Reclaiming my time——

Mr. HATCH. I will be glad to give you some of ours for this, but, look, that just is not quite accurate.

Mr. SCHUMER. The point I make is this. We have always had the only people who can legitimately sell guns in quantity are federally licensed dealers. We are now creating an exception.

I ask my colleague, the Senator from Utah, why we exempt these people from any reporting requirements? When you talk to our law enforcement people in either the Justice Department or in the Treasury Department, they say if one of these new licensees—because they have no reporting requirements whatsoever—were to simply pass guns out, we would have no way to check.

My friend from Utah and many from the other side have talked about the need to enforce existing laws. This creates such a huge loophole we would never be able to enforce any existing laws.

Mr. HATCH. If the Senator will yield, actually now in intrastate sales they do not have to do anything. There is no gun check at all. There is no instant check at all; there is no requisite check at all. What we do is solve that problem and we do it better than what the Democrat amendment was yesterday. And when we do it—I just want to correct the record.

Mr. SCHUMER. Right now, for interstate, these people could go interstate. That is the basic problem. If these people, these federally licensed special licensees had to stay within their State, I would concede to the Senator from Utah that maybe it is nonexistent—but not a step backwards. But they can. So now for the first time we have people who can sell out of State who are not federally licensed dealers and who do not have any reporting requirements.

There is sort of a split, almost a schizophrenia in the logic of the other side, which is we must enforce. We do not need new laws to enforce. But we take away every single tool of enforcement.

Mrs. BOXER. Will the Senator yield on this point?

Mr. SCHUMER. I am happy to yield to the Senator from California.

Mrs. BOXER. I wanted to ask a question about the pawnshop loophole. Before I do, I want to thank my friend from New York because he does something around here that is very important. He reads every word of the bill.

Mr. SCHUMER. Thank you.

Mrs. BOXER. And he finds out some of the fine print. We had a situation on the floor with the Senator from Idaho. I was on the floor at the time. The Senator from New York said to the Senator from Idaho: With great respect, I think you have a problem in your bill—and he pointed it out. The Senator from Idaho at that point argued vociferously with the Senator from New York, who held his ground and happily everyone reached agreement that in fact what the Senator from New York said was true.

But what interests me is one of the loopholes that is not closed. That is this pawnshop loophole. I want to ask my friend from New York a question. Am I right in understanding that under current law, if someone goes back to retrieve a gun in a pawnshop, they must undergo an instant check?

Let's say somebody puts his gun in the pawnshop and then goes out and commits a crime with another weapon and they come back to retrieve their gun. It is my understanding there is no instant check on that person. It is further my understanding that people who retrieve their guns from pawnshops are five times as likely to be criminals as those who would go to an ordinary dealer; is that correct?

Mr. SCHUMER. The Senator from California is exactly correct. What we are doing now is making it easier because we take one of the barriers away for criminals to get their guns back at pawnshops. Why, for the love of God, are we making it easier for felons to get guns? It is an amazing thing. If the American people were all listening to this debate, they would be utterly amazed. Let me yield to the Senator from California.

Mrs. BOXER. I say to my friend, whom I respect so much and I thank so much for his leadership on this, I think what we have created with the Craig bill yesterday is essentially a safe deposit box for criminals to put their guns in—a pawnshop—and never have

to answer to any instant check or anybody looking at them when they come back to get their gun.

Would that not be an accurate description of what the Craig amendment did yesterday, and it is not fixed in this amendment; am I correct in that?

Mr. SCHUMER. I say the Senator is exactly correct. If I were a clever criminal, I would use a pawnshop after this law passes.

Mrs. BOXER. It is very ironic, I say to my friend; we are doing a juvenile justice bill, and we are creating a tremendous injustice here because criminals will have a safe place to leave their guns and never have to undergo an instant check again when they pick their guns up from the pawnshop.

I thank my friend for yielding.

Mr. SCHUMER. I thank the Senator.

I say to my good friend from Utah, who I know is very sincere in this, if the sponsors of this legislation were to accept a provision that says let's have the same reporting requirements for the special licensees as we have for the Federal dealers, he might be making a step in the direction—it would not be as strong as the Lautenberg bill, but it would move in that direction.

I remind him of one other thing. Right now, the only people who can sell guns in large quantities at gun shows are federally licensed dealers. Under this legislation, for the first time—and that is what I was saying—we would have a new group of people allowed to sell guns in large quantities at gun shows. These are people who have not gone under the rigors of the check before becoming a Federal dealer. They are not people who have the licensing requirements. It is a loophole so wide you can drive a Mack truck through it.

Our law enforcement people tell us, again, if we are talking about enforcement, I am sure we want to trace guns that criminals have. Everyone on the other side is saying tougher penalties for the criminals. I agree with that. One of the reasons I believe I befuddled some of the folks on the other side is I am a tough guy on law and order. I believe in tough punishment and have worked for it. But tough punishment and gun laws are not contradictory.

The NRA and others always set up that straw man: Well, we need tough enforcement.

Yes, we do. If the two people who brought the guns into Littleton High had lived, I would have wanted the book thrown at them. But may I say to my friends and my fellow Americans, I would have also wanted them never to have been able to get a gun, because punishing after the crime, while important and necessary, does not save a life.

To say that we need tough laws and tough enforcement is correct. To say that that means we do not need gun laws is incorrect. And that is the basic illogic of the arguments I have heard made on the other side tonight. Tough punishment, yes; tough gun laws, yes.

The Senator from Idaho talked about where the American people are. I will tell you—I agree with you—they are for tough punishment, no question about it. They are also for tougher gun laws. In a recent CNN survey, 4 percent said they did not think the gun laws ought to be toughened. In another survey—I forget who did it—87 percent said close the gun show loophole. They did not say come up with a mechanism by which other people can sell quantities of guns and never report to whom they sold those guns at a gun show. That is what this amendment does.

Let's make no mistake about it. Is this a diluted version of the Lautenberg amendment? It is worse, because it gives the impression we are tightening the loophole.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. SCHUMER. I ask the Senator if he will yield me 1 more minute to finish my point.

Mr. LAUTENBERG. One more minute, yes.

Mr. SCHUMER. I thank the Senator from New Jersey.

We are trying to give the impression that we are toughening things up, but, in a sense, not only are we not because of these special licensees—and I still have not heard a single good reason why they should not have reporting requirements—but at the same time, we are creating a new mechanism. And sure as we are sitting here—and I say this to the American people because the Senate seems unable to understand the pleas of the American people—they are going to start using special licensees as opposed to federally licensed dealers all across America.

Violence will increase, and we will be hearing calls for more tough punishment, which we will need because there will be more criminals and more gun deaths.

I urge rejection of the Hatch-Craig amendment. If you want to do something real, pass the Lautenberg amendment. We will have a chance, hopefully, to revote on it next week, and then we will see who wants to close the gun show loophole.

I thank my colleagues for their time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time do the two sides have left?

The PRESIDING OFFICER. The Senator from Utah has 11 minutes 25 seconds. The Senator from New Jersey has 10 minutes 37 seconds.

Mr. HATCH. Mr. President, the Hatch-Craig amendment we offered earlier this afternoon requires every nonlicensed individual who desires to sell a firearm at a gun show to have a background check. They can get a background check through a licensed Federal firearms dealer or through a special registrant, but he must get a background check.

The language in the amendment clearly states that a nonlicensed seller ''shall only make'' a sale at a gun show after getting a background check through the instant check system.

''Shall'' means ''shall.'' It does not mean ''maybe,'' ''sometimes,'' or ''if you want to''; it means ''shall.''

The distinguished Senator from New Jersey says we are a nation of laws.

Mr. SCHUMER. Will the Senator from Utah yield for a brief moment?

Mr. HATCH. I will on your time because I only have a limited amount of time and I want to get through these points.

Mr. SCHUMER. I think we are out of time.

Mr. HATCH. Let me see if I have enough time at the end.

Mr. SCHUMER. I yielded a little to the Senator before.

Mr. HATCH. I will be happy to at the end if we have some time, but we are short on time.

The distinguished Senator from New Jersey says we are a nation of laws. He says we must close the loophole that allows nonlicensed individuals to buy a gun at a gun show.

The Senator from New Jersey says the definition of ''gun show'' used in the amendment would exempt gatherings of fewer than 10 firearms exhibitors and, he said, would exempt gatherings of firearm exhibitors and other exhibitors where the percentage of firearm exhibitors is less than 20 percent of the show. This is untrue. The amendment defines a ''gun show'' as an event at which we have either, A, 20 percent or more firearms exhibitors out of all the exhibitors at the show or, B, 10 or more firearms exhibitors. The language is ''or,'' not ''and.''

Thus, if there are three exhibitors, one of which is a firearms exhibitor, this would constitute a ''gun show'' under the 20 percent rule—one out of three naturally being 33 percent, which is greater than 20 percent. The event need not satisfy the ''10 or more'' tests. It will be a gun show.

If there are 10 firearm exhibitors out of 100 exhibitors, that will be a gun show under the ''10 or more'' rule. The event need not also satisfy the 20 percent. It would be a gun show.

It is just that simple. There is no question about it. The threshold for what constitutes a gun show is low and it is certain: 20 percent firearms exhibitors or 10 or more firearms exhibitors.

What does that mean? In fact, the definition of ''gun show'' in the Hatch-Craig amendment is more strict than Senator LAUTENBERG's original definition. He required 50 firearms and 2 or more firearms sellers. Thus, if 1 of 3 exhibitors at a gathering is a firearms dealer and only brings 49 firearms, Senator LAUTENBERG's amendment would not classify it as a gun show. The Hatch-Craig amendment would classify it as a gun show.

The Republican amendment closes the loophole that the Democratic amendment left open. To talk about loopholes, we know a little bit about that. The Hatch-Craig amendment slams the door shut on the loophole

and slams it hard. Unfortunately for my Democratic colleagues, however, our amendment slams this door without more regulation, and without more taxes and without much more Government and bureaucracy, which is what would have happened under the Lautenberg amendment.

Next, the Senator from New Jersey says that we on this side of the aisle do not believe that gun laws work. He is absolutely wrong on that. We just know they are not enforced by this administration.

For all the loudmouth talking that this administration does, look at this record of what they have done with regard to prosecutions of guns. I went through this early in the day.

Providing a firearm to a prohibited person, unspecified category—each number will be for 1996, 1997, 1998, in that order—17, 25, 10. It is pitiful.

Look at this. Providing firearms to a felon: 20, 13, 24; for 1996, 1997, 1998.

Possession of a firearm by a fugitive: 30, 30, and 23 for last year.

Possession of a firearm by a drug addict or illegal drug user—we know there are hundreds of thousands, at least, if not millions—46, 69, 129.

Possession of a firearm by a person committed to a mental institution or adjudicated mentally incompetent: 1 in 1996, 4 in 1997, and 5 prosecutions in 1998.

Tell me that this administration is enforcing gun laws that are on the books. And yet all we hear is crying and crying over spilled milk, that we need more gun laws. But they won't enforce them. There are lots of gun laws on the books, but they just will not enforce them.

It is just the phoniest doggone issue I have seen yet, when everybody in this Senate knows that these problems with our teenagers and our young people, what they come down to is a myriad of problems, many of which are caused by broken homes, broken families, single families where the parent has to work and cannot take care of the kids, a breakdown in society, a breakdown in religious values, a breakdown in family values, a breakdown in many other societal values, rotten movies, rotten music, rotten Internet things, rotten video games.

All of this is adding to this. Guns is one small part of it. But look at all these laws. And they are not being enforced by this very administration which continues to pop off every day about, we need more gun laws. Well, enforce the ones we have.

It is incredible to me that they get away with this. Sure, the polls will say that people are concerned about guns. Naturally they are. We all are. But they ought to be concerned about an administration that does nothing about the laws already on the books, that continually calls for more for political advantage. That is what bothers me about this outfit.

Possession of a firearm by a person dishonorably discharged from the armed services: 0, 0, 2; for 1996, 1997, 1998.

Possession of a firearm by a person under a certain kind of restraining order provision: 3 in 1996, 18 in 1997, 22 in 1998.

Possession of a firearm by a person convicted of a domestic violence misdemeanor: 0 in 1996, 21 in 1997, 56 in 1998.

A country of 250 million people, and this is the record we have?

Possession of a firearm by a person convicted of a domestic violence misdemeanor—think about it—0 in 1996, 21 in 1997, 56 in 1998.

Possession of a firearm or discharge of a firearm in a school zone—thousands of them—we had 4, 5, and 8 in the last 3 years. Think about it.

All violations under the Brady Act—we have heard nothing but Brady Act, Brady Act, Brady Act, and it has not done a thing compared to the instant check system which we insisted on. But look at this. All the violations under the Brady Act, first phase: No prosecutions in either 1996 or 1997; one prosecution under the Brady Act in 1998. And you would have thought the Brady Act was the last panacea for all gun problems on this Earth.

All violations under the Brady Act in the instant check phase—they are not even doing it under the instant check that we have done—0, 0, 0; for 1996, 1997, 1998. There is a point where you call it hypocrisy to continually try to make political points on guns when this administration ignores every law that is on the books and then says we need more laws to solve these problems.

My gosh, we know that the trigger lock cases have dropped an awful lot, from 7,500 under the Bush administration down to 3,500, because this administration does not take it seriously. Yet they go out every day and make these political points that we need more gun laws so that they have an opportunity not to enforce them, I guess.

Look at this. Theft of a firearm from a Federal firearms licensee: 52, 51, 25.

Manufacturing, transferring, or possession of a nongrandfathered assault weapon: 16, 4, 4. We heard how terrible assault weapons are. Hardly anything done about it.

Transfer of a handgun or handgun ammunition to a juvenile: 9, 5, 6, even though we know that is violated all over this country.

The fact of the matter is, these are laws we should be enforcing that are not being enforced. And I have only covered some of them. I do not have enough time to cover all of them.

But the fact is, this administration, for all of its talk about guns, isn't enforcing the laws that exist. Now they are asking for more laws. And they will not enforce those either.

The Hatch-Craig amendment slams the door on these loopholes. And, frankly, when are they going to enforce these laws the way they should be enforced?

It is one thing to talk about punishing the criminal use of firearms; it is another thing to mean it. It is one thing to talk about protecting innocent schoolchildren from violent juvenile offenders; it is another thing to actually pass a bill that will do it.

This bill will help. Yet we are in such a doggone logjam here, we might have to pull this bill down, because all the amendments that people are coming up with every day really are deterring the passage of this bill.

Republicans want to pass this bill and protect our children now. And I believe my colleague on the other side, who is managing his side, wants to do so as much as I do.

Let's stop talking. Let's start acting. If you really want to protect our schoolchildren, prove it by passing the juvenile crime bill. That is the best way to do it. And let's not just center on guns, which may be a problem, and probably is a whole series of problems, but that is only one small part of this. I am saying, a lot of things are not being done.

Senator SCHUMER criticizes this amendment by saying it would permit, for the first time, transactions of firearms at gun shows by individuals who are not Federal firearms licensees. But the entire justification of the gun show amendment—since the private sales are occurring at gun shows without any background checks whatsoever, we are putting in this bill, the Hatch-Craig amendment, instant checks on all sales. And it shall be done, according to this amendment. Senator SCHUMER's criticism suggests we are trying to address a problem that does not exist. Which is it? Is this a problem? Is there a problem with private sales at gun shows or not?

The PRESIDING OFFICER. All the time of the Senator has expired.

Mr. HATCH. I ask unanimous consent for 1 more minute, and I will finish with that.

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

Mr. HATCH. This amendment does not allow more types of firearms transactions at gun shows. It does provide for a mandatory background check for all transactions at gun shows. Only those transactions where there is currently no check at all will be able to take advantage of a special registrant background check. Right now, we have hardly any protections.

This amendment will bring them to pass. This amendment will do what was asked for yesterday. I think you can criticize anything to do with this area, but this is the right way to go. We are going to solve this problem. That is why people should vote for the Hatch-Craig amendment.

I thank my colleagues for their forbearance.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak for 90 seconds without it coming from anybody's time.

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

Mr. LEAHY. Mr. President, in many ways I feel that if the distinguished

Senator from Utah and I were unconstrained by Senators on either side, we could write a bill that would be very helpful. But I hope we do not get carried away with partisan rhetoric here.

The fact of the matter is that there have been a number of issues the Democratic side of the aisle has brought up that have been voted down by the Republican side—not unanimously, I might say; in fact, I can think of a couple where the distinguished Presiding Officer voted differently than the majority of his party—and then those parts were then put into a Republican bill. That is fine. I am not interested who takes credit; I am interested in stopping juvenile crime.

In fairness, let's point out, when we talk about what the administration might or might not have done, in the past 6 years, the rate of violent crime has come down at a faster and greater level than at any time in my lifetime. I am 59 years old. That means through Republican and Democratic administrations, the rate of violent crime has come down faster than ever before in the 6 years of this administration. The rate of juvenile crime has done the same. We have stopped thousands and thousands of gun sales to those with felony records. Let's stop saying who has done it or who has not done it. Let's do what is best for our children. We are parents. We are grandparents.

The PRESIDING OFFICER. The Senator's 90 seconds have expired.

Mr. LEAHY. I intend that as a compliment to my friend from Utah.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I am managing the time on our side. I yield myself such time as remains for my response to what we have heard.

Mr. President, I listened very carefully to the speeches. If I may say, the rhetoric that was used here—decrying the Federal Government's efforts to curb crime, incriminating crime fighting within the jurisdiction of the Federal Government, and saying that we are not doing our job—it is outrageous to listen to, I must tell you, because these things are concoctions. There are few people who I have more respect for in this place than the distinguished Senator from Utah, but that does not mean that I do not think he is wrong in some of the things he has just said. I am responding with admiration and respect.

When we look at the ATF investigations, I hold here the report that is ''Gun Shows,'' issued January 1999, by the Bureau of Alcohol, Tobacco and Firearms, Department of Justice, Department of the Treasury. It says: Together ATF investigations paint a disturbing picture of gun shows as a venue for criminal activity and a source of firearms used in crimes. Felons, although prohibited from acquiring firearms, have been able to purchase firearms at gun shows. In fact, felons buying or selling firearms were involved in more than 46 percent of the investigations involving gun shows. Firearms involved in the 314 reviewed investigations numbered more than 54,000. A large number of these firearms were sold or purchased at gun shows.

What I hear here is concern about protecting average citizens from inconvenience. What a terrible thing. Why should they have this big brother looking over their shoulder? Why should we have speed limits? Why should we have laws against drugs? Why should we have laws against alcohol? Because this is a nation of laws. That is what we are about. That is what makes this society so distinctive. Instead, I haven't heard the pleas for the parents of those kids who have been killed by guns purchased, wherever they are. I haven't heard that. What I have heard is a nagging little complaint about, oh, what a pity, the infringement of the person who wants to go buy a gun who needs it in a hurry, sticks it in his pocket, walks out of the place without identifying himself.

Yes, the Hatch-Craig amendment does close some of the avenues for gun purchase, but it does not close them all, because if you are a special licensed purveyor, you don't have to do any checking at all. That is what the amendment says. Perhaps it is careless, perhaps it is deliberate, but it does not protect against that.

Then I hear a challenge to the President and his complaints about gun shows. He doesn't say that. He talks about gun shows with a degree of respect, but he says there are problems that have developed as a result of excesses available through gun shows.

I think we have to look at what is happening. Federal gun prosecutions: Overall violent and property crimes are down more than 20 percent each; the murder rate is down 28 percent, the lowest level in 30 years; homicides, robberies, and aggravated assaults committed with guns are down by an average of 27 percent. And yet, when we go ahead and talk about what we have to do to protect our citizens, we hear, get more enforcement out there, get more of a bureaucracy.

But when it comes to providing the money for ATF agents and Federal prosecutors, we have a heck of a time trying to get it. Despite the rhetoric, the NRA has never supported backing its tough talk with real money for State, local, and Federal law enforcement agencies to investigate, arrest, and prosecute gun criminals.

Well, the reason for the decline in prosecutions is that we work more now with State and local agencies than we ever did before. Overall, the rate of convictions and incarcerations has grown pretty steadily.

We are looking at what I will call straw men, reasons to find ways of not inconveniencing the gun buyer. Heaven forbid the gun buyer should have to obey the same laws that other people have to when they want to buy an automobile or buy liquor or what have you. There are regulations, and so it should be. That doesn't take away anybody's right to buy a drink or buy a car. You just have to fess up to it. If you want to buy a gun, in my view, you have to be able to say: This is my name; this is where I live; this is what I want to do.

If the audience was not obscured through a television camera or not away from the folks in front of you but, rather, were the parents and the families of the kids in Littleton, they would find that Americans blame the Littleton incident in significant measure on the availability of guns. They do not say there is too little prosecution. They don't say that the gun laws are cumbersome. What they say is there are too darned many guns in our society.

How much are each to blame for Littleton? Percentage responding, a great deal: availability of guns, 60 percent; parents, 51 percent; nearly all Americans support many gun control measures, particularly those aimed at kids; require background checks on explosives and gun show buyers, national poll, 87 percent.

In here we have 51 percent who went the other way just yesterday and today want to, in my view, set up a smokescreen, pretend we closed all the loopholes. There is nothing malicious in it. They just happen to be wrong in the approach, because if they looked at their own amendment they would see there are loopholes—whether they are requiring Federal agencies to get rid of records so they are not kept for too long a time, leaving the pawnshop opening that we just heard about for someone who is away. I just spoke to the Senator from Idaho. I said: What would happen if the claimant, to retrieve a gun that is in a pawnshop, comes back 4 months later? Are they required to say anything about where they have been during this period?

No. No, there is no requirement. The Senator from Idaho said there is no requirement. The guy could have been in jail for 90 days. But the fact is that he has come back. He has paid his interest. He has paid his $50 to retrieve his gun. Give him his gun back. Don't ask any questions.

I ask you, is that bordering on the absurd? I think so.

We, again, hear these lame arguments about why we couldn't adopt the Lautenberg amendment as it was originally. And today, shame has filled this place, embarrassment has filled this place, because calls have come in and newspapers have editorialized and said what is the matter with the Senate—87 percent of the people out there think that gun shows are a source of too many weapons.

But not here. Here we worry about not the victim, not the parent, not the brother, the sister, or the child. No, we worry about the inconvenience or the big bureaucracy that may be created to

make it inconvenient or slow down the pace of gun acquisition.

Are there too few guns in this society? I ask anybody, too few guns? I doubt it. Something like over 200 million guns, that is enough to go around pretty well.

They blame our culture. We heard a story the other day from the Senator from Michigan who said that in Windsor, Canada, just across the river, they see the same television, are exposed to the same cultural elements, prefer the same music, everything else, yet they have so far fewer crimes with guns—about 30 or 40 times more in Detroit than they have in Windsor. It has to do with the availability of guns, nothing more and nothing less.

We ought to face up to it and not find different excuses for why it is that the gun wasn't involved. It is not the gun's fault, no; it is the trigger person's fault. But that trigger person would have had a heck of a time knifing the 13 or 15 people in the Columbine High School in the situation they were in. It was easy, however, with their weapons, with their explosives. It is time to face up to it.

I wish we would pay the same attention to the victims: 35,000 victims in a year of handgun death, 13,000 of murder, in rough numbers, 18,000 of suicides, 3,000 of accidents. When you compare us to the other societies with whom we associate and work, there is just no comparison. We are looking at societies that have less than 100 deaths a year from guns—the UK, Japan, and others. It just doesn't happen there. Why? These are similar people with the same kinds of problems we have. They have mixed societies and they have problems adjusting to conditions. But they don't have the guns laying around in every nook and cranny.

So I hope that the American people will watch what happens here and see who voted against the Lautenberg amendment yesterday because there are a couple loopholes that have been covered and yet many opened. I hope when we vote tomorrow, the public will be watching because the answers will have to be given to them.

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the Senator from New York is to be recognized to offer an amendment.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be added as a cosponsor to this legislation.

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

Mr. SCHUMER. Mr. President, I thank the Chair. Before I get into this amendment, I would like to make one final point, which I thought was relevant to the Senator from Utah. I went over to him privately, but I think the RECORD should show it because he mentioned my name in the debate. I will discuss this after I send up my amendment.

AMENDMENT NO. 350

(Purpose: To amend title 18, United States Code, to regulate the transfer of firearms over the Internet, and for other purposes)

Mr. SCHUMER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. SCHUMER), for himself, Mr. LAUTENBERG, Mr. KOHL, Mrs. FEINSTEIN, Mr. TORRICELLI, and Mr. DURBIN, proposes an amendment numbered 350.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 265, after line 20, insert the following:

SEC. ___. INTERNET GUN TRAFFICKING ACT OF 1999.

(a) SHORT TITLE.—This section may be cited as the ''Internet Gun Trafficking Act of 1999''.

(b) REGULATION OF INTERNET FIREARMS TRANSFERS.—

(1) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) REGULATION OF INTERNET FIREARMS TRANSFERS.—

''(1) IN GENERAL.—It shall be unlawful for any person to operate an Internet website, if a clear purpose of the website is to offer 10 or more firearms for sale or exchange at one time, or is to otherwise facilitate the sale or exchange of 10 or more firearms posted or listed on the website at one time, unless—

''(A) the person is licensed as a manufacturer, importer, or dealer under section 923;

''(B) the person notifies the Secretary of the Internet address of the website, and any other information concerning the website as the Secretary may require by regulation; and

''(C) if any firearm posted or listed for sale or exchange on the website is not from the business inventory or personal collection of that person—

''(i) the person, as a term or condition for posting or listing the firearm for sale or exchange on the website on behalf of a prospective transferor, requires that, in the event of any agreement to sell or exchange the firearm pursuant to that posting or listing, the firearm be transferred to that person for disposition in accordance with clause (iii);

''(ii) the person prohibits the posting or listing on the website of, and does not in any manner disseminate, any information (including any name, nickname, telephone number, address, or electronic mail address) that is reasonably likely to enable the prospective transferor and prospective transferee to contact one another directly prior to the shipment of the firearm to that person under clause (i), except that this clause does not include any information relating solely to the manufacturer, importer, model, caliber, gauge, physical attributes, operation, performance, or price of the firearm; and

''(iii) with respect to each firearm received from a prospective transferor under clause (i), the person—

''(I) enters such information about the firearm as the Secretary may require by regulation into a separate bound record;

''(II) in transferring the firearm to any transferee, complies with the requirements of this chapter as if the firearm were being transferred from the business inventory of that person; and

''(III) if the prospective transferor does not provide the person with a certified copy of a valid firearms license issued to the prospective transferor under this chapter, submits to the Secretary a report of the transfer or other disposition of the firearm on a form specified by the Secretary, which report shall not include the name of, or any other identifying information relating to, the transferor.

''(2) TRANSFERS BY PERSONS OTHER THAN LICENSEES.—It shall be unlawful for any person who is not licensed under section 923 to transfer a firearm pursuant to a posting or listing of the firearm for sale or exchange on an Internet website described in paragraph (1) to any person other than the operator of the website.

''(3) INTERACTIVE COMPUTER SERVICE.—Nothing in this section may be construed to provide any basis for liability against an interactive computer service which is not engaged in an activity a purpose of which is to—

''(A) originate an offer for sale of one or more firearms on an Internet website; or

''(B) provide a forum that is directed specifically at an audience of potential customers who wish to sell, exchange, or transfer firearms with or to others.''.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) Whoever willfully violates section 922(z)(2) shall be fined under this title, imprisoned not more than 2 years, or both.''.

Mr. SCHUMER. Mr. President, the point I was about to make regarding the Orrin Hatch amendment, before we get into the substance of this debate—I doubt that we will take the whole hour on this one—is this: Under the Hatch-Craig amendment, there is a new category of people called ''special licensees'' who can sell at a gun show. They can sell guns en masse—lots of guns. Not only are they not required to do the paperwork, they are not required to do a background check. So when the Senator from Utah said before that they are toughening up the law, it is just not so.

It is true that federally licensed dealers would have to do a background check; it is true that the law is a little toughened up so that individuals who sell to one another might have to do a background check. But we create a whole new huge category of special licensees who can come to gun shows, sell en masse, do no background check and no paper recording. What a loophole.

That is why the Hatch-Craig amendment, more than any other reason, is a giant step not forward but backward. That is why the amendment of the Senator from New Jersey, Mr. LAUTENBERG, is what is needed. I ask my colleagues to look at that as part of the other debate.

Mr. President, we are here today to debate an amendment dealing with Internet sales of guns. I want to thank Chairman HATCH and Senator LEAHY for the opportunity to offer this amendment. We have known for a long time that gun shows are a loophole that have allowed people to buy guns without a background check. We know that. Well, there is another loophole that I believe is about to make a quantum change in the gun black market

and is a disaster waiting to happen: At this moment, on your personal computer in your home, in your child's bedroom, there are thousands and thousands of guns available for sale by unlicensed dealers on the Internet.

These guns, including assault weapons, automatic weapons and cheap handguns, are listed for sale on a no-questions-asked, honor system basis, which leaves it up to anonymous buyers and sellers to comply with Brady and State and local firearms laws. Any computer novice can so readily and so easily find gun web sites that owning a personal computer means having a gun show in your home 24 hours a day.

Last month, for instance, a 17-year-old Alabama boy acquired a Taurus 9 millimeter semi-automatic pistol and 50 rounds of ammunition over the Internet. He was caught only because his mother was home and UPS dropped off the package. Who knows what crime may have been committed with that Internet gun.

Since 1968, it has been illegal for a felon to buy a gun. The reason we passed the Brady law is because enforcement had no mechanism to enforce that law. The Internet returns us to the pre-Brady period where disreputable people can get together and evade gun laws with little prospect of detection. Mark my words, if we don't pass an amendment such as this one, within a year or two, the Internet will be the method of choice by which kids, criminals, and mentally incompetents obtain guns. We will rue the day we don't pass this amendment. Passing this amendment now will save lives.

What does it do? My amendment simply requires that any web site that is set up to offer guns for sale on the Internet be a federally licensed firearm dealer who will make certain that criminal background checks occur with each sale. It just makes the Internet Brady compliant—no more, no less.

Let me show you what is available on the web by simply typing in key words like guns for sale, militia and AK–47. This is the Guns America Web site right here on this paper. Anybody can punch into it. Guns America boasts that it sells guns on the honor system, that there is ''not an FFL dealer among the bunch of us,'' and that it will ''grow to hundreds of thousands of new listings every month.''

Guns America, at this very moment, has 21 AK–47s and AK–47 copies for sale, with no questions asked—not a soul watching, not a stitch of oversight. It is solely up to anonymous buyers and sellers to comply with all gun laws. Let me tell you, the chance of getting caught breaking the law is as likely as mom finding the gun in junior's bedroom.

Now, this one here is the Weapons Rack, another honor system weapons site. Since last week when I made this poster, the Weapons Rack has had 3,300 visitors to its site. We don't know anything about these visitors. Did they buy? Did they sell? Were they kids? Were they felons? What we do know is that the number of visitors is indicative that sales on the Internet are growing exponentially. Remember, 5 years ago, practically nobody bought stocks on the Internet. Today, 30 percent of all stocks are sold online.

The internet is about to change the entire way guns are bought and sold in America. And if we don't get on top of it now and create and ironclad enforcement mechanism to ensure Brady compliance, I promise you just as sure as I am standing here, it will cost lives and we will sorely regret it.

This is the Weapons Rack disclaimer: ''It is the sole responsibility of the seller and buyer to conform to [firearms] regulations.''

Not exactly a confidence booster, is it?

If either the seller or buyer don't want to comply, they go right through.

GunSource.com has 3,600 guns for sale. Their disclaimer says, ''Because user authentication on the Internet is difficult, we cannot confirm that each user is who they claim to be.''

Isn't that amazing?

Let me read that again. This is right on the Internet. ''Because user authentication on the Internet is difficult, we cannot confirm that each user is who they claim to be.''

This is a chilling admission. It is also an invitation to those who cannot buy a gun from a licensed dealer to use the cloak of the Internet to find illicit sellers and arms sellers.

Earlier this year eBay, the Nation's largest Internet auction site, put out this statement in conjunction with a directive banning the listing of guns on this web site. This is what eBay said. They said:

> The current laws governing the sale of firearms were created for the non-internet sale of firearms. These laws may work well in the real world, but they work less well for the online trading of firearms, where the seller and the buyer rarely meet face-to-face. The online seller cannot readily guarantee that the buyer meets all the qualifications and complies with the laws governing the sale of firearms.

Listen to the experts. eBay said selling guns on the web is too dangerous because they had no idea who was buying and who was selling; no way to find out; no way to ask; no way to verify—the guns are sold purely on faith.

My amendment is balanced, reasonable, and modest.

It replaces blind internet faith with fully Brady compliance, no more, no less.

It bans the unlicensed sale of guns on the internet by requiring websites clearly designed to sell guns to be federally licensed firearms dealers. It won't affect chat rooms. It won't affect newspaper want ads. It won't affect licensed firearms dealers.

It requires internet gun sites to become ''middlemen'' and act as conduits for all sales by forwarding all gun sales to the appropriate firearms dealer in the buyer's state who will perform the Brady background check. In this way, it is just like a mail-order sale. You have an intermediary. When the gun is sold, it is sent to a gun dealer who then does the background check and gives the gun to the buyer.

To prevent buyers and sellers from circumventing the website operator and from carrying out transactions which violate federal law—the amendment prohibits sites from listing information like an e-mail address or phone number that allows buyers and sellers to independently contact each other.

Sellguns.com does this already. They are an FFL. This is an auction site where buyers e-mail bids for a particular gun through the website operator. The seller sends the firearm, the shipper pays, and the buyer sends the bid, plus fees and shipping, and SellGuns.com makes the match and identifies the seller's item with the buyer's request. It works well. It is happening now. We would require this to happen in every sale. It doesn't interfere with the transaction of guns; it just makes sure that kids and criminals can't get them.

When a final bid is accepted, the buyer sends a check to SellGuns.com. The seller sends the gun to SellGuns.com. They trade, the check and the gun cross, and everybody is happy.

That is the model for how all internet gun sales will proceed if this amendment passes.

This amendment is also easy to enforce.

Since these websites operate on a volume basis they have to make their sites easily accessible. Most sites are linked to common words like ''guns,'' ''AK–47,'' and ''militia.'' So gun sites are actually easy to find and easy to put into compliance or put out of business if they refuse to comply.

Some members have asked me about the difference between a gun ad in say, Guns and Ammo magazines or a newspaper want ad and gun sites on the internet.

Number one: volume, The number of guns for sale right now on the internet—20,000, 50,000, 100,000 guns—dwarfs anything available in any publication.

Number two: secrecy. Magazines are static publications. If the same individual keeps showing up selling guns, law enforcement can look at back issues and investigate. The internet is ephemeral. Sellers come and go. Ads appear and disappear.

Number three: access. Gun sellers are in my home and your home. They're in the bedrooms of my ten year old and my fourteen year old daughters. Owning a personal computer means having a gun show in your home.

All it takes is a curious and troubled teenager to cruise the web until they find someone willing to sell. At least with Guns and Ammo a kid has got to know the magazine exists and go to a magazine shop and buy it. This gun store is in your home whether you like it or not.

Number four: anonymity. The web allows kids and criminals to use e-mail

to rapidly probe on-line sellers to see who is willing to bypass gun laws. And since it is impossible to monitor any transaction there is only the slimmest of chances that anyone would get caught.

In a magazine ad it would be enormously time consuming and frankly involve luck to figure out who is willing to sell under the table.

Number five: distance. The local want ads, are just that—local. The internet moves the transaction from a neighborhood market to a national market.

Commerce on the internet is in its infancy. I agree with those who say that we ought to be very careful before we prohibit certain activities on the net.

I believe that the internet is one of the reasons that American productivity is at an all-time high and growing at a remarkable pace.

But this is an area that cries out for common sense regulation. it is rare that Congress is ahead of the curve. We usually have to be prodded by crisis to act.

If we fail to close the internet loophole today—I promise you—it will not be the last time that we hear about this issue. A child, a criminal, a disturbed individual will exploit this loophole, evade a background check and commit a crime that will leave America in mourning.

In Alabama, where a juvenile succeeded in buying a gun on the internet an ATF agent said:

> The sale of guns on the internet is part of the growing cottage gun industry, replacing face-to-face firearms sales between dealers and individuals at local shops with e-mail messages and shipping orders.
>
> On the internet, the dealers don't know who they're dealing with on the other end. You could be dealing with a career criminal, a drug dealer or a high school student.

Do we really want to leave the sale of guns over the internet completely unregulated?

This bill I am presenting is a balanced, constitutionally sound bill which requires web sites that are clearly designed to offer guns for sale to be federally licensed firearm dealers—no more, no less.

We learned from the Brady bill that the honor system doesn't work for guns. It might for most people. It doesn't for criminals. And it doesn't for kids who want to buy them and to do something terrible.

Pass this amendment and we solve the major problem. Let it fail and we open a firearms cyberhighway that has no exit.

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

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me clear up a point the Senator from New York made this evening before I discuss the amendment that is before us.

He has made the allegation that the special licensee we have created in our amendment for dealing with gun shows is somehow not going to have to do background checks. Language in the bill says, referring to the special licensee, ''shall conduct his activities in accordance with all dealer record keeping required under this chapter for a dealer.''

We go to that chapter, 18922, and he falls within that chapter, and that is the requirement of the background check.

So it is our intent. We believe we have covered that intent.

Let the record show that is what we believe the law to be as we proposed it in this form.

I am happy to sit down with the Senator tonight or tomorrow, but I believe we have covered it adequately. There is no question of our intent here. It is not a loophole. The special licensee is a dealer. We put him into the dealer section with all other gun dealers. We will leave it at that for the evening.

Very briefly; I want to get out of here.

Mr. SCHUMER. I don't blame the Senator. I appreciate the courtesy.

As I understand the special licensees, a background check would not be required; rather, the section of the law would require only certification.

Mr. CRAIG. That is not true. The licensee would become a dealer and falls under the dealer section of the law, 922 paragraph T(1). Check it out, read it tonight, see if you don't agree with us. If you don't, we will be happy to discuss it tomorrow.

Mr. SCHUMER. I appreciate that.

Mr. CRAIG. Let me talk about the Internet for a moment.

Somehow in the last day and a half we have heard this marvelous new word ''loophole.'' Everything has a loophole in it. Somehow through a loophole we are cramming everything today. It is a great mantra. I think Bill Clinton coined it in one of his phrases lately—handgun control loophole. Tonight we have a loophole in the Internet. It is called ''beam me up a gun, Scotty,'' except the Senator from New York, being the remarkable fellow he is, has not pioneered Star Trek technology to deal with guns.

The Internet is an advertising medium. It is not a medium of exchange. You advertise on the Internet.

Now, I am not a very good Internet surfer, but I know I can't push a button and see a gun come out from the screen. The Senator from New York knows it, too. In fact, he refers to Guns America Web Site. We pulled it up while he was talking. This is what it said:

> Please note, as a buyer you must first call the seller of the gun, confirm price and availability, and arrange for an FFL dealer in your State to receive shipment. Your FFL dealer must send a copy of their license to the seller.

My point is quite simple: If you buy a gun on the Internet, it somehow has to make contact with you.

He referenced a young fellow who acquired a gun on the Internet and his mother intercepted it because a common carrier had brought it to their home. The common carrier violated the law. It is against the law in America today to send a gun through the U.S. mail or to allow one to be transferred by common carrier to be delivered to a recipient.

I guess that is my point. He may not like the style of advertising or the rhetoric around the advertising, but there has to be a point of contact. How do you make the contact? How does the gun move from the seller to the buyer? Therein lies the issue here.

If I believed what is being said were true, I would be alarmed. I don't think any of us want a gun show in our kiddie's bedrooms. It is great rhetoric tonight. The gun show isn't in the kiddie's bedroom. There is advertising on the Internet. The child can access the Internet. The child can't touch the gun. He cannot receive the gun. And the example that he applied was a violation of the Federal law. Again, one of those laws that we stacked on the books and somehow somebody slipped through it. That is what happens with laws some of the time unless we have this huge web of law enforcement.

My guess is the common carrier is libel in this instance. I don't know the total story, but I do know the gun got delivered to the home and it had to come through some form of common carrier. We believe that to be a violation of the law.

The impact of this amendment is to simply restrict gun sellers to 19th century advertising technology. That is, newspapers and fliers.

On a more serious note, the amendment would be an extraordinary and unprecedented restriction on commercial speech. That is called a violation of the first amendment.

I am not a constitutional lawyer and I am not going to debate that this is a constitutional violation. But my guess, if it were to become law, it would rapidly get tested in the courts because I believe it could be that.

Our laws have never required an advertising medium to become part of the business that it advertises. For example, we don't require a newspaper to get a State liquor license before carrying alcohol ads. But in any event, that would be well beyond anything this Congress ever contemplated.

In fact, Federal law confirms exactly the opposite: The Firearms Owners Protection Act, which became law in 1986, specifically confirms the right of individuals to make occasional sales, exchanges, and/or purchases of firearms for the enhancement of a personal collection, for a hobby, or to sell all or part of a personal collection of firearms within their State or their residence.

I do not quite understand what the Senator from New York is talking about tonight about expanding beyond the boundary of a State. Yes, the Internet is national; it is international. But for a gun owner in New York to buy a

gun out of California would be interstate activity, and that would be against the current law. I think the Senator from New York knows that.

What we are suggesting in our amendment, because we do address the issue of Internet activities, this Congress would not want anything illegal going on in the Internet. If you use the Internet to offer a firearm to a felon, and you know it, you broke the law. That is what we are saying. If your intent is to sell to anybody on the Internet and not require the checking, you are breaking the law. That is what we would say.

The Hatch-Craig amendment makes it a crime to knowingly solicit—that is what you are doing on the Internet, you are soliciting. You are not transporting guns, you are not putting them in the hands of kids, you are soliciting—to knowingly solicit an illegal firearm transaction through the Internet. That is what we do.

We go a step forward and talk about explosive materials. There is a very real concern on the Internet today about bombs—not material, because you can't transport it, again, but the diagrams to build a bomb. I am opposed to that, too. But at least you have to go out and acquire the material to build one because the Internet doesn't ''beam it through to your home, Scotty,'' nor does it beam the gun.

That is the reality. Our amendment is simple. We think it addresses the issue. I hope our colleagues tomorrow would vote for the Hatch-Craig amendment that covers all of these issues very clearly, very succinctly.

I yield back the remainder of my time.

Mr. SCHUMER. Mr. President, I will answer a few points of the Senator from Idaho and maybe we can engage in a dialog.

The Senator is wrong in one sense. The Internet does not just do advertising. Some sites just do advertising, and if there were no efforts to transfer guns, we would agree.

How about when a web site offers guns and earns a fee when there is a sale? That is not an advertisement, it is a business. The more guns they sell, the more the web site makes.

The second point I make, and this is the most important point, the Senator from Idaho got up and he said they give each other the name and address, and it is their responsibility to contact a firearms dealer.

Say I am a 15-year-old and I want a gun, but I don't tell the seller that I want it, and I don't contact the firearms dealer. What is to stop me from doing that? That is the point here.

Sure, in a perfect world, the Senator from Idaho would be right. But then we wouldn't be debating a juvenile crime bill. The fact that there are criminals, young and old, means there are people who won't obey the law. All we are trying to do is make it easy for law enforcement or even possible for law enforcement to make sure people obey the law.

I guess I would ask my friend from Idaho if the 15-year-old has no intention of going through a licensed dealer, which is the law for an out-of-State sale, how do we stop him under present law? How do we stop him from getting the gun? That is the problem.

Mr. CRAIG. I will respond briefly. The hour is late.

Mr. SCHUMER. I appreciate that.

Mr. CRAIG. We can conduct more dialog on this tomorrow.

Under current law—in other words, we are talking about ''the law,'' not a vacuum but the law, let me read what Guns America says: ''As a buyer, you must first call a dealer.''

The reason you have to do that is the gun is transferred through the dealer, not through the mail. Because the 15-year-old cannot——

Mr. SCHUMER. I ask the Senator, what if he doesn't call the dealer?

Mr. CRAIG. Then he will not get the gun.

Mr. SCHUMER. They will still mail him the gun. They don't know he is 15.

Mr. CRAIG. The U.S. Postal Service says it is illegal.

Mr. SCHUMER. But the U.S Postal Service doesn't open every package.

Mr. CRAIG. I can't dispute that. In other words, he broke a law.

Mr. SCHUMER. He got the gun.

Mr. CRAIG. But he broke a law. You are going to create another law to be broken. Why don't we enforce the law we have?

Mr. SCHUMER. Reclaiming my time——

Mr. CRAIG. You have it.

Mr. SCHUMER. The point is, the two gentlemen from Columbine High School broke the law. If we want to allow every kid to get a gun and we can then, after they create havoc, say they broke the law, we are in pretty sad shape.

What we want to do here is prevent them from getting guns. To simply say a 15-year-old who purchases a gun on the Internet broke the law is not very satisfying to most Americans. They want to stop them from getting the gun, prevent him from getting the gun.

So I suggest there in a nutshell is the whole argument. The Senator from Idaho says, since the law prohibits interstate gun sales, we should allow a 15-year-old who wants to violate the law to use the exact mechanism we have talked about, the Internet, to get that gun and then after he gets the gun we go after him.

Mr. CRAIG. I am going to have to ask the Senator to yield because that is a very improper portrayal of what I just said. Be accurate, please.

Mr. SCHUMER. Let me just finish my point and then I will be delighted to allow the Senator to respond.

The 15-year-old wants to break the law, sends for the gun, gets the gun, and because the Postal Service is not going to open every package ahead of time, there is nothing that prevents the 15-year-old from getting the gun. In fact, the Postal Service has no way of knowing that gun is being shipped to an underage person. So they cannot even—there is not even a suspicion. Then, after that person gets the gun, we say that person broke the law.

In fact, the only way we are going to know they broke the law is if they use that gun for a bad purpose. If there was ever a situation of closing the barn door after the cows got out of the barn, this is it.

I simply ask my colleague to rethink his opposition to this legislation based on his own statement. He broke the law. How do we know it? The only human way we can know it, that is humanly possible, is after the gun is used in a crime. If the Senator would like me to yield, I will. I do not have to if he does not want to respond. Please. It is on my time.

Mr. CRAIG. I will only comment this much further and then I am through for the evening. I have been sitting here adding up the laws that your description broke. The seller has broken the law tonight by your definition.

Mr. SCHUMER. No.

Mr. CRAIG. Absolutely, if he sold to a juvenile.

Mr. SCHUMER. The seller has no knowledge that the child is 15.

Mr. CRAIG. I think he says he wants the knowledge here.

Mr. SCHUMER. But the point is, if the child writes in ''25,'' there is no way the seller knows.

Mr. CRAIG. If he doesn't check it out, he broke the law.

Mr. SCHUMER. How is he going to check it out?

Mr. CRAIG. Because it is his responsibility as a dealer.

Mr. SCHUMER. I submit, none of the dealers and none of the advertisers on the Internet actually go check. If someone says they are above 25——

Mr. CRAIG. It sounds like ATF isn't doing their job.

Mr. SCHUMER. It doesn't sound like that to me.

Mr. CRAIG. I counted that breaking the law. The juvenile is breaking the law.

Mr. SCHUMER. Clearly.

Mr. CRAIG. And the common carrier is probably breaking the law.

Mr. SCHUMER. I don't think the common carrier did.

But, again, my point is a simple one. They are all breaking the law, and there is no way to find out. This is not a question for the ATF. This is a question because the Senator would be one of the first if the ATF started opening every package to see if there were guns and knocking on the door of every person who ordered a gun to see what age they were, which is of course an absurd situation, we would all be in an outcry. So, to say that three people broke the law is not very satisfying. To say that Klebold and Harris broke the law in Littleton is not very satisfying to the parents who are grieving their children.

By this simple piece of legislation, we might have stopped it. Without impinging on anyone's rights, without

changing anything else, we might have stopped it.

With that, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Has all time been yielded back?

The PRESIDING OFFICER. It has.

Mr. LEAHY. Mr. President, Amendment No. 329 more than any other we have seen so far cobbles together a number of proposals that have been around for a long time. Let me start with the NIH study, the $2 million study required by the amendment.

I am concerned that this amendment singles out only a few potential influences on teen behavior. A better approach, in my view, would be to study all factors—the role of parents and schools, the existence of counseling and guidance efforts, the alienation of young from their peers, and media influences, among other things.

The President has called on the Surgeon General to conduct just that type of review. Perhaps we should include the NIH and other experts in the Surgeon General study which is now underway.

In our rush to respond to very real tragedies, we should take care to study all the factors, and to seek solutions that won't trample the First Amendment. To artificially limit the NIH study to only media influences may not be proper scientific design. The role of parents must be considered. Bad parenting can have devastating effects on the behavior of children. Just ask the child in an alcoholic family, or in a family where there is spouse abuse, or worse.

I am also concerned about the two sets of antitrust exemptions being proposed in this amendment.

I have spent a good deal of effort over the past several years working to eliminate unjustified antitrust exemptions from the law. The baseball antitrust amendment comes to mind as one that the Chairman of the Judiciary Committee and I worked on together for years until we finally succeeded last year.

Do we have the views of the Department of Justice Antitrust Division on either of these proposed antitrust exemptions?

Last time I examined this issue was when the Assistant Attorney General for Antitrust clarified that it would not violate the antitrust laws of television stations to agree on guidelines and viewer advisories to reduce the negative impact of violence on television. That was 1994. It was not illegal now. So, I do not understand the need for antitrust exemptions.

My fear is that any such exemption might be abused and used to immunize anti-competitive conduct to the detriment of consumers viewers and other companies in and around the entertainment industries.

I note that one of the exemptions tries at least to protect against legalizing group boycotts. Whether that language succeeds, I cannot tell as I read it here on the floor. But I do know that the language applies to only one of the two exemptions and does not reach all anticompetitive conduct.

Does that create the implication that boycotts are an acceptable way to ''enforce'' rules or act anti-competitively? The language mandates enforcement but does not say how.

Senators BROWNBACK and HATCH had initially provided me with two very different amendments, and I assumed that the fight would have been over which amendment would win over the other—since they are inconsistent.

It never occurred to me that they would simply slap them together into one inconsistent mass which will be impossible to interpret.

The combined amendment that passed yesterday has major flaws. It defines the Internet in a way that could have major unintended effects on other laws.

It hugely denigrates the role of parents—essentially the amendment considers parents almost irrelevant to the development of children into young adults. It blames most of the social problems of children on television, movies and music—an easy target even in the face of falling national crime statistics.

Television programming and movie content is a tempting subject for demagoguery. It is much harder to deal with issues such as bad parenting and lack of parental supervision because then we can only blame ourselves.

Contrary to the findings in the amendment, there is no substitute for parental involvement in the raising of our children.

I am also very nervous about involving government in the day-to-day regulation of the content of television shows or movies and other forms of speech. I do not see how the government can step into the shoes of parents.

The Supreme Court has noted that ''laws regulating speech for the protection of children have no limiting principle, and a well-intentioned law restricting protected speech on the basis of content is, nevertheless, state-sponsored censorship.''

Movies such as ''Saving Private Ryan'' or ''Schindler's List'' are violent. I admit it. But I do not think that such films should be discouraged because of any government enforced content standards.

If this amendment were voluntary we, of course, would not need to pass it since the entertainment industry leaders can already work together to develop guidelines, standards, ratings and label warnings. That is why I worked out a deal, and signed a dear colleague letter, with Senators HATCH, LOTT, DASCHLE, MCCAIN and others in July of 1997.

We agreed, based on clear guidance from the Justice Department, that entertainment industry leaders could meet to work out these guidelines and standards and that there would be no antitrust concerns.

Antitrust laws permit meeting to work out voluntary guidelines.

This slapped-together amendment goes way beyond that understanding.

Letters dated January 25, 1994, January 7, 1994, and November 29, 1993, from the Justice Department make it clear that industry leaders can work together to establish guidelines regarding violence in programming and movies.

One bedrock principle of our democratic government and one of the basic protections of freedoms to enjoy as Americans is the First Amendment's guarantee that the government will keep itself out of the regulation of speech.

When the Constitution says that ''Congress shall make no law * * * abridging the freedom of speech,'' I believe it means what it says. That provision ought to be respected until it is repealed which I hope never, never, happens.

For years there have been crusades against the content of books and movies but government enforcement is not the answer—where do you draw the line?

This goes back to the old joke about a conference of ministers of different faiths getting together and trying to start the meetings. They could never agree on the opening prayer so that had to cancel the conference.

I know that some have fond memories of the days of content regulation when only separate beds could be shown on shows like Dick Van Dyke. One of the findings fondly looks back at these standards stating from page 6 of the amendment that ''The portrayal of implied sexual acts must be essential to the plot and presented in a responsible and tasteful manner.'' What is ''essential to the plot'' and who decides that question? What is ''tasteful'' and should the government decide that?

National crime statistics show crime has declined in recent years. I know that Mayor Giuliani keeps talking about that reduction in crime. What does this drop in crime statistics mean in terms of this amendment?

Section 505 of the amendment allows for the ''enforcement'' of guidelines ''designed to ensure compliance'' with ratings and labeling systems. When you use words such as ''enforcement'' and ''designed to ensure compliance'' that does not sound voluntary to me. I hope that we take more time in conference to read this amendment and consider the possible problems posed by its language.

I know some want to permit government enforcement of vague standards on the content of TV shows and movies. No one will know what is allowed and what isn't allowed. That is chilling, it violates the Constitution, and it relegates the role of parents to mere observers.

Mr. GORTON. Mr. President, on April 20, 1999 two Columbine High School students in Littleton, Colorado, swept into that school with sawed-off shotguns, one pistol, one semiautomatic rifle, and as many as 60 homemade pipe bombs. Before they turned their guns on themselves, they killed 12 fellow students and 1 teacher and wounded 21 others. In doing so, they violated 17 separate federal and Colorado state Statutes relating to guns and explosive devices, not to mention a host of criminal laws criminalizing their assaults and murders.

In a justified aftermath of horror and revulsion, wide-ranging public opinions across the United States demands that the federal government do SOMETHING, anything, to make this violence go away. The most prominent call is for more gun laws, many of which raise serious constitutional questions under the 2nd Amendment.

Other attack Hollywood and the Internet for the pervasive violence in movies, music and the Internet, all easily available to the most impressionable of our teenagers. Any controls of this nature clearly run afoul of the 1st Amendment.

Others blame parents, the lax law enforcement and the schools themselves. Few, curiously enough, recognize the reality of an evil that lurks in the minds of at least a handful of human beings and is clearly beyond the ability of any law to control.

It would be wonderful if we could just pass a law through Congress, another gun control measure or another limitation on free speech that could prevent another Littleton, Colorado, or Jonesboro, Arkansas. But who, in the calm aftermath of this tragedy, believes that two or three more gun laws, in addition to the dozen and a half violated by the two Colorado teenagers, would have made the slightest difference in Littleton?

The perpetrators of this violence were far beyond caring about adhering to human laws. They were bent on killing. The arena in which to reach and stop this evil is not Congress. It is in those places where the human heart can be touched; the home, the community and the church, and in the humility to recognize that no human efforts will ever eliminate all evil from human hearts.

My children were in high school 25 years ago and I am struck by the thought that this kind of extreme violence involving school kids did not happen in America then and in my own high school years more people may have owned guns than do so today. I can't help but ask: What has changed? Why does this happen now?

The Senate has begun a debate of a Juvenile Justice bill that will serve as a vehicle for a number of amendments relating to guns and explosives. At least eight different such proposals were submitted to Congress by President Clinton in the wake of the Littleton tragedy. This is the same President whose budget, bloated in so many other respects, makes drastic cuts in the field of effective law enforcement assistance. This year, for example, over President Clinton's objection, Congress will continue to fund a Byrne Grant program—a program that encourages cooperative drug enforcement and treatment mechanisms across the country and in my State of Washington. Last year Washington State received $10 million in Byrne Grants, without which our law enforcement officials would find it next to impossible to combat the biggest drug problem in our state—meth labs. Despite this success, the President proposes drastic cuts in this successful program.

Clinton's budget also zeroes out funding for a huge law enforcement program—the Local Law Enforcement Block Grant and the Violent Offender Incarceration and Truth in Sentencing Incentive Grants, which Washington state uses to help fund prison construction, was gutted in Clinton's budget—from $772.5 million in FY 1999 to $75 million in FY 2000.

Far better to fund anti-crime programs that have proven to be successful than to ignore those successes and substitute new statutes on the backs of statutes that have been unsuccessful in attaining their own goals. Why not enforce the gun laws we already have than add new ones to those the Administration ignores?

Let me make a point clearly here—I thrive on working as an elected official because I believe that sensible actions by government can have a positive impact on the lives of families and communities across America.

One positive role for government is in promoting a safer society. As Washington State Attorney General and now as Senator, I have supported laws to make safer products for consumers including safe food, clothes, cars and highways. I have worked nearly every day in the last three years on the issue of school safety to change federal rules to give more flexibility to local school districts to expel violent students. Individuals in our society cannot assure a safe food supply or safe products or safe roads, so taking sensible steps to make lives safer is a proper function of government.

Still, I am convince that more laws would not have prevented what happened in Littleton and, what is more important as we look forward—I believe that it is dangerous to promote legislation as a solution. What is wrong with the President's gun law proposal and any other legislation promoted under the banner of stopping violence? They are wrong because they are a mirage. We are repulsed by violence and the mirage of a federal government's answer to violence raises false hopes. The false hope that violence will be stopped by new federal laws is also wrong because it detracts attention from the need to fix what is wrong in individual families and communities the need to concentrate on those sick elements in our nation that promote violence and disrespect for life. This violence stemmed from an evil that found fertile ground in the hearts of two impressionable boys in Colorado and another federal law will not eradicate that evil.

There are things that government can do to make our society safer, including making our schools safer, and we have already passed one amendment to just that end, but the scope of evil which showed its face in Littleton is beyond the reach of government action. Controlling violence of this scope will come when people care more for each other and I, for one, will not join in any chorus of politicians promising that government will make that happen.

I know that there are people of goodwill who disagree with me. They want so desperately to do something about this horrible event. I understand that desire. If I agreed, I would have already introduced legislation. But I believe that actions closer to home are far more likely to be successful. I know that this is a radical concept, but most of what is good about America is not made so by federal legislation. People across our country are searching their hearts and their communities for answers. In hundreds of local papers you can see that nearly every school district in America has already called together teachers, parents and community members to see what can be done locally. Local people in their churches of all denominations are getting together to see how they can do more to reach kids in trouble. And every parent in America has considered carefully whether his or her children are at risk of committing violence.

We should allow this process of national soul searching to continue. If out of this process positive actions for the federal government emerge we should respond, but we should not hold not immediate federal action as false hope in place of the real actions and changes that will take place in communities, homes and schools across America.

It is difficult in this body to face the fact that we don't really need new laws as much as we need the enforcement of the laws we already have. Even more important than that, however, is a thorough examination of the culture of violence in our society and a broad base societal demand that those who profit from that violence, in the media and elsewhere, be brought to show more responsibility and more restraint.

I am concerned that the underlying Juvenile Justice bill suffers from the same defects. While it includes a few good ideas, it is another example of Washington, DC knows best. It spends money we don't have and tells every state and local government that we here in Washington, DC, know more about juvenile justice than those who spend their lives on the subject do.

Mr. LEAHY. Mr. President, my friend from Utah attacked the motion picture

theater industry yesterday for not enforcing their voluntary rating system. Though no system, voluntary or mandatory, can every be perfect, the fact is that the exhibition industry is doing an increasingly better job enforcing those movie ratings.

The National Association of Theater Owners, the industry trade association, and its members have made ratings enforcement a top priority. The association has developed a videotape training series on the ratings and their enforcement for theater managers and employees.

It has distributed hundreds of thousands of brochures through theaters to the public which explains the rating system.

It has published weekly bulletins to its members and newspapers on new ratings.

It has published educational articles for its members, and it has held industry-wide meetings twice a year in which code enforcement is emphasized.

Recently, the Motion Picture Association and the National Association of Theater Owners began developing slide presentations for display during intermissions about the ratings.

The motion picture theater industry may be the only industry in the country which voluntarily turns down millions of dollars in ticket sales to enforce a voluntary rating system. We should all encourage the industry to do more. But in our rush to judgement, let us remember to consider the facts.

Mr. BURNS. Mr. President, I rise today to lend my voice in support of the juvenile justice bill currently before the Senate. This is an extensive, thoughtful approach to try to decrease the juvenile crime rate and to try to intervene in today's high-risk youth.

I stand before you to tell you that this is not only an urban problem. In our largest city, Billings, we have about 80,000 people, small by most States' standards. However, we also have gangs. Size and closeness of community doesn't innoculate us from the effects of our society. Even our tribal population is affected by juvenile crime. Youth on our reservations are being solicited for gang enrollment at increasingly earlier ages. From Billings to Fort Belknap, from Helena to Havre, from Gallatin to Glasgow to Great Falls, no area of the state is immune from the problem of juvenile delinquency. This bill finally tries to provide a focused approach to both reach today's youth and to prosecute violent criminals.

I would like to say that I agree and support all provisions of this bill. However, like most major legislation, there are some minor issues that cause me concern. But what we are really trying to do here is to intervene early in a youth's criminal career. By stopping the spree early, we prevent a lifetime of crime and create a contributing member of society.

Let me highlight why this bill is so drastically different from any previous juvenile justice legislation. First and foremost, this bill establishes a $450 million block grant program for state and local governments to establish youth violence programs. This almost doubles the FY 99 spending in equivalent programs. These funds can be used for record keeping, detention facilities, restitution programs, anti-truancy programs, gang intervention, crime training programs, and vocational training. In addition, it encourages the establishment of programs that will punish adults who knowingly use juveniles to help commit crimes. This is a key provision, since often adults will use kids in crime specifically because they are exempt from some of the stiffer penalties that apply to adults.

I have long been a proponent of enforcing existing laws. Right now, there is little additional penalty for repeat juvenile offenders. This law provides for graduated penalties to put some real teeth into law enforcement. There is also a juvenile version of the ''Brady bill,'' which prevents a person convicted of a violent felon of possessing a firearm.

Overall, this bill provides $1 billion specifically for juvenile crime programs. It covers everything from education to intervention. This comprehensive package will make significant strides in trying to keep our most precious commodity, our youth, out of harms way. I will be casting my vote in favor of this bill, and I encourage my colleagues to do the same.

MORNING BUSINESS

Mr. CRAIG. I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

THE PASSING OF REAR ADMIRAL JAMES ''BUD'' NANCE

Mr. THURMOND. Mr. President, Admiral Bud Nance, the Staff Director of the Senate Foreign Relations Committee, passed away earlier this week and I rise to pay tribute to him and the service he rendered the nation.

Few others amassed the impressive record of public service that Bud did. He served the United States during times of war and during times of peace, and none can challenge that he was a man who loved the nation and who worked to protect her interests, security, and most importantly, citizens.

Born 77-years-ago in the ''Tarheel State'', Bud Nance became involved in public service at an early age, attending and graduating from the United States Naval Academy. It was 1944 when Bud Nance became an ensign, and World War II was still a year away from ending, so the young officer was posted to the Battleship North Carolina where he began what was to be a long and illustrious career. Though many would point to his achieving the rank of Rear Admiral as a demonstration of his abilities as an officer, I would counter that it was his command of the aircraft carrier USS *Forrestal* that serves as the best illustration of his professionalism and abilities as a sailor and leader. Simply put, there are few more coveted or more selectively assigned duties than that of captain of a carrier.

I am sure that when Bud stowed his seabag at the end of his final tour and retired from the Navy, he thought his days of hard work, low pay, and government service were behind him. Nothing could be further from the truth. As is common with all those who enter public service, even more so with the World War II generation, devotion to duty and a desire to make a difference was at the core of what made Bud Nance ''tick''. I doubt that he hesitated for a moment when Senator HELMS called him in 1991 and asked him to become the ''skipper'' of the Senate Foreign Relations Committee.

For the past eight-years, Bud Nance has worked tirelessly to promote American foreign policy and he made many important and significant contributions to international relations during his tenure as the staff director of the Foreign Relations Committee. Bud, more than most, understood that the policy and directives that emanate from Congress can have a powerful impact on the world beyond the Beltway. He knew from firsthand experience that there is a tremendous difference in how the world looks from the Senate Chamber and a foxhole in some remote part of the world. The advice and guidance that Bud gave Senator HELMS and other members of the Foreign Relations Committee was based on a lifetime of experience and a world view that was unique and insightful.

Bud leaves behind many who cared for and admired this man, not the least of whom is his widow, Mary. I know that each of us sends our deepest condolences to her, as well as the children and grandchildren of the Nances, for their loss.

Mr. President, with the passing of Admiral Bud Nance, the Senate has lost a dedicated and selfless staffer, the nation has lost a true patriot, and many of us—especially JESSE HELMS—have lost a good friend. I join my friend from North Carolina in mourning this man, and I wish Admiral James ''Bud'' Nance fair winds and following seas on his final voyage.

IN MEMORY OF MEG GREENFIELD

Mr. DASCHLE. Mr. President, Meg Greenfield has just passed away.

On behalf of all colleagues in the Senate, our hearts go out to the family, to all of those who were so close to Meg over these years. There are few giants in journalism who have the standing stature and the extraordinary influence that Meg Greenfield has had through the years.

Her contribution to journalism has been legendary. Her contribution to her country through journalism has been extraordinary. It has been our good fortune to follow her leadership in journalism, to be guided by her wisdom, and certainly to be influenced by her good judgment on many, many occasions over these extraordinary decades which she has been involved.

I express my condolences to her family and say farewell to someone who has made an extraordinary impact on our country and on her profession.

I yield the floor.

Mr. KENNEDY. Mr. President, I want to join with Senator DASCHLE in expressing our heartfelt thoughts to the members of her family. Meg Greenfield put up an extraordinary fight against cancer for a very long period of time and did so with incredible bravery and extraordinary elegance, style, and class.

For the past two decades, she was the editor of the editorial page at The Washington Post, and in her long and brilliant career, the editorial page set an unsurpassed standard of excellence on all the great issues of the day in the nation's foreign and domestic policy.

She earned a Pulitzer Prize and many other honors during her outstanding career. For a quarter century, her extraordinary columns in Newsweek Magazine were a consistent voice of insight and reason that we looked forward to and learned from.

I had the opportunity to visit her just about 2 weeks ago. She was always immensely understanding and respectful of the political process. She admired those who were part of the political process in the finest sense, and believed that those who were really committed to public life could make a difference in our society.

She was a hopeful, idealistic person who wrote with great clarity, great eloquence, and great passion about the state of our nation. She established a high standard by which political leaders of both parties could try to measure themselves.

She made an extraordinary difference with her life. She had scores of friends and was highly regarded and respected in her business. To those who knew her and respected her, she was a giant in the writing press. A graduate of Smith College, Meg Greenfield became one of the greatest women and greatest journalists or our time, and we will miss her very much.

Mr. LEAHY. Mr. President, my colleagues have spoken about Meg Greenfield. I also want to echo their sentiments.

I think what was most amazing about her was not just her great talent, her ability to write, her extraordinary breadth of knowledge and interest, but to watch her, especially in the last few months, when ravaged by disease, she continued that same interest. She continued her work.

When you spoke with her or saw her, she never spoke about her own illness; she spoke of her interest in others. I have never once during her long illness heard her complain about her illness, but rather she would talk of others.

This was an extraordinary woman who left much earlier than she should have left this Earth, but she left behind a legacy of the truest of professionalism and one that will be missed.

Mr. HATCH. Mr. President, let me say a few words also about Meg Greenfield. This was an extraordinary journalist, an extraordinary person, a person who anybody would have to look up to.

I remember as a young conservative meeting with her. She was fair and decent to me. It just about meant everything to me that she would take time to discuss some of the great issues of the day with me.

I have inestimable respect for her. My sympathy and the sympathy of my wife Elaine goes out to her family. They have real reason to be very proud of her. She set standards of journalism that were very high. What pleased me is that even though I know she disagreed with me on a number of issues, she was very fair, very frank, and very decent when we discussed them. She went out of her way to make me feel welcomed.

Whether you agree or disagree with the Washington Post—I personally believe it is one of the greatest newspapers in America—for her to rise to the pinnacle of her profession in that great newspaper and to make sure that the editorial page and other aspects she worked with in the Washington Post were done with integrity and decency always impressed me.

We will miss her. Our love and affection and hearts go out to the family. She deserves the respect of everybody in this body, and, frankly, many, many, more throughout the country.

Mr. LAUTENBERG. Mr. President, our sympathies go out to the family of Meg Greenfield. She was, indeed, an extraordinary person, a thoughtful and brilliant writer and reporter.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 12, 1999, the Federal debt stood at $5,578,150,283,470.74 (Five trillion, five hundred seventy-eight billion, one hundred fifty million, two hundred eighty-three thousand, four hundred seventy dollars and seventy-four cents).

One year ago, May 12, 1998, the Federal debt stood at $5,491,841,000,000 (Five trillion, four hundred ninety-one billion, eight hundred forty-one million).

Five years ago, May 12, 1994, the Federal debt stood at $4,577,406,000,000 (Four trillion, five hundred seventy-seven billion, four hundred six million).

Ten years ago, May 12, 1989, the Federal debt stood at $2,764,990,000,000 (Two trillion, seven hundred sixty-four billion, nine hundred ninety million) which reflects a doubling of the debt—an increase of almost $3 trillion—$2,813,160,283,470.74 (Two trillion, eight hundred thirteen billion, one hundred sixty million, two hundred eighty-three thousand, four hundred seventy dollars and seventy-four cents) during the past 10 years.

DEATH OF HOLLY SELF DRUMMOND

Mr. THURMOND. Mr. President, South Carolina recently lost one of its most prominent citizens, Holly Self Drummond, who was known and admired by many throughout the Palmetto State.

''Miss Holly'' passed away at the age of 77, and though she led a full life, her death still came too soon. Each of us who knew Holly Drummond remember her as a vibrant, outgoing, and gracious lady who was a pillar of her community and an individual who embodied all that is good about the South.

This was a woman who distinguished herself in many ways throughout her life. She was active in any number of organizations that made her community and our State better places to live. She served as a member of the South Carolina Palmetto Cabinet; the Greenwood Woman's Club; the Sasanqua Garden Club of Ninety Six; and, on the Board of Visitors of Winthrop University and Piedmont Technical College. She was also active in her local church, and of course, was a fixture at the State House where her able husband has served for many years. Her contributions truly benefited others and served as an example of civic mindedness that others strove to emulate.

Holly Drummond's passing is saddening for many reasons. My grief is deepened for this woman was a loyal supporter, and more importantly, a valued friend. I had known Holly for more years than I can remember, and her family was well known to me.

Mr. President, Holly Self Drummond's passing leaves a tremendous void not only in the town of Greenwood and the State House of South Carolina, but in the lives of the many men and women who called her ''friend.'' Holly Drummond will not soon be forgotten, and I am certain that all those who knew her would join me in sending condolences to her family.

DERAILING NBC'S ATOMIC TRAIN

Mr. CRAIG. Mr. President, scare tactics may boost your ratings, but they won't do much for your credibility—especially when you advertise fiction as fact. This weekend, NBC will air a miniseries that is so far from plausible it is indeed laughable. The plot for this hyped up film revolves around a horrifying nuclear accident stemming from the transportation of nuclear weapons and hazardous waste on a train from California to Idaho.

Could this really happen, as the network originally advertised? Should you be staying up late at night to worry if your daily commute will include a rendezvous with spilled nuclear waste and Rob Lowe? Unfortunately, this movie only perpetuates Hollywood's warped depiction of all things nuclear. Because of past hype, Americans envision nuclear waste as a glowing green mass causing human and environmental meltdown on contact—not unlike the demise of the Wicked Witch of the West in the The Wizard of Oz. However, nothing could be farther from the truth.

If and when Hollywood comes out with another ''scary'' nuclear waste film, they might remember a few lessons NBC forgot. First of all, nuclear weapons are not transported by train, nor are they ever armed en route. They are moved by specially crafted 18-wheelers with the latest security and safety technologies and armed Federal agents. Even if an accident should occur, U.S. nuclear weapons are all designed to survive without detonation if jolted or engulfed in flames.

The plot of Atomic Train originally depicted the mutual transportation of both a nuclear weapon and nuclear waste, but NBC has changed any references to nuclear waste in the movie to ''hazardous'' waste. Wrong again. Federal regulations prohibit hazardous waste and nuclear waste from traveling along with nuclear weapons.

Secondly, nuclear waste is not green, glowing, or horrific to look at and great care is taken in its transportation. Spent nuclear fuel is solid, irradiated uranium oxide pellets encased in metal tubes and is non-explosive. It is transported in metal casks which will survive earthquakes, train collision and derailment, highway accident or fire.

To give credit where credit is due, the movie's trailer was right on one count—nuclear waste is transported far more frequently than most Americans realize. This is because the threat to both public and environmental health has been minimized by stringent safety protocols and close to 34 years of fine tuning. The possibility of radioactive materials harming the public en route is slim to none. Since 1965, more than 2,500 shipments of spent nuclear fuel have been transported safely throughout the U.S. without injury or environmental consequences from radioactive materials. That's a pretty good track record to go on.

Materials contaminated by radiation are also transported across the country. In fact, the first shipment of transuranic nuclear waste was safely and uneventfully transported from Idaho's own National Engineering and Environmental Laboratory (INEEL) to the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico last month. It was carried in DOE certified containers and tracked by satellite during the 1,400 mile trip. The Western Governors Association worked for years to develop the safest route possible and notify all emergency responders of shipment dates, routes, and even parking areas. Such shipments will become a routine matter in the years ahead.

INEEL celebrates its 50th Anniversary this year, and was the birthplace of harnessing the atom for electrical generation. Close to twenty percent of our electricity comes from nuclear energy, and remains one of the safest energy sources our country has available. Yes, nuclear waste requires special handling and precautions, but so do all of the chemical and industrial waste byproducts of our vibrant economy.

Due to the outcry over NBC's, ''this could really happen,'' trailer, the broadcasting company has made the wise decision to pull the ads, make last minute script changes to fix some of the more blatant inaccuracies, and post a disclaimer at the beginning of the movie. Yes, this is a piece of fiction, and it is predictable that Hollywood would stray far from the truth, but it is downright irresponsible of the network to create mass hysteria to boost ratings. I can only hope that future films will promote a more intelligent plot line.

PROMOTING HEALTH IN RURAL AREAS ACT OF 1999

Mr. FRIST. Mr. President, I rise to speak in support of S.980, the ''Promoting Health in Rural Areas Act of 1999,'' which my colleagues and I on the Senate Rural Health Caucus introduced on May 6,1999.

There is no single issue that unites rural Americans more than access to quality health care. It is one of the most important components of good quality of life in rural areas. The ability to receive high quality health care keeps people in and attracts them to small towns. Good health care services in a community can be both a source of great pride and security and many times local hospitals are a community's largest employer.

But some of that security is being threatened. Access to health care in rural areas can be problematic. Distances are greater. Some hospitals have closed. There are fewer choices of health plans than in urban areas. The ''Promoting Health in Rural Areas Act of 1999'' will help to improve access for rural citizens, increase payments to providers in rural areas, and bring innovative technologies to rural areas.

Approximately 20 percent of the nation's population, or more than 50 million people, live in rural America. However, the rural population is disproportionately poor, experiences significantly higher rates of chronic illness and disability, and is aging faster than the nation as a whole. In rural areas, the elderly account for 18% of the population.

Poverty is more widespread in rural areas and in 1995 the poverty rate was 15.6% there. Poverty was especially high in minorities—affecting 35% of rural African Americans and 31% of rural Hispanics. 22.4% of rural children live in poverty.

Health insurance coverage is also a problem. In 1996, only 53.7% of residents in rural areas had private health insurance and in 1996 about 10.5 million rural residents were uninsured. Medicare beneficiaries are more likely than the general population to reside in rural areas. Medicare spends less on rural beneficiaries than on urban beneficiaries and Medicaid covered only 45% of the rural poor. The government has a responsibility to rural communities and a responsibility to support the safety net upon which so many rural communities depend.

Before coming to the Senate, I was a heart-lung transplant surgeon. In that capacity, much of my time was spent working with rural health care providers who were caring for trauma victims eligible for organ donation. I spent many late nights flying to remote areas to harvest organs for transplantation elsewhere in the country. In this situation, I entered into their communities and worked side-by-side with rural hospitals, and their physicians, nurses, and other health professionals. These providers do an excellent job. However they work under very difficult conditions and require special attention to their particular needs.

To address the unique attributes of the health needs of the rural areas of America, I joined my colleagues in introducing this important legislation. The Promoting Health in Rural Areas Act of 1999 contains a number of provisions designed to enhance rural health.

There are provisions in the legislation to assist rural hospitals. For example, our bill reinstates the Medicare Dependent Hospital program which expired last year. This special designation directs special Medicare payments to eligible hospitals. Medicare Dependent Hospitals include rural hospitals that are not Sole Community Hospitals, have 100 or fewer beds, and at least 60% Medicare patient discharges or days. The bill also protects the Sole Community Hospitals program which aids hospitals in remote areas that serve as the sole hospital in an area.

There are also provisions to expand wage index reclassification. This means that hospitals in areas that are classified as rural can apply to use an urban wage index if they can show that their wages are similar to prevailing wages in urban areas. The provision would also direct the Health Care Financing Agency (HCFA) to establish separate wage indices for home health agencies and skilled nursing facilities so that their payments will be fairer and more accurate.

This bill would exclude Critical Access Hospitals, Medicare Dependent Hospitals, and Sole Community Hospitals from the new Medicare outpatient prospective payment system (PPS) when it is implemented. The HCFA analysis has shown that these primarily small, rural hospitals would

be disproportionately impacted by the outpatient PPS as proposed.

The bill would improve Medicare payments to rural health clinics and allow HCFA to institute a prospective payment system. Medicare currently pays Rural Health Clinics for their reasonable costs up to a per-encounter cap of $60.40. The equivalent cap for Federally Qualified Health Center services, which was set using more recent data and a different methodology, is significantly higher ($80.62). S. 980 updates the methodology used to calculate the per-encounter cap, which will improve payments to rural health clinics.

There are provisions in the legislation to enhance choice of health plans in rural areas. The payment formula for Medicare+Choice plans, as revised in the Balanced Budget Act of 1997 (BBA), contains substantial changes designed to lessen the variance in payments to health plans among geographic areas over time. Today, Medicare payments vary county to county by more than 350% because they had been tied to historical charges. This is not a true reflection of the cost of delivering health care and in fact penalizes rural areas with historically poor access to quality care. Therefore, S.980 adjusts the payment formulas for Medicare+Choice plans to help rural areas attract private health plans.

Attracting health professionals to rural areas, and having them remain in the those communities, has been an ongoing problem. But access to high quality medical care is improved when there is an adequate supply of practitioners who remain in the community. S. 980 improves the likelihood of attracting and retaining health care professionals in rural areas. S. 980 increases payments to practitioners serving in Health Professional Shortage Areas (HPSAs) and assists rural communities with recruiting efforts. Specifically a 10% bonus will be paid to physician assistants and nurse practitioners for outpatient services provided in these areas. Our bill also assists with recruitment of health professionals to serve rural areas. Currently a community is not allowed to recruit and hire a practitioner until the one being replaced has left. No longer would a community have to lose the practitioner, before the recruitment process could begin. In addition, tuition benefits provided as scholarships through the National Health Service Corps, would not be treated as taxable income. These changes help ensure that trained health care professionals are accessible to seniors and individuals with disabilities living in rural areas.

The bill also makes changes to assist with training of physicians in rural hospitals. S.980 would allow rural hospitals to get credit for residents who spend time training outside a hospital and in rural health clinics. It would also allow hospitals with only one residency program to add up to three residents to their limit. BBA froze the reimbursement for residents at 1996 levels. This was detrimental to rural areas. These changes will allow for the training of more physicians in rural areas

Mr. President, I am pleased that S. 980 would enhance telemedicine and telehealth. Under the Balanced Budget Act of 1997, Medicare has begun to pay for telemedicine consultations for patients living in rural areas that are designated as Health Professional Shortage Areas (HPSAs). The Promoting Health in Rural Areas Act would: (1) allow anything currently covered by Medicare to be reimbursed; (2) expand eligibility for telemedicine reimbursement to include all rural areas; and (3) state definitively that the referring physician need not be present at the time of the telehealth service, and clarify that any health care practitioner, acting on instructions from the referring physician or practitioner, may present the patient to the consulting physician.

In addition, the bill would formally authorize an existing group of Cabinet level and private sector members and instruct them to focus on identifying, monitoring, and coordinating federal telehealth projects. The provisions also authorize the development a grant/loan program for telemedicine activities in rural areas.

Mr. President, this bill was developed by the Senate Rural Health Caucus, of which I am a member. I am proud of the provisions directed towards rural health care providers and the benefits they will have for the citizens of rural communities.

This bill sends a strong message to rural America: Washington cares about your problems and wants to help ensure access to quality health care. This is accomplished by strengthening the Medicare program and by making the newest technology available to rural areas.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE ANNUAL REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 28

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j–2(j)), I transmit herewith the annual report of the National Institute of Building Sciences for fiscal year 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1999*.

MESSAGES FROM THE HOUSE

At 2:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 775. An act to establish procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

MEASURES REFERRED

The following bill was referred the Committee on Armed Services, pursuant to section 3(b) of Senate Resolution 400, Ninety-fourth Congress, for a period not to exceed thirty days of session:

S. 1009. A bill to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times and placed on the calendar:

H.R. 775. An act to establish procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HELMS, for the Committee on Foreign Relations:

Treaty Doc. 105–1(A) Amended Mines Protocol (Exec. Rept. 106–2).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A RESERVATION, UNDERSTANDINGS, AND CONDITIONS.

The Senate advises and consents to the ratification of the Amended Mines Protocol (as defined in section 5 of this resolution), subject to the reservation in section 2, the

understandings in section 3, and the conditions in section 4.

SEC. 2. RESERVATION.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the reservation, which shall be included in the United States instrument of ratification and shall be binding upon the President, that the United States reserves the right to use other devices (as defined in Article 2(5) of the Amended Mines Protocol) to destroy any stock of food or drink that is judged likely to be used by an enemy military force, if due precautions are taken for the safety of the civilian population.

SEC. 3. UNDERSTANDINGS.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following understandings, which shall be included in the United States instrument of ratification and shall be binding upon the President:

(1) UNITED STATES COMPLIANCE.—The United States understands that—

(A) any decision by any military commander, military personnel, or any other person responsible for planning, authorizing, or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken; and

(B) Article 14 of the Amended Mines Protocol (insofar as it relates to penal sanctions) shall apply only in a situation in which an individual—

(i) knew, or should have known, that his action was prohibited under the Amended Mines Protocol;

(ii) intended to kill or cause serious injury to a civilian; and

(iii) knew or should have known, that the person he intended to kill or cause serious injury was a civilian.

(2) EFFECTIVE EXCLUSION.—The United States understands that, for the purposes of Article 5(6)(b) of the Amended Mines Protocol, the maintenance of observation over avenues of approach where mines subject to that Article are deployed constitutes one acceptable form of monitoring to ensure the effective exclusion of civilians.

(3) HISTORIC MONUMENTS.—The United States understands that Article 7(1)(i) of the Amended Mines Protocol refers only to a limited class of objects that, because of their clearly recognizable characteristics and because of their widely recognized importance, constitute a part of the cultural or spiritual heritage of peoples.

(4) LEGITIMATE MILITARY OBJECTIVES.—The United States understands that an area of land itself can be a legitimate military objective for the purpose of the use of landmines, if its neutralization or denial, in the circumstances applicable at the time, offers a military advantage.

(5) PEACE TREATIES.—The United States understands that the allocation of responsibilities for landmines in Article 5(2)(b) of the Amended Mines Protocol does not preclude agreement, in connection with peace treaties or similar arrangements, to allocate responsibilities under that Article in a manner that respects the essential spirit and purpose of the Article.

(6) BOOBY-TRAPS AND OTHER DEVICES.—For the purposes of the Amended Mines Protocol, the United States understands that—

(A) the prohibition contained in Article 7(2) of the Amended Mines Protocol does not preclude the expedient adaptation or adaptation in advance of other objects for use as booby-traps or other devices;

(B) a trip-wired hand grenade shall be considered a ''booby-trap'' under Article 2(4) of the Amended Mines Protocol and shall not be considered a ''mine'' or an ''anti-personnel mine'' under Article 2(1) or Article 2(3), respectively; and

(C) none of the provisions of the Amended Mines Protocol, including Article 2(5), applies to hand grenades other than trip-wired hand grenades.

(7) NON-LETHAL CAPABILITIES.—The United States understands that nothing in the Amended Mines Protocol may be construed as restricting or affecting in any way non-lethal weapon technology that is designed to temporarily disable, stun, signal the presence of a person, or operate in any other fashion, but not to cause permanent incapacity.

(8) INTERNATIONAL TRIBUNAL JURISDICTION.—The United States understands that the provisions of Article 14 of the Amended Mines Protocol relating to penal sanctions refer to measures by the authorities of States Parties to the Protocol and do not authorize the trial of any person before an international criminal tribunal. The United States shall not recognize the jurisdiction of any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons.

(9) TECHNICAL COOPERATION AND ASSISTANCE.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological information for any reason; and

(B) the Amended Mines Protocol may not be used as a pretext for the transfer of weapons technology or the provision of assistance to the military mining or military countermining capabilities of a State Party to the Protocol.

SEC. 4. CONDITIONS.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following conditions, which shall be binding upon the President:

(1) PURSUIT DETERRENT MUNITION.—

(A) UNDERSTANDING.—The Senate understands that nothing in the Amended Mines Protocol restricts the possession or use of the Pursuit Deterrent Munition, which is in compliance with the provisions in the Technical Annex.

(B) CERTIFICATION.—Prior to deposit of the United States instrument of ratification, the President shall certify to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives that the Pursuit Deterrent Munition shall continue to remain available for use by the United States Armed Forces at least until January 1, 2003, unless an effective alternative to the munition becomes available.

(C) EFFECTIVE ALTERNATIVE DEFINED.—For purposes of subparagraph (B), the term ''effective alternative'' does not mean a tactic or operational concept in and of itself.

(2) HUMANITARIAN DEMINING ASSISTANCE.—The Senate makes the following findings:

(A) UNITED STATES EFFORTS.—The United States contributes more than any other country to the worldwide humanitarian demining effort, having expended more than $153,000,000 on such efforts since 1993.

(B) DEVELOPMENT OF DETECTION AND CLEARING TECHNOLOGY.—The Department of Defense has undertaken a program to develop improved mine detection and clearing technology and has shared this improved technology with the international community.

(C) EXPANSION OF UNITED STATES HUMANITARIAN DEMINING PROGRAMS.—The Department of Defense and the Department of State have expanded their humanitarian demining programs to train and assist the personnel of other countries in developing effective demining programs.

(3) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ASSESSMENT FOR COST OF IMPLEMENTATION.—Notwithstanding any provision of the Amended Mines Protocol, and subject to the requirements of subparagraphs (B) and (C), the portion of the United States annual assessed contribution for activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol may not exceed $1,000,000.

(B) RECALCULATION OF LIMITATION.—

(i) IN GENERAL.—On January 1, 2000, and at 3-year intervals thereafter, the Administrator of General Services shall prescribe an amount that shall apply in lieu of the amount specified in subparagraph (A) and that shall be determined by adjusting the last amount applicable under that subparagraph to reflect the percentage increase by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the calendar year three years previously.

(ii) CONSUMER PRICE INDEX DEFINED.—In this subparagraph, the term ''Consumer Price Index'' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions for activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the appropriate committees of Congress that the failure to make such contributions would seriously affect the national interest of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President under subclause (I).

(ii) STATEMENT OF REASONS.—Any certification made under clause (i) shall be accompanied by a detailed statement setting forth the specific reasons therefor and the specific activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol to which the additional contributions would be applied.

(4) UNITED STATES AUTHORITY FOR TECHNICAL COOPERATION AND ASSISTANCE.—Notwithstanding any provision of the Amended Mines Protocol, no funds may be drawn from the Treasury of the United States for any payment or assistance (including the transfer of in-kind items) under Article 11 or Article 13(3)(d) of the Amended Mines Protocol without statutory authorization and appropriation by United States law.

(5) FUTURE NEGOTIATION OF WITHDRAWAL CLAUSE.—It is the sense of the Senate that, in negotiations on any treaty containing an arms control provision, United States negotiators should not agree to any provision that would have the effect of prohibiting the United States from withdrawing from the arms control provisions of that treaty in a timely fashion in the event that the supreme national interests of the United States have been jeopardized.

(6) LAND MINE ALTERNATIVES.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the President, in pursuing alternatives to United States anti-personnel mines or mixed anti-tank systems, will not limit the types of alternatives to be considered on the

basis of any criteria other than those specified in subparagraph (B); and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(ii) would be affordable.

(7) CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that, with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(8) TACTICS AND OPERATIONAL CONCEPTS.—It is the sense of the Senate that development, adaptation, or modification of an existing or new tactic or operational concept, in and of itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(9) FINDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the use of mines that do not meet or exceed the specifications on detectability, self-destruction, and self-deactivation contained in the Technical Annex to the Amended Mines Protocol; and

(B) United States mines that do meet such specifications have not contributed to this problem.

(10) APPROVAL OF MODIFICATIONS.—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(11) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval an international agreement that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty-making power as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and condition (8) of the resolution of ratification of the CFE Flank Document, approved by the Senate on May 14, 1997.

(13) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Amended Mines Protocol requires or authorizes the enactment of legislation, or the taking of any other action, by the United States that is prohibited by the Constitution of the United States, as interpreted by the United States.

SEC. 5. DEFINITIONS.

As used in this resolution:

(1) AMENDED MINES PROTOCOL OR PROTOCOL.—The terms ''Amended Mines Protocol'' and ''Protocol'' mean the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, as adopted at Geneva on May 3, 1996 (contained in Senate Treaty Document 105-1).

(2) CFE FLANK DOCUMENT.—The term ''CFE Flank Document'' means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, done at Vienna on May 31, 1996 (Treaty Document 105–5).

(3) CONVENTION ON CONVENTIONAL WEAPONS.—The term ''Convention on Conventional Weapons'' means the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on October 10, 1980 (Senate Treaty Document 103–25).

(4) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the Amended Mines Protocol.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1028. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself, Mr. KENNEDY, Mr. LEVIN, and Mr. VOINOVICH):

S. 1029. A bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 1030. A bill to provide that the conveyance by the Bureau of Land Management of the surface estate to certain land in the State of Wyoming in exchange for certain private land will not result in the removal of the land from operation of the mining laws; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 1031. A bill to amend the National Forest Management Act of 1976 to prohibit below-cost timber sales in the Shawnee National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWNBACK (for himself, Mr. HELMS, Mr. BURNS, Mr. ROBERTS, Mr. FITZGERALD, and Mr. LUGAR):

S. 1032. A bill to permit ships built in foreign countries to engage in coastwise trade in the transport of certain products; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN:

S. 1033. A bill to amend title IV of the Social Security Act to coordinate the penalty for the failure of a State to operate a State child support disbursement unit with the alternative penalty procedure for failures to meet data processing requirements; to the Committee on Finance.

By Mr. AKAKA (for himself, Ms. SNOWE, Mrs. MURRAY, and Ms. COLLINS):

S. 1034. A bill to amend title XVIII of the Social Security Act to increase the amount of payment under the medicare program for pap smear laboratory tests; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. BINGAMAN):

S. 1035. A bill to establish a program to provide grants to expand the availability of public health dentistry programs in medically underserved areas, health professional shortage areas, and other Federally-defined areas that lack primary dental services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself, Mr. DODD, and Mr. ROCKEFELLER):

S. 1036. A bill to amend parts A and D of title IV of the Social Security Act to give States the option to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and the option to disregard any child support that the family receives in determining a family's eligibility for, or amount of, assistance under that program; to the Committee on Finance.

By Mrs. BOXER:

S. 1037. A bill to amend the Toxic Substances Control Act to provide for a gradual reduction in the use of methyl tertiary butyl ether, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself, Mr. KERREY, Mr. CONRAD, and Mr. DASCHLE):

S. 1038. A bill to amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap; to the Committee on Finance.

By Mr. NICKLES:

S. 1039. A bill for the relief of Renato Rosetti; to the Committee on the Judiciary.

By Mr. SHELBY (for himself and Mr. CRAIG):

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

By Mr. FRIST:

S. 1041. A bill to amend title 38, United States Code, to permit certain members of the Armed Forces not currently participating in the Montgomery GI Bill educational assistance program to participate in that program, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself, Mr. BREAUX, Mr. DOMENICI, Mr. BINGAMAN, Mr. LOTT, Ms. LANDRIEU, Mr. COCHRAN, Mr. THOMAS, Mr. BROWNBACK, and Mr. GRAMM):

S. 1042. A bill to amend the Internal Revenue Code of 1986 to encourage domestic oil and gas production, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 1043. A bill to provide freedom from regulation by the Federal Communications Commission for the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY:

S. 1044. A bill to require coverage for colorectal cancer screenings; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BREAUX, Mr. KERREY, and Mr. ROBB):

S. 1045. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Finance.

By Mr. REED:

S. 1046. A bill to amend title V of the Public Health Service Act to revise and extend

certain programs under the authority of the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request):

S. 1047. A bill to provide for a more competitive electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1048. A bill to provide for a more competitive electric power industry, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1049. A bill to improve the administration of oil and gas leases on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1050. A bill to amend the Internal Revenue Code of 1986 to provide incentives for gas and oil producers, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request):

S. 1051. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, and Mr. BINGAMAN):

S. 1052. A bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FITZGERALD (for himself, Mr. GRASSLEY, Mr. ROBERTS, and Mr. ASHCROFT):

S. Res. 101. A resolution expressing the sense of the Senate on agricultural trade negotiations; to the Committee on Finance.

By Mr. LOTT:

S. Res. 102. A resolution appointing Patricia Mack Bryan as Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1028. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes; to the Committee on the Judiciary.

CITIZENS ACCESS TO JUSTICE ACT OF 1999

Mr. HATCH. Mr. President, I am pleased today to introduce the ''Citizens Access to Justice Act of 1999,'' or CAJA. More precisely, I am reintroducing the same bill that was voted out of the Judiciary Committee last Congress, but was a victim of a filibuster by the left.

Why am I doing this? Some may say that it is fruitless. But even though Senator LANDRIEU, other supporters of the bill, and myself, were unsuccessful last Congress in passing this much needed bill, property owners of Utah, and, indeed, of all of our States, still feel the heavy hand of the government erode their right to hold and enjoy private property. To make matters worse, many of these property owners often are unable to safeguard their rights because they effectively are denied access to federal courts. Our bill was designed to rectify this problem. Let me explain.

In a society based upon the ''rule of law,'' the ability to protect property and other rights is of paramount importance. Indeed, it was Chief Justice John Marshall, who in the seminal 1803 case of Marbury v. Madison, observed that the ''government of the United States has been emphatically termed a government of laws, and not of men. It will cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested right.''

Despite this core belief of John Marshall and other Founders, the ability of property owners to vindicate their rights in court today is being frustrated by localities which sometimes create labyrinths of administrative hurdles that property owners must jump through before being able to bring a claim in Federal court to vindicate their federal constitutional rights. They are also hampered by the overlapping and confusing jurisdiction of the Court of Federal Claims and the federal district courts over Fifth Amendment property rights claims. CAJA seeks to remedy these situations.

The purpose of the bill is, therefore, at its root, primarily one of fostering fundamental fairness and simple justice for the many millions of Americans who possess or own property. Many citizens who attempt to protect their property rights guaranteed by the Fifth Amendment of the Constitution are barred from the doors of the federal courthouse.

In situations where other than Fifth Amendment property rights are sought to be enforced—such as First Amendment rights, for example—aggrieved parties generally file in a single federal forum to obtain the full range of remedies available to litigants to make them whole. In property rights cases, property owners may have to file in different courts for different types of remedies. This is expensive and wasteful.

Moreover, unlike situations where other constitutional rights are sought to be enforced, property owners seeking to enforce their Fifth Amendment rights must first exhaust all state remedies with the result that they may have to wait for over a decade before their rights are allowed to be vindicated in federal court—if they get there at all. CAJA addresses this problem of providing property owners fair access to federal courts to vindicate their federal constitutional rights.

Let me be more specific. The bill has two main provisions to accomplish this end. The first is to provide private property owners claiming a violation of the Fifth Amendment's Taking Clause some certainty as to when they may file the claim in federal court. This is accomplished by addressing the procedural hurdles of the ripeness and abstention doctrines which currently prevent them from having fair and equal access to federal court. The bill defines when a final agency decision has occurred for purposes of meeting the ripeness requirement and prohibits a federal judge from abstaining from or relinquishing jurisdiction when the case does not allege any violation of a state law, right, or privilege. Thus, the bill serves as a vehicle for overcoming federal judicial reluctance to review takings claims based on the ripeness and abstention doctrines.

The second provision clarifies the jurisdiction between the Court of Federal Claims in Washington, D.C., and the regional federal district courts over federal Fifth Amendment takings claims. The ''Tucker Act,'' which waives the sovereign immunity of the United States by granting the Court of Federal Claims jurisdiction to entertain monetary claims against the United States, actually complicates the ability of a property owner to vindicate the right to just compensation for a government action that has caused a taking. The law currently forces a property owner to elect between equitable relief in the federal district court and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court.

This division between law and equity is archaic and results in burdensome delays as property owners who seek both types of relief are ''shuffled'' from one court to the other to determine which court is the proper forum for review. The bill resolves this matter by simply giving both courts concurrent jurisdiction over takings claims, thus allowing both legal and equitable relief to be granted in a single forum.

I must emphasize that the bill does not create any substantive rights. The definition of property, as well as what constitutes a taking under the Just Compensation Clause of the Fifth Amendment, is left to the courts to define. The bill would not change existing case law's ad hoc, case-by-case definition of regulatory takings. Instead, it would provide a procedural fix to the litigation muddle that delays and increases the cost of litigating a Fifth Amendment taking case. All the bill does is to provide for fair procedures to allow property owners the means to safeguard their rights by having their day in court.

Mr. President, I am very well aware that this bill has been opposed by the

Department of Justice, many localities, some interstate governmental associations, and certain environmental groups. I believe that there concerns that the bill would hinder local prerogatives and significantly increase the amount of federal litigation are highly overstated. The bill is carefully drafted to ensure that aggrieved property owners must first seek solutions on the local or state level before filing a federal claim. It just sets a limit on how many procedures localities may interpose.

Moreover, I seriously doubt that there will be a rush of new litigation, as some have contended, flooding federal courts. That there will be no significant increase was the conclusion of the nonpartisan Congressional Budget Office in its study of last year's bill.

It is extremely difficult to prove a takings claim, and this bill does not in any way redefine what constitutes a taking. These claims are also expensive to bring. Paradoxically, localities' need to defend federal actions may be lessened by the bill because localities already must litigate property rights claims on federal ripeness grounds, which take years to resolve.

Let me restate this. By providing certainty on the ripeness issue, the bill may very well reduce litigation costs to localities. Substantive takings claims, unless they are likely to prevail on the merits, are simply too hard to prove and too expensive to bring in federal court. And the issue of ripeness will have been removed by the bill from the already crowded court dockets.

Mr. President, it is interesting to note that once many state officials, localities, and state and trade organizations really examine the measure, many become the bill's supporters. Those supporting the bill and increased vigilance in the property rights arena include the Governors of Tennessee, Wisconsin, New Mexico, and North Dakota.

They also include the American Legislative Exchange Council, which represents over 3000 state legislators, and trade groups such as America's Community Bankers, the National Mortgage Association of America, the National Association of Home Builders, the National Association of Realtors, and the National Federation of Independent Businesses, the organ of small business in the United States. They also include agricultural interests such as the American Farm Bureau, the American Forest and Paper Association, the National Cattlemen's Beef Association, and the National Grange.

Just as important, let me point out that 133 House sponsors of the last year's House passed bill were former state and local officeholders. I do not believe that they would have voted for the bill if the bill would conflict with local sovereignty.

Mr. President, we have bent over backwards trying to accommodate those expressing concerns about the bill which passed out of the Senate Judiciary Committee last year. We met with city mayors, representatives of local governmental organizations, attorneys generals, and religious groups, to name just a few.

We held group meetings and asked for suggestions and changes to the bill which would alleviate opposition and concerns. These changes are incorporated in the present bill. These changes by and large alleviate municipalities' concerns that the bill would become a vehicle for frivolous and novel suits. They remove any incentive the bill may have for property owners to file specious suits against localities. They foster negotiations to resolve problems. And, they recognize the right of the states and localities to abate nuisances without having to pay compensation.

But I am under no illusion. I understand that many localities still oppose the bill. The process that we so fruitfully began last year should be continued. It is my hope that groups supporting property rights and those localities and governmental entities that oppose the bill should meet as soon as practicable. Let each side discuss their problems and concerns. I believe—in the best tradition of American pragmatic know how—that a solution to this problem can be worked out.

The bill I introduce today is a model. But it is a model that can be improved. I assure all those concerned that we will consider all reasonable suggested changes to the bill. After all, it is not pride of authorship that is important. What is important, instead, is a viable solution to a vexing and unfair problem.

Mr. President, I ask unanimous consent that the entire text of the bill be inserted in the RECORD.

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

S. 1028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Citizens Access to Justice Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) property rights have been abrogated by the application of laws, regulations, and other actions by all levels of government that adversely affect the value and the ability to make reasonable use of private property;

(2) certain provisions of sections 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act), that delineate the jurisdiction of courts hearing property rights claims, frustrate the ability of a property owner to obtain full relief for violation founded upon the fifth and fourteenth amendments of the United States Constitution;

(3) current law—

(A) has no sound basis for splitting jurisdiction between two courts in cases where constitutionally protected property rights are at stake;

(B) adds to the complexity and cost of takings and litigation, adversely affecting taxpayers and property owners;

(C) forces a property owner, who seeks just compensation from the Federal Government, to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims;

(D) is used to urge dismissal in the district court in complaints against the Federal Government, on the ground that the plaintiff should seek just compensation in the Court of Federal Claims;

(E) is used to urge dismissal in the Court of Federal Claims in complaints against the Federal Government, on the ground that the plaintiff should seek equitable relief in district court; and

(F) forces a property owner to first pay to litigate an action in a State court, before a Federal judge can decide whether local government has denied property rights safeguarded by the United States Constitution;

(4) property owners cannot fully vindicate property rights in one lawsuit and their claims may be time barred in a subsequent action;

(5) property owners should be able to fully recover for a taking of their private property in one court;

(6) certain provisions of section 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act) should be amended, giving both the district courts of the United States and the Court of Federal Claims jurisdiction to hear all claims relating to property rights in complaints against the Federal Government;

(7) section 1500 of title 28, United States Code, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and made by the same plaintiff, should be repealed;

(8) Federal and local authorities, through complex, costly, repetitive and unconstitutional permitting, variance, and licensing procedures, have denied property owners their fifth and fourteenth amendment rights under the United States Constitution to the use, enjoyment, and disposition of, and exclusion of others from, their property, and to safeguard those rights, there is a need to determine what constitutes a final decision of an agency in order to allow claimants the ability to protect their property rights in a court of law;

(9) a Federal judge should decide the merits of cases where a property owner seeks redress solely for infringements of rights safeguarded by the United States Constitution, and where no claim of a violation of State law is alleged; and

(10) certain provisions of sections 1343, 1346, and 1491 of title 28, United States Code, should be amended to clarify when a claim for redress of constitutionally protected property rights is sufficiently ripe so a Federal judge may decide the merits of the allegations.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish a clear, uniform, and efficient judicial process whereby aggrieved property owners can obtain vindication of property rights guaranteed by the fifth and fourteenth amendments to the United States Constitution and this Act;

(2) amend the Tucker Act, including the repeal of section 1500 of title 28, United States Code;

(3) rectify the unduly onerous and expensive requirement that an owner of real property, seeking redress under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) for the infringement of property rights protected by the fifth and fourteenth amendments of the United States Constitution, is required to first litigate Federal constitutional issues in a State court before obtaining access to the Federal courts;

(4) provide for uniformity in the application of the ripeness doctrine in cases where constitutional rights to use and enjoy real property are allegedly infringed, by providing that a final agency decision may be adjudicated by a Federal court on the merits after—

(A) the pertinent government body denies a meaningful application to develop the land in question; and

(B)(i) the property owner seeks available waivers and administrative appeals from such denial; and

(ii) such waiver or appeal is not approved; and

(5) confirm the proper role of a State or territory to prevent land uses that are a nuisance under applicable law.

SEC. 4. DEFINITIONS.

In this Act, the term—

(1) ''agency action'' means any action, inaction, or decision taken by a Federal agency or other government agency that at the time of such action, inaction, or decision adversely affects private property rights;

(2) ''district court''—

(A) means a district court of the United States with appropriate jurisdiction; and

(B) includes the United States District Court of Guam, the United States District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands;

(3) ''Federal agency'' means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(4) ''owner'' means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(5) ''private property'' or ''property'' means all interests constituting property, as defined by Federal or State law, protected under the fifth and fourteenth amendments to the United States Constitution; and

(6) ''taking of private property'', ''taking'', or ''take'' means any action whereby restricting the ownership, alienability, possession, or use of private property is an object of that action and is taken so as to require compensation under the fifth amendment to the United States Constitution, including by physical invasion, regulation, exaction, condition, or other means.

SEC. 5. PRIVATE PROPERTY ACTIONS.

(a) IN GENERAL.—An owner may file a civil action under this section to challenge the validity of any Federal agency action as a violation of the fifth amendment to the United States Constitution in a district court or the United States Court of Federal Claims.

(b) CONCURRENT JURISDICTION.—Notwithstanding any other provision of law and notwithstanding the issues involved, the relief sought, or the amount in controversy, the district court and the United States Court of Federal Claims shall each have concurrent jurisdiction over both claims for monetary relief and claims seeking invalidation of any Act of Congress or any regulation of a Federal agency affecting private property rights.

(c) ELECTION.—The plaintiff may elect to file an action under this section in a district court or the United States Court of Federal Claims.

(d) WAIVER OF SOVEREIGN IMMUNITY.—This section constitutes express waiver of the sovereign immunity of the United States with respect to an action filed under this section.

(e) APPEALS.—The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of any action filed under this section, regardless of whether the jurisdiction of such action is based in whole or part under this section.

(f) STATUTE OF LIMITATIONS.—The statute of limitations for any action filed under this section shall be 6 years after the date of the taking of private property.

(g) ATTORNEYS' FEES AND COSTS.—In issuing any final order in any action filed under this section, the court may award costs of litigation (including reasonable attorneys' fees) to any prevailing plaintiff.

SEC. 6. JURISDICTION OF UNITED STATES COURT OF FEDERAL CLAIMS AND UNITED STATES DISTRICT COURTS.

(a) UNITED STATES COURT OF FEDERAL CLAIMS.—

(1) JURISDICTION.—Section 1491(a) of title 28, United States Code, is amended—

(A) in paragraph (1) by amending the first sentence to read as follows: ''The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States for monetary relief founded either upon the Constitution or any Act of Congress or any regulation of an executive department or upon any express or implied contract with the United States, in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department under section 5 of the Citizens Access to Justice Act of 1999.'';

(B) in paragraph (2) by inserting before the first sentence the following: ''In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate.''; and

(C) by adding at the end the following new paragraphs:

''(3) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have supplemental jurisdiction, concurrent with the courts designated under section 1346(b), to render judgment upon any related tort claim authorized under section 2674.

''(4) In proceedings within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action (rather than de novo proceedings), the provisions of section 706 of title 5 shall apply.

''(5)(A) Any claim brought under this subsection to redress the deprivation of a right or privilege to use and enjoy real property as secured by the Constitution, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(B) For purposes of this paragraph, a final decision exists if—

''(i) the United States makes a definitive decision regarding the extent of permissible uses on real property that has been allegedly infringed or taken; and

''(ii) one meaningful application as defined by applicable law to use the property has been submitted but has not been approved within a reasonable time, and the party seeking redress has applied for one appeal and one waiver which has not been approved within a reasonable time, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

''(C)(i) The party seeking redress shall not be required to submit any application or apply for any appeal or waiver required under this section, if the district court determines that such action would be futile.

''(ii) In this subparagraph, the term 'futile' means the inability of an owner of real property to seek or obtain approvals to use such real property, and the hardship endured by such inability, as defined under applicable land use, zoning, and planning law.

''(D) Nothing in this paragraph alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

(2) PENDENCY OF CLAIMS IN OTHER COURTS.—

(A) IN GENERAL.—Section 1500 of title 28, United States Code is repealed.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1500.

(b) DISTRICT COURT JURISDICTION.—

(1) CITIZEN ACCESS TO JUSTICE ACTION.—Section 1346(a) of title 28, United States Code, is amended by adding after paragraph (2) the following:

''(3) Any civil action filed under section 5 of the Citizens Access to Justice Act of 1999.''.

(2) UNITED STATES AS DEFENDANT.—Section 1346 of title 28, United States Code, is amended by adding at the end the following:

''(h)(1) Any claim brought under subsection (a) to redress the deprivation of a right or privilege to use and enjoy real property as secured by the Constitution shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

''(2)(A) For purposes of this subsection, a final decision exists if—

''(i) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

''(ii) one meaningful application as defined by applicable law to use the property has been submitted but has not been approved within a reasonable time, and the party seeking redress has applied for one appeal and one waiver which has not been approved within a reasonable time, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

''(B)(i) The party seeking redress shall not be required to submit any application or apply for any appeal or waiver required under this section, if the district court determines that such action would be futile.

''(ii) In this subparagraph, the term 'futile' means the inability of an owner of real property to seek or obtain approvals to use such real property, and the hardship endured by such inability, as defined under applicable land use, zoning, and planning law.

''(3) Nothing in this subsection alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

(c) DISTRICT COURT CIVIL RIGHTS JURISDICTION; ABSTENTION.—Section 1343 of title 28, United States Code, is amending by adding at the end the following:

''(c) Whenever a district court exercises jurisdiction under subsection (a), the court shall not abstain from or relinquish jurisdiction to a State court in an action if—

''(1) no claim of a violation of a State law or privilege is alleged; and

''(2) a parallel proceeding in State court arising out of the same core of operative facts as the district court proceeding is not pending.

''(d) A district court that exercises jurisdiction under subsection (a) in an action in which the operative facts concern the uses of real property may abstain where the party seeking redress—

''(1) has not submitted a meaningful application, as defined by applicable law, to use such real property; and

''(2) challenges whether an action of the applicable locality exceeds the authority

conferred upon the locality under the applicable zoning or planning enabling statute of the State or territory.

''(e)(1) Where the district court has jurisdiction over an action under subsection (a) in which the operative facts concern the uses of real property and which cannot be decided without resolution of an unsettled question of State law, the district court may certify the question of State law to the highest appellate court of that State. After the State appellate court resolves the question certified to it, the district court shall proceed with resolving the merits.

''(2) In making a decision whether to certify a question of State law under this subsection, the district court may consider whether the question of State law—

''(A) will significantly affect the merits of the injured party's Federal claim; and

''(B) is patently unclear.

''(f)(1) Any claim or action brought under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) to redress the deprivation of a right or privilege to use and enjoy real property as secured by the Constitution shall be ripe for adjudication by the district courts upon a final decision rendered by any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, that causes actual and concrete injury to the party seeking redress.

''(2)(A) For purposes of this subsection, a final decision exists if—

''(i) any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or territory of the United States, makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken;

''(ii)(I) one meaningful application, as defined by applicable law to use the property has been submitted but has not been approved within a reasonable time, and the party seeking redress has applied for one appeal or waiver which has not been approved within a reasonable time, where the applicable statute, ordinance, custom, or usage provides a mechanism for appeal to or waiver by an administrative agency; or

''(II) one meaningful application, as defined by applicable law, to use the property has been submitted but has not been approved within a reasonable time, and the disapproval at a minimum specifies in writing the range of use, density, or intensity of development of the property that would be approved, with any conditions therefor, and the party seeking redress has resubmitted another meaningful application taking into account the terms of the disapproval, except that—

''(aa) if no such reapplication is submitted, then a final decision shall not have been reached for purposes of this subsection, except as provided in subparagraph (B); and

''(bb) if the reapplication is not approved within a reasonable time, or if the reapplication is not required under subparagraph (B), then a final decision exists for purposes of this subsection if the party seeking redress has applied for one appeal or waiver with respect to the disapproval, which has not been approved within a reasonable time, where the applicable statute, ordinance, custom, or usage provides a mechanism of appeal or waiver by an administrative agency; and

''(iii) in a case involving the uses of real property, where the applicable statute or ordinance provides for review of the case by elected officials, the party seeking redress has applied for but is denied such review.

''(B)(i) The party seeking redress shall not be required to submit any application or reapplication, or apply for any appeal or waiver as required under this subsection, upon determination by the district court that such action would be futile.

''(ii) In this subparagraph, the term 'futile' means the inability of an owner of real property to seek or obtain approvals to use such real property, and the hardship endured by such inability, as defined under applicable land use, zoning, and planning law.

''(3) For purposes of this subsection, a final decision shall not require the party seeking redress to exhaust judicial remedies provided by any State or territory of the United States.

''(g) Nothing in subsection (c), (d), (e), or (f) alters the substantive law of takings of property, including the burden of proof borne by the plaintiff.''.

SEC. 7. ATTORNEYS FEES FOR LOCALITIES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by striking ''In any action'' and inserting ''(1) Subject to paragraphs (2) and (3), in any action''; and

(2) by adding at the end the following:

''(2) In an action arising under section 1979 of the Revised Statutes (42 U.S.C. 1983), where the taking of real property is alleged, a district court, in its discretion, may hold the party seeking redress liable for a reasonable attorney's fee and costs where the takings claim is not substantially justified, unless special circumstances make an award of such fees unjust. Whether or not the position of the party seeking redress was substantially justified shall be determined on the basis of any administrative and judicial record, as a whole, which is made in the district court adjudication for which fees and other expenses are sought.

''(3) In an action arising under section 1979 of the Revised Statutes (42 U.S.C. 1983) where the taking of real property is alleged, the district court shall decide any motion to dismiss such claim on an expedited basis. Where such a motion is granted and the takings claim is dismissed with prejudice, the nonmoving party may be liable for a reasonable attorney's fee and costs at the discretion of the district court, unless special circumstances make an award of such fees unjust.''.

SEC. 8. DUTY OF NOTICE TO DEFENDANTS.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting ''(a)'' before ''Every person''; and

(2) by adding at the end the following:

''(b) A party seeking redress under this section for a taking of real property without the payment of compensation shall not commence an action in district court before 60 days after the date on which written notice has been given to any potential defendant.''.

SEC. 9. DUTY OF NOTICE TO OWNERS.

Whenever a Federal agency takes an agency action limiting the use of private property that may be affected by this Act (including the amendments made by this Act), the agency shall give notice to the owners of that property explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

SEC. 10. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed to interfere with the authority of any State to create additional property rights.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act and shall apply to any agency action that occurs on or after such date.

By Mr. COCHRAN (for himself and Mr. KENNEDY)

S. 1029. A bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships; to the Committee on Health, Education, Labor and Pensions.

DIGITAL EDUCATION ACT OF 1999

Mr. COCHRAN. Mr. President, today I am proud to introduce the Digital Education Act, a bill to amend title III of the Elementary and Secondary Education Act. I am pleased that the distinguished Senator from Massachusetts, Mr. KENNEDY, joins me in introducing this legislation to address some critical technology issues and the role of public broadcasting in education.

This bill expands Ready to Learn, a program of combined successful efforts in early childhood education. It expands MATHLINE, a proven model of teacher professional development, and it supports production of new digital educational material. The Digital Education Act includes innovative applications of progressive technology to promote the best practices in teaching and bring up to date information to classrooms throughout the country.

The Federal Government, State departments of education, local community businesses, and public television stations have made major investments in educational technology in recent years. These investments have focused on network infrastructure and computer hardware. It is time to invest in instructional resources that will make these new networks relevant and ensure that students and teachers are prepared to benefit fully from the new technology.

The Ready To Learn Television program, first authorized in 1994, has made a unique contribution to ensure that American children start school ''ready to learn.'' The program has funded an unprecedented blending of services, including quality children's educational television programming broadcast by the Public Broadcasting Service, and a variety of outreach services for parents, teachers and other care givers.

Ready to Learn outreach programs have had tremendous success. Local public television stations that subscribe to Ready to Learn provide training and other services to parents and care givers of preschoolchildren. Ready to Learn has grown from 10 public television stations to 130, reaching approximately 94 percent of the country. Each month Ready to Learn distributes over 35,000 books to children and over 900,000 copies of a custom parent/care giver magazine, specifically designed to integrate programming with reading. Ready to Learn is providing the opportunities for children and parents to build that foundation for success. Over 330,000 parents and child care professionals have been trained in using television to encourage reading. Using Ready to Learn techniques, these adults have nurtured the reading of 4,331,829 children.

The Mississippi Educational Network in my home State, targets outreach services to high poverty populations who are particularly disadvantaged.

The services include basic lessons in parenting, developmental benchmarks, health and nutrition, nurturing literacy in the home, and using the television programs children watch most to reinforce the lessons.

The families in these communities often have no reading material in their house. The first book given to a child by Mississippi Ready to Learn is quite likely to be the first book the child has ever owned. And, while Ready to Learn is designed for prekindergarten children, these families may have older children who may be equally in need. The local design of Ready to Learn allows the Mississippi director, Cassandra Washington, to tailor her workshops and even have a few older child books on hand for these families. Ms. Washington has been very resourceful in her outreach, finding non-traditional places for education, such as the Women Infants and Children Distribution Centers throughout Mississippi where families in need come regularly.

The International Reading Association stated recently, ''By the time children are exposed to beginning reading instruction in kindergarten and first grade, they should have a foundation that assures them early success. Recent studies indicate just how critical those positive early experiences are to cognitive development and lifelong reading.''

Congressionally authorized and Federally funded research at the National Institutes of Health found that when parents read to their young children, it literally stimulates the brain development of the children. A recent University of Alabama study found that Ready to Learn families: watch 40 percent less television, watch more education-oriented programming, read more often with their children, read longer at each sitting, read for more educational and informational purposes, and took their children to libraries and bookstores more often than others.

Using the best research tested information available, Ready To Learn has driven the development of two major, commercial-free broadcast series for young children. The first, ''Dragon Tales,'' will begin airing this fall and will be integrated with carefully designed home and school resources to develop reading skills in young children.

The Digital Education Act will build on the early successes of Ready to Learn. It will authorize funding to increase station grants, produce new outreach and training activities, and generate more services for parents and care givers, so that more children start school truly ready to learn.

The Digital Education Act provides for the demonstration of early childhood education digital applications with public television stations that are technologically ready. Currently, there are digital broadcast public television stations in Mississippi, Massachusetts, Missouri, Oregon, Pennsylvania, Virginia, Wisconsin, and Washington. These stations can transmit several programming services simultaneously. New applications include a dedicated channel for early childhood education and transmission of Internet accessible supplementary information text and video.

Today, children's programs produced by PBS and individual public broadcasting stations are among the television shows most watched by children and most used in classrooms. Many teachers and parents credit these programs for stimulating curiosity, educating, and encouraging continued learning through reading and other resources. The increased funding authorized in this bill will continue the investment of Ready to Learn resources in producing commercial-free children's programming of the highest educational quality.

Thirty years ago, Federal funding seeded the creation of Sesame Street. This carved out a meaningful place for educational children's programming as analog public television developed. The Digital Education Act stakes a new claim in the technological frontier for children and educational broadcasting and will ensure that this reinvention of television includes a major education component for children from the beginning.

The second element of the Digital Education Act concerns teacher professional development. In 1994, Congress authorized the ''Telecommunications Demonstration Project for Mathematics,'' which has supported a project called MATHLINE. Through MATHLINE, PBS has pioneered a new model of teacher professional development, utilizing a blend of technologies, including online communications and video, to provide quality resources and services to teachers of mathematics.

Through public and private funding, PBS MATHLINE developed The Elementary School Math Project for teachers, grades K–5; The Middle School Math Project for teachers, grades 5–8; The High School Math Project: Focus on Algebra for teachers, grades 7–12; and The Algebraic Thinking Math Project for teachers, grades 3–8.

Over 5,000 math teachers in 40 States and the District of Columbia have participated in MATHLINE. These innovative teaching techniques have taught more than 1.3 million students.

Three separate external evaluators have certified that MATHLINE is making a positive impact on the way teachers teach. For example, an evaluation of the Middle School Math Project by Rockman, et al. found, ''The impact of PBS MATHLINE is clear. It has influenced how teachers see themselves and helped them create a powerful and enriching mathematics environment in their classrooms * * * The gap between belief and performance is narrowing * * * The combination of viewing, communicating, and doing seems to have resulted in substantive changes in teaching.''

The International Reading Association stated in February, ''The most effective professional development programs are those planned by teachers themselves, based on their assessments of their needs as educators and their students' needs as learners.'' MATHLINE does just that. It is real teachers, teaching real students, and passing success on to more teachers. The MATHLINE demonstration has worked.

Our legislation would authorize the New Century Program for Distributed Teacher Professional Development. Under this new program, the successful MATHLINE model will expand to other core curriculum areas, such as literature, science and social studies. It will also connect the digitized public broadcasting infrastructure with digital education networks at schools, colleges and universities throughout the nation. Nearly every teacher in the United States will have access to the New Century Program.

The third element of our legislation would authorize the Digital Education Content Collaborative. As a nation, we have made tremendous progress in the last decade bringing our schools from the 19th Century to 21st Century technologically. However, there is still one major element that needs to be in place to make it all work. That is world-class educational content that rivals video games for students' attention, is tied to state standards, which teachers seamlessly integrate into daily learning activities.

Programs distributed by public broadcast stations are used by more classroom teachers than any other because of their high quality and relevance to the curriculum. A survey commissioned by the Corporation for Public Broadcasting in 1997, found that 92 percent of teachers use videos to improve their lessons and public broadcasting programs were the highest rated. However, single channel analog distribution limited station services to a few hours per day of linear video broadcasts.

Digital broadcasting will dramatically increase and improve the types of services local public broadcasting stations can offer schools. One of the most exciting is the ability to broadcast multiple video channels and data information simultaneously. A vast library of instructional video materials could be distributed on full time, continuous channels and it could be available on demand, when teachers and students need it. Digitally produced programs will allow local stations broadcast flexibility and new interactive content that matches state standards and fits local curriculums.

As Members of the United States Senate, working to reauthorize the programs our elementary and secondary schools depend upon, we are also looking for successful models that lead to true educational reform and improvement.

The Digital Education Act takes the best of educational technology programing; improves those proven to work; and places renewed confidence in education's most trusted and successful content development partners.

Mr. President, I am proud to be associated with the public broadcasting community, and I am proud of their commitment to our earliest learners. I hope more Senators will join us in supporting this important education legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 1029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Digital Education Act of 1999''.

SEC. 2. REVISION OF PART C OF TITLE III.

Part C of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6921 et seq.) is amended to read as follows:

"PART C—READY-TO-LEARN DIGITAL TELEVISION

"SEC. 3301. FINDINGS.

''Congress makes the following findings:

''(1) In 1994, Congress and the Department collaborated to make a long-term, meaningful and public investment in the principle that high-quality preschool television programming will help children be ready to learn by the time the children entered first grade.

''(2) The Ready to Learn Television Program through the Public Broadcasting Service (PBS) and local public television stations has proven to be an extremely cost-effective national response to improving early childhood development and helping parents, caregivers, and professional child care providers learn how to use television as a means to help children learn, develop, and play creatively.

''(3) Independent research shows that parents who participate in Ready to Learn workshops are more critical consumers of television and their children are more active viewers. A University of Alabama study showed that parents who had attended a Ready to Learn workshop read more books and stories to their children and read more minutes each time than nonattendees. The parents did more hands-on activities related to reading with their children. The parents engaged in more word activities and for more minutes each time. The parents read less for entertainment and more for education. The parents took their children to libraries and bookstores more than nonattendees. For parents, participating in a Ready to Learn workshop increases their awareness of and interest in educational dimensions of television programming and is instrumental in having their children gain exposure to more educational programming. Moreover, 6 months after participating in Ready to Learn workshops, parents who attended generally had set rules for television viewing by their children. These rules related to the amount of time the children were allowed to watch television daily, the hours the children were allowed to watch television, and the tasks or chores the children must have accomplished before the children were allowed to watch television.

''(4) The Ready to Learn (RTL) Television Program is supporting and creating commercial-free broadcast programs for young children that are of the highest possible educational quality. Program funding has also been used to create hundreds of valuable interstitial program elements that appear between national and local public television programs to provide developmentally appropriate messages to children and caregiving advice to parents.

''(5) Through the Nation's 350 local public television stations, these programs and programming elements reach tens of millions of children, their parents, and caregivers without regard to their economic circumstances, location, or access to cable. In this way, public television is a partner with Federal policy to make television an instrument, not an enemy, of preschool children's education and early development.

''(6) The Ready to Learn Television Program extends beyond the television screen. Funds from the Ready to Learn Television Program have funded thousands of local workshops organized and run by local public television stations, almost always in association with local child care training agencies or early childhood development professionals, to help child care professionals and parents learn more about how to use television effectively as a developmental tool. These workshops have trained more than 320,000 parents and professionals who, in turn, serve and support over 4,000,000 children across the Nation.

''(7)(A) The Ready to Learn Television Program has published and distributed millions of copies of a quarterly magazine entitled 'PBS Families' that contains—

''(i) developmentally appropriate games and activities based on Ready to Learn Television programming;

''(ii) parenting advice;

''(iii) news about regional and national activities related to early childhood development; and

''(iv) information about upcoming Ready to Learn Television activities and programs.

''(B) The magazine described in subparagraph (A) is published 4 times a year and distributed free of charge by local public television stations in English and in Spanish (PBS para la familia).

''(8) Because reading and literacy are central to the ready to learn principle Ready to Learn Television stations also have received and distributed millions of free age-appropriate books in their communities as part of the Ready to Learn Television Program. Each station receives a minimum of 200 books each month for free local distribution. Some stations are now distributing more than 1,000 books per month. Nationwide, more than 300,000 books are distributed each year in low-income and disadvantaged neighborhoods free of charge.

''(9) In 1998, the Public Broadcasting Service, in association with local colleges and local public television stations, as well as the Annenberg Corporation for Public Broadcasting Project housed at the Corporation for Public Broadcasting, began a pilot program to test the formal awarding of a Certificate in Early Childhood Development through distance learning. The pilot is based on the local distribution of a 13-part video courseware series developed by Annenberg Corporation for Public Broadcasting and WTVS Detroit entitled 'The Whole Child'. Louisiana Public Broadcasting, Kentucky Educational Television, Maine Public Broadcasting, and WLJT Martin, Tennessee, working with local and State regulatory agencies in the childcare field, have participated in the pilot program with a high level of success. The certificate program is ready for nationwide application using the Public Broadcasting Service's Adult Learning Service.

''(10) Demand for Ready To Learn Television Program outreach and training has increased dramatically, with the base of participating Public Broadcasting Service member stations growing from a pilot of 10 stations to nearly 130 stations in 5 years.

''(11) Federal policy played a crucial role in the evolution of analog television by funding the television program entitled 'Sesame Street' in the 1960's. Federal policy should continue to play an equally crucial role for children in the digital television age.

"SEC. 3302. READY-TO-LEARN.

''(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3303(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

''(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, their parents, childcare workers, and Head Start providers to increase the effective use of such programming.

"SEC. 3303. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements under section 3302 to eligible entities to—

''(1) facilitate the development directly, or through contracts with producers of children and family educational television programming, of—

''(A) educational programming for preschool and elementary school children; and

''(B) accompanying support materials and services that promote the effective use of such programming;

''(2) facilitate the development of programming and digital content especially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet, containing Ready to Learn-based children's programming and resources for parents and caregivers; and

''(3) enable eligible entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed—

(A) to the widest possible audience appropriate to be served by the programming; and

(B) by the most appropriate distribution technologies.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

''(1) a public telecommunications entity that is able to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

''(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

''(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

"SEC. 3304. DUTIES OF SECRETARY.

''The Secretary is authorized—

''(1) to award grants, contracts, or cooperative agreements to eligible entities described

in section 3303(b), local public television stations, or such public television stations that are part of a consortium with 1 or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

''(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

''(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

''(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness; and

''(D) developing and disseminating training materials, including—

''(i) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

''(ii) support materials to promote the effective use of materials developed under subparagraph (B) among parents, Head Start providers, in-home and center-based daycare providers, early childhood development personnel, elementary school teachers, public libraries, and after- school program personnel caring for preschool and elementary school children;

''(2) to establish within the Department a clearinghouse to compile and provide information, referrals, and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

''(3) to coordinate activities assisted under this part with the Secretary of Health and Human Services in order to—

''(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

''(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including programs under the Head Start Act and Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under paragraph (1)(D) to enhance parent and child care provider skills in early childhood development and education.

''SEC. 3305. APPLICATIONS.

''Each entity desiring a grant, contract, or cooperative agreement under section 3302 or 3304 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''SEC. 3306. REPORTS AND EVALUATION.

''(a) ANNUAL REPORT TO SECRETARY.—An eligible entity receiving funds under section 3302 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under section 3302, including—

''(1) the programming that has been developed directly or indirectly by the eligible entity, and the target population of the programs developed;

''(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

''(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

''(4) the initiatives undertaken by the eligible entity to develop public-private partnerships to secure non-Federal support for the development, distribution and broadcast of educational and instructional programming.

''(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

''(1) a summary of activities assisted under section 3303(a); and

''(2) a description of the training materials made available under section 3304(1)(D), the manner in which outreach has been conducted to inform parents and childcare providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

''SEC. 3307. ADMINISTRATIVE COSTS.

''With respect to the implementation of section 3303, eligible entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

''SEC. 3308. DEFINITION.

''For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

''SEC. 3309. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) FUNDING RULE.—Not less than 60 percent of the amounts appropriated under subsection (a) for each fiscal year shall be used to carry out section 3303.''.

SEC. 3. REVISION OF PART D OF TITLE III.

Part D of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6951 et seq.) is amended to read as follows:

''PART D—THE NEW CENTURY PROGRAM FOR DISTRIBUTED TEACHER PROFESSIONAL DEVELOPMENT

''SEC. 3401. FINDINGS.

''Congress makes the following findings:

''(1) Since 1995, the Telecommunications Demonstration Project for Mathematics (as established under this part pursuant to the Improving America's Schools Act of 1994) (in this section referred to as 'MATHLINE') has allowed the Public Broadcasting Service to pioneer and refine a new model of teacher professional development for kindergarten through grade 12 teachers. MATHLINE uses video modeling of standards-based lessons, combined with professionally facilitated online learning communities of teachers, to help mathematics teachers from elementary school through secondary school adopt and implement standards-based practices in their classrooms. This approach allows teachers to update their skills on their own schedules through video, while providing online interaction with peers and master teachers to reinforce that learning. This integrated, self-paced approach breaks down the isolation of classroom teaching while making standards-based best practices available to all participants.

''(2) MATHLINE was developed specifically to disseminate the first national voluntary standards for teaching and learning as developed by the National Council of Teachers of Mathematics (NCTM). During 3 years of actual deployment, more than 5,800 teachers have participated for at least a full year in the demonstration. These teachers, in turn, have taught more than 1,500,000 students cumulatively.

''(3)(A) In the first 3 years of the MATHLINE project, the Public Broadcasting Service used the largest portion of the funds provided under this part—

''(i) to produce video-based models of classroom teaching;

''(ii) to produce and disseminate extensive accompanying print materials;

''(iii) to organize and host professionally moderated, year-long, online learning communities; and

''(iv) to train the Public Broadcasting Service stations to deploy MATHLINE in their local communities. In fiscal year 1998, the Public Broadcasting Service added an extensive Internet-based set of learning tools for teachers' use with the video modules and printed materials, and the Public Broadcasting Service expanded the online resources available to teachers through Internet-based discussion groups and a national listserv.

''(B) To extend Federal funds, the Public Broadcasting Service has experimented with various fee models for teacher participation, with varying results. Using fiscal year 1998 Federal funds and private money, participation in MATHLINE will increase by 10,000 MATHLINE scholarships to preservice and inservice teachers. The Public Broadcasting Service and its participating member stations will distribute scholarships in each congressional district in the United States, with teachers serving disadvantaged populations given priority for the scholarships.

''(4) Independent evaluations indicate that teaching improves and students benefit as a result of the MATHLINE program.

''(5) The MATHLINE program is ready to be expanded to reach many more teachers in more subject areas. The New Century Program for Distributed Teacher Professional Development will link the digitized public broadcasting infrastructure with education networks by working with the program's digital membership, and Federal and State agencies, to expand the successful MATHLINE model. Tens of thousands of teachers will have access to the New Century Program for Distributed Teacher Professional Development, to advance their teaching skills and their ability to integrate technology into teaching and learning. The New Century Program for Distributed Teacher Professional Development also will leverage the Public Broadcasting Service's historic relationships with higher education to improve preservice teacher training.

''SEC. 3402. PROJECT AUTHORIZED.

''The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program authorized by this part shall be designed to assist elementary school and secondary school teachers in preparing all students for achieving State content standards.

"SEC. 3403. APPLICATION REQUIRED.

''(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

''(1) demonstrate that the applicant will use the public broadcasting infrastructure and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of standards-based curricula materials and learning technologies;

''(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, national, State or local nonprofit public telecommunications entities, and national education professional associations that have developed content standards in the subject areas;

''(3) assure that a significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

''(4) contain such additional assurances as the Secretary may reasonably require.

''(b) APPROVAL OF APPLICATIONS; NUMBER OF SITES.—In approving applications under this section, the Secretary shall assure that the program authorized by this part is conducted at elementary school and secondary school sites in at least 15 States.

"SEC. 3404. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, $20,000,000 for the fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 4. ADDITION OF PART F TO TITLE III.

Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended by adding at the end the following:

"PART F—DIGITAL EDUCATION CONTENT COLLABORATIVE

"SEC. 3701. FINDINGS.

''Congress makes the following findings:

''(1) Over the past several years, both the Federal and State governments have made significant investments in computer technology and telecommunications in the Nation's schools. Tremendous progress has been made in wiring classrooms, equipping the classrooms with multimedia computers, and connecting the classrooms to the Internet.

''(2) There is a great need for aggregating high quality, curriculum-based digital content for teachers and students to easily access and use in order to meet the State standards for student performance.

''(3) Under Federal Communications Commission policy, public television stations and State networks are mandated to convert from analog broadcasting to digital broadcasting by 2003.

''(4) Most local public television stations and State networks provide high quality video programs, and teacher professional development, as a part of their mission to serve local schools. Programs distributed by public broadcast stations are used by more classroom teachers than any other because of their high quality and relevance to the curriculum. However analog distribution has limited kindergarten through grade 12 services to a few hours per day of linear video broadcasts on a single channel.

''(5) The new capacity of digital broadcasting, can dramatically increase and improve the types of services public broadcasting stations can offer kindergarten through grade 12 schools.

''(6) Digital broadcasting can contribute to the improvement of schools and student performance as follows:

''(A) Broadcast of multiple video channels and data information simultaneously.

''(B) Data can be transmitted along with the video content enabling students to interact, access additional information, communicate with featured experts, and contribute their own knowledge to the subject.

''(C) Both the video and data can be stored on servers and made available on demand to teachers and students.

''(7) Teachers depend on public television stations as a primary source of high quality video material. The material has not always been as accessible or adaptable to the curriculum as teachers would prefer. Moreover, direct student interaction with the material was difficult.

''(8) Public television stations and State networks will soon have the capability of creating and distributing interactive digital content that can be directly matched to State standards and available to teachers and students on demand to fit their local curriculum.

''(9) Interactive digital education content will be an important component of Federal support for States in setting high standards and increasing student performance.

"SEC. 3702. DIGITAL EDUCATION CONTENT COLLABORATIVE.

''(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3703(b) to develop, produce, and distribute educational and instructional video programming that is designed for use by kindergarten through grade 12 schools and based on State standards.

''(b) AVAILABILITY.—In making the grants, contracts, or cooperative agreements, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies and organizations.

"SEC. 3703. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements under this part to eligible entities to—

''(1) facilitate the development of educational programming that shall—

''(A) include student assessment tools to give feedback on student performance;

''(B) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of the programming with group instruction or for individual student use;

''(C) be created for, or adaptable to, State content standards; and

''(D) be capable of distribution through digital broadcasting and school digital networks.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be a local public telecommunications entity as defined by section 397(12) of the Communications Act of 1934 that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

''(c) COMPETITIVE BASIS.—Grants under this part shall be awarded on a competitive basis as determined by the Secretary.

''(d) DURATION.—Each grant under this part shall be awarded for a period of 3 years in order to allow time for the creation of a substantial body of significant content.

"SEC. 3704. APPLICATIONS.

''Each eligible entity desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 3705. MATCHING REQUIREMENT.

''An eligible entity receiving a grant under this part shall contribute to the activities assisted under this part non-Federal matching funds equal to not less than 100 percent of the amount of the grant. Matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

"SEC. 3706. ADMINISTRATIVE COSTS.

''With respect to the implementation of this part, entities receiving a grant under this part from the Secretary may use not more than 5 percent of the amounts received under the grant for the normal and customary expenses of administering the grant.

"SEC. 3707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator COCHRAN in sponsoring the ''Digital Education Act of 1999.'' I commend him for his leadership in improving technology for children and families, so that more children come to school ready to learn.

In the early 1990's, Dr. Ernest Boyer, the distinguished former leader of the Carnegie Foundation, gave compelling testimony to the Senate Labor Committee about the appallingly high number of children who enter school without the skills to prepare them for learning. Their lack of preparation presented enormous obstacles to their ability to learn effectively in school, and seriously impaired their long-term achievement.

In response, Congress enacted the Ready-to-Learn program in 1992, and two years later its promise was so great that we extended it for five years. Because of the Department of Education and the Corporation for Public Broadcasting, the Ready-to-Learn initiative became an innovative and effective program. By linking the power of television to the world of books, many more children have been enabled to become good readers much more quickly.

Many children who enter school without the necessary basic skills are soon placed in a remedial program, which is costly for school systems. It is even more costly, however, for the students who face a bleaker future.

Today, by the time they enter school, the average child will have watched 4,000 hours of television. That is roughly the equivalent of four years of school.

For far too many youngsters, this is wasted time—time consuming ''empty calories'' for the brain. Instead, that time could be spent reading, writing, and learning. Through Ready-to-Learn television programming, children can obtain substantial education benefits that turn T.V. time into learning time.

As a result of Ready-to-Learn television, millions of children and families have access to high-quality television produced by public television

stations across the country. Tens of thousands of parents and child-care providers have learned how to be better role models, to reinforce learning, and to be more active participants in children's learning from programs funded through Ready-to-Learn.

For many low-income families, the workshops, books, and television shows funded through this program are a vital factor in preparing children to read. These programs help parents and child-care providers teach children the basics, preparing them to enter school ready to learn and ready to succeed.

Ready-to-Learn provides 6.5 hours of non-violent educational programming a day. These hours include some of the best programs available to children, including Arthur, Barney & Friends, Mister Rogers' Neighborhood, The Puzzle Place, Reading Rainbow, and Sesame Street.

One of the most successful aspects of Ready-to-Learn is that it helps parents work more effectively with their children. Parents who participate in Ready-to-Learn workshops are more thoughtful consumers of television, and their children are more active viewers. These parents have more hands-on activities with their children, and they read more often with their children. They read less often for entertainment, and more often for education. They take their children more often to libraries and bookstores.

The workshops provided by the Ready-to-Learn program are considered the best of their kind. It also brings needed literacy services to parents and children at food distribution centers, homeless shelters, employment centers, and supermarkets.

Many of the innovations under Ready-to-Learn have come from local stations. WGBH in Boston is one of the nation's leaders in public broadcasting. It created the Reading Rainbow, and Where in the World is Carmen San Diego, which are leaders in educational programming across the country.

Last year, WGBH hosted 34 Ready-to-Learn workshops in Massachusetts. 1,100 parents and 265 child-care providers and teachers attended. These parents and providers in turn worked with 3,400 children, who are now better prepared to succeed in their schools.

WGBY of Springfield is the mainstay of literacy services for Western Massachusetts. This station trained 250 home day-care providers, who serve 2,500 children. A video lending library makes PBS materials available to teachers to use in their classroom.

Workshop participants receive training on using children's programs as the starting point for educational activities. Participants receive free books. For some, these are the only books they have ever owned. They receive the PBS Families magazine, in English or Spanish, and they also receive the broadcasting schedules. Each of these resources builds on the learning that begins with viewing the PBS programs.

Through partnerships with the Massachusetts Office of Child Care Services and community-based organizations such as Head Start, Even Start, and the Reach Out & Read Program at Boston Medical Center, Ready-to-Learn trainers are reaching many low-income families with media and literacy information.

In Worcester, the Clark Street Developmental Learning School offers a family literacy program that uses Reading Rainbow or Arthur in every session with families. In addition, the school has now expanded its efforts to create an adult literacy center in the school. Many of the parents involved in the Ready-to-Learn project now attend the adult education program there.

Similar successes are happening across the nation. Since 1994, the sponsors of Ready-to-Learn workshops have given away 1.5 million books. Their program has grown from 10 television stations in 1994 to 130 television stations today. They have conducted over 8,500 workshops reaching 186,000 parents and 146,000 child care providers, who have in turn affected the lives of over four million children.

The ''Digital Education Act of 1999'' we are introducing today will continue this high-quality children's television programming. Equally important, it will take this valuable service into the next century through digital television, a powerful resource for delivering additional information through television programs.

The Digital Education Act will also increase the authorization of funds for Ready-to-Learn programs from $30 million to $50 million a year, enabling these programs to reach even more families and children with these needed services.

The Digital Education Act also authorizes $20 million for high-quality teacher professional development. Building on the success of the MATHLINE program, the bill will expand the program to include materials for helping teachers to teach to high state standards in core subject areas.

Participating stations make the teachers workshops available through districts, schools, and even on the teachers' own television sets. In this way, at their own pace, and in their own time, teachers can review the materials, observe other teachers at work, and reflect on their own practices. They can consider ways to improve their teaching, and make adjustments to their own practices. Teachers will also receive essential help in integrating technology into their teaching.

Teachers themselves are very supportive of the contribution that television can make to their classrooms. 88% of teachers surveyed in 1997 by the Corporation for Public Broadcasting said that quality television used in the classroom helped them be more creative, 92% said that it helped them be more effective in the classroom.

Finally, the Act will create a new ''Digital Education Content Collaborative,'' with an authorization of $25 million. Its goal is to stimulate quality content and curriculum through video and digital programs that will enable students to meet high state standards. Local public telecommunications agencies will create the programs, so that teachers can teach more effectively to the state standards and assess how well children are learning.

Again, I commend Senator COCHRAN for his leadership, and I urge my colleagues to join us in support of this important legislation, so that many more children can come to school ready to learn.

By Mr. BROWNBACK (for himself, Mr. HELMS, Mr. BURNS, Mr. ROBERTS, Mr. FITZGERALD, and Mr. LUGAR):

S. 1032. A bill to permit ships built in foreign countries to engage in coastwise trade in the transport of certain products; to the Committee on Commerce, Science, and Transportation.

FREEDOM TO TRANSPORT ACT OF 1999

• Mr. BROWNBACK. Mr. President, today I am reintroducing legislation that will expand capacity and increase competition within the domestic transportation system. This legislation, which will allow foreign built ships to transport bulk commodities, forest products, and livestock between U.S. ports, will help to expand the overall capacity by allowing ship operators to expand their fleets through obtaining affordable ships.

Currently, Section 27 of the Merchant Marine Act of 1920, commonly referred to as the Jones Act, requires that merchandise being transported on water between U.S. ports travel on U.S. built, U.S. flagged, and U.S. citizen owned vessels that are documented by the Coast Guard for such carriage. The bill I am introducing today, The Freedom to Transport Act of 1999, does not seek to repeal the Jones Act. Rather, it provides very targeted modification—to allow foreign built ships to carry bulk cargo in domestic trade. These ships would have to register in the United States and comply with all U.S. laws, including Jones Act ownership and crewing requirements.

The current law makes it infeasible for domestic coastwise shipments of agricultural commodities to occur on bulk shipping vessels. This is largely because the cost of purchasing a ship in the United States is as much as three times higher than it can be obtained on the world market. As a result, there has been little capital infusion into the domestic Jones Act fleet for many years. As a consequence, the cost of transport on bulk Jones Act vessels, if they are available at all, is prohibitively high.

Agriculture is a pillar to the Kansas economy, and an efficient transportation is critical to American agriculture. Laws that raise the cost of conducting business and impede efficient means for transporting product have a negative impact on farmers around the country, including Kansas. Moreover, the cost of transporting

goods is always a proportionately high cost of the delivered product for bulk commodities, but especially now as grain prices are at the lowest levels seen in years. Having means to the most cost-effective and efficient means for transporting product is now, more than ever, critical to American farmers.

If ocean transportation between U.S. ports were more efficient, more product might be delivered to its destination by ocean rather than by rail. For example, the poultry and pork producers in the grain deficit southeastern United States could bring in grain by ocean through the Great Lakes rather than by across the country by railroad. Since little of this type of trade currently occurs, this could have the effect of increasing the overall capacity of the domestic transportation infrastructure. That would make more railcars available for transport in places like Kansas, particularly during the harvest season when there is often a shortage of available cars. Furthermore, more efficient coastwise transportation would bring down prices for trade to Hawaii, Puerto Rico, and Alaska, which oftentimes find it less expensive to purchase products from other countries than to pay the inflated costs of shipping from the mainland U.S.

I am aware that the maritime industry has supported the Jones Act as a protection of domestic industry for many years, and resists any change to the current law. However, despite the ''protective'' nature of the Jones Act, it has protected very little. In the last 50 years the merchant marine has lost 40,000 jobs and over 60 shipyards have closed since 1987. In my view this legislation would not only benefit the customers of transportation services, but would also inject new life into an industry that has missed out on the unprecedented growth that the rest of the economy has enjoyed in the last generation. I want to work with the maritime industry to address their concerns and look forward to their eventual support of this legislation, which I envision will help them as much as it will help agricultural shippers.

I would like to point out that the legislation as introduced enjoys broad support not only in the agriculture industry, but also among many industries that ship bulk commodities—including oil, coal, clay, and steel. Additionally, those engaged in commerce with the non-contiguous U.S. are supportive, including the Puerto Rico Manufacturers Association, the Hawaii Shippers Council, and the Alaska Jones Act Reform Coalition. Finally, the National Taxpayers Union and Americans for Tax Reform support this as a measure that would save consumers over $14 billion annually.

A healthy maritime industry increases competitiveness, lowers costs, and improves service for customers of transportation. It creates jobs in the U.S. not only for the people who crew the ships, but for those who repair them, who own them, and who are employed by industries who buy transportation services. It is a win-win-win-win proposal.

I hope my colleagues will join me in reducing stifling government regulation and support this important bill.●

By Mrs. FEINSTEIN:

S. 1033. A bill to amend title IV of the Social Security Act to coordinate the penalty for the failure of a State to operate a State child support disbursement unit with the alternative penalty procedure for failures to meet data processing requirements; to the Committee on Finance.

CHILD SUPPORT PENALTY FAIRNESS ACT

Mrs. FEINSTEIN. Mr. President, today I am introducing the Child Support Penalty Fairness Act. This important legislation will remedy a flaw in federal child support laws that could cost California $4 billion annually.

On April 30, the Department of Health and Human Services announced its intent to reject the State of California's plan for child and spousal support because California does not have a centralized ''State Disbursement Unit'' that distributes child support collections to families. The mandatory penalty for this failure is loss of all federal child support administrative funding, which amounts to $300 million a year.

In addition, because the 1996 welfare reform law requires states to have an approved child support plan in order to receive the Temporary Assistance to Needy Families block grant, California could lose its entire TANF block grant of $3.7 billion a year.

In other words, California faces a $4 billion annual penalty for its failure to operate a State Disbursement Unit.

This so-called ''nuclear penalty'' is completely unjust and out of proportion. It will devastate the State of California's ability to serve low-income children and families—both families on welfare, and families who need child support so that they can stay off welfare. The penalty also will cripple the State's budget, seriously harming the largest economy in this nation.

I am not questioning the value of a State Disbursement Unit, or California's need to develop one. On the contrary, I am urging Governor Davis and the State legislature to come up with a plan to develop a State Disbursement Unit as quickly as possible. But I do not believe that poor families should be severely punished because the State has not gotten its act together.

Moreover, California's failure to develop a State Disbursement Unit is a direct result of its failure to develop a statewide computer system that tracks child support cases—and California is already paying a penalty for the computer failure.

The computer system penalty, which Congress established just last year, is fair and proportionate. More importantly, it rises over time, giving California a powerful incentive to get a computer system up and running. If California does not have a computer system in place by 2002, it will lose over $109 million annually in federal funds.

It is simply unfair to levy a $4 billion penalty against California for not having a State Disbursement Unit, when the State's failure to establish the unit is a direct result of a computer failure for which the State is already being penalized.

The Child Support Penalty Fairness Act would provide that States could not be penalized for failure to develop centralized disbursement units, if they are already paying a penalty for computer-related problems.

Under this bill, California would still have to pay a significant penalty for its computer-related troubles. Moreover, if California gets a statewide computer system in place, but still fails to operate a centralized disbursement unit, the State would be subject to additional severe penalties. This provides powerful incentive for the State to develop both a computer system, and a central disbursement unit, quickly.

I believe that this bill is proportionate and fair. It will prompt the State of California to develop a State Disbursement Unit in a timely fashion, without placing aid to low income children and families at risk. It is simply the right thing to do. I hope that my colleagues will take up and pass the Child Support Penalty Fairness Act as quickly as possible.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Support Penalty Fairness Act''.

SEC. 2. ALTERNATIVE PENALTY PROCEDURE FOR FAILURE TO OPERATE STATE DISBURSEMENT UNIT.

(a) IN GENERAL.—Section 455(a)(4) of the Social Security Act (42 U.S.C. 655(a)(4)) is amended by adding at the end the following:

''(E) The Secretary may not disapprove a State plan under section 454 against a State with respect to a failure to comply with section 454(27) for a fiscal year as long as the State is receiving a penalty under this paragraph with respect to a failure to comply with either section 454(24)(A) or 454(24)(B) for the fiscal year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 101 of the Child Support Performance and Incentive Act of 1998.

By Mr. AKAKA (for himself, Ms. SNOWE, Mrs. MURRAY, and Ms. COLLINS):

S. 1034. A bill to amend title XVIII of the Social Security Act to increase the amount of payment under the Medicare program for pap smear laboratory tests; to the Committee on Finance.

INVESTMENT IN WOMEN'S HEALTH ACT OF 1999

Mr. AKAKA. Mr. President, today marks the 116th birthday of Dr. George Papanicolaou, who developed one of the most effective cancer screening tests in medical history—the Pap smear. Cervical cancer was one of the leading causes of cancer deaths in women in the United States 50 years ago and it is still a major killer of women worldwide. I rise today to introduce the Investment in Women's Health Care Act, a bipartisan bill to increase the reimbursement for Pap smear laboratory tests under the Medicare program. I am pleased to be joined by my colleagues—Senators SNOWE, MURRAY and COLLINS.

The inadequacy of current lab test reimbursement was brought to my attention by pathologists who alerted me to the significant cost-payment differential for Pap smear testing in Hawaii. According to the American Pathology Foundation, Hawaii is one of the 23 States where the cost of performing the test greatly exceeds the Medicare payment. In Hawaii, the cost ranges between $13.04 and $15.80. Yet the Medicare reimbursement rate is only $7.15.

The large disparity between the reimbursement level and the actual cost of performing the test may force labs in Hawaii and around the Nation to discontinue Pap smear testing. The below-cost reimbursement may compel some labs to process tests faster and in higher volume to improve cost efficiency. This situation increases the risk of inaccurate results and can severely handicap patient outcomes.

This bill would increase the a reimbursement rate for Pap smear labwork from its current $7.15 to $14.60—the national average cost of the test. This rate is important because it establishes a benchmark for many private insurers.

Last year, we were successful in having language included in the omnibus appropriations conference report recognizing the large disparity between the costs incurred to provide the screening tests and the amount paid by Medicare. The conferees noted that data from laboratories nationwide indicates that the cost of providing the test averages $13.00 to $17.00, with the costs in some areas being higher. Accordingly, conferees urged the Health Care Financing Administration to increase Medicare reimbursement for Pap smear screening. Although HCFA has indicated a willingness to increase this payment, I am concerned that the adjustment the agency is considering may be significantly less than the costs incurred by most laboratories in providing this service. Therefore, my colleagues and I are compelled to reintroduce legislation that would implement what we believe to be an appropriate increase.

Mr. President, no other cancer screening procedure is as effective for early detection of cancer as the Pap smear. Over the last 50 years, the incidence of cervical cancer deaths has declined by 70 percent due in large part to the use of this cancer detection measure. Evidence shows that the likelihood of survival when cervical cancer is detected in its earliest stage is almost 100 percent, if treatment and follow-up is timely. If the Pap smear is to continue as an effective cancer screening tool, it must remain widely available and reasonably priced for all women. Adequate payment is necessary to ensure women's continued access to quality Pap smears.

I urge my colleagues to support this important bipartisan legislation. Mr. President, I also ask consent the text of my bill be included in the RECORD.

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

S. 1034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Investment in Women's Health Act of 1999''.

SEC. 2. INCREASE IN PAYMENT AMOUNT FOR PAP SMEAR LABORATORY TESTS.

(a) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 13951(h)) is amended by adding at the end the following:

''(7) In no case shall payment under the fee schedule established under paragraph (1) for the laboratory test component of a diagnostic or screening pap smear be less than $14.60.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to laboratory tests furnished on or after January 1, 2000.

Ms. SNOWE. Mr. President, I rise today to join my colleague from Hawaii, Senator AKAKA, in introducing the Investment in Women's Health Act.

Today we celebrate the 116th birthday of Dr. George Papanicolaou, the physician who developed the Pap smear. In the 50 years since Dr. Papanicolaou first began using this test, the cervical cancer mortality rate has declined by an astonishing 70 percent. There is no question that this test is the most effective cancer screening tool yet developed. The Pap smear can detect abnormalities before they develop into cancer. Having an annual Pap smear is one of the most important things a woman can do to help prevent cervical cancer.

Congress has recognized the incomparable contribution of the Pap smear in preventing cervical cancer and nine years ago directed Medicare to begin covering preventive Pap smears. Medicare beneficiaries are eligible for one test every three years, although a more frequent interval is allowed for women at high risk of developing cervical cancer. And through the Balanced Budget Act of 1997, Congress expanded the Pap smear benefit to also include a screening pelvic exam once every 3 years.

But the Medicare reimbursement rate is artificially low and does not accurately reflect the true cost of providing this vital test. The current Medicare rate of reimbursement is $7.15, though the mean national cost of the test is twice that amount: $14.60 per test. The bill we introduce today, The Investment in Women's Health Act, will raise the Medicare reimbursement rate for Pap smears to at least $14.60 per test.

Women understand the usefulness and life-saving benefit of the Pap smear. The U.S. Centers for Disease Control and Prevention reported last year that 95 percent of women age 18 years old and over have received a Pap smear at some point in their lives. And 85 percent of women age 18 years and older across the country have received a Pap smear within the last 3 years.

Unfortunately, the artificially low reimbursement rate threatens both our country's local clinical laboratories and the health of women across the country. Pathologists are increasingly concerned that low Medicare reimbursement for Pap smears will force them to stop providing the service and to ship the slides to large out-of-state laboratories. Shipping the slides to non-local, large-scale laboratories—''Pap mills''—reduces quality control, brings up continuity of care issues, and puts women at risk of higher rates of ''false positives'' or ''false negatives.''

Providing Pap smears locally facilitates the likelihood of follow-up by a pathologist, comparison of a patient's Pap smear to cervical biopsy, and facilitates better communication and consultation between the patient's pathologist and attending physician or clinician. When Pap smears are shipped out of the local community these vital comparisons are much more difficult to complete and are more prone to inconsistencies and error.

Inadequate reimbursement for Pap smears provided through Medicare threatens not only a woman's health but the financial stability of the laboratory as well. If a lab is forced to continue to subsidize Medicare Pap smears they will eventually either stop providing the Medicare service or go out of business—and neither option is acceptable. Finally, local laboratories have a proven track record of providing better service for the patients. A Pap smear is less likely to get lost in a local lab than among the tens of thousands of other tests in a ''Pap mill'' and cytotechnicians have better supervision by a pathologist in smaller laboratories than in large volume operations.

The Pap test has contributed immeasurably to the fight against cervical cancer. We cannot risk erasing our advancements in this fight because of low Medicare reimbursement. I urge my colleagues to join us.

By Mr. FEINGOLD (for himself and Mr. BINGAMAN):

S. 1035. A bill to establish a program to provide grants to expand the availability of public health dentistry programs in medically underserved areas, health professional shortage areas, and other Federally-defined areas that lack

primary dental services; to the Committee on Health, Education, Labor, and Pensions.

DENTAL HEALTH ACCESS EXPANSION ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation to address a troubling—but little recognized—public health problem in this country, and that's access to dental health.

Unlike many public health problems, there are clinically proven techniques to prevent or delay the progression of dental health problems. These proven techniques are not only more cost-effective, but also are relatively simple if done early. I'm specifically referring to the use of fluoride and dental sealants. The combination of fluoride and sealants is so effective against tooth decay that it has been likened to a ''magic potion.'' In fact, an article in Public Health Reports called the ''one-two combination of fluoride and sealants . . . similar to that of vaccinations.''

With such an effective prevention method in place, one might assume that dental disease is becoming increasingly rare in this country. But that's not the case, Mr. President, because, in order to receive these preventive treatments—this ''magic potion'' against dental disease—you need to see a dentist, and there simply are not enough dentists to provide these basic services to everyone who needs them. As of September 30 of last year, the United States had 1,116 dental health professions shortage areas, or Dental HPSA's according to the Health Resources and Services Administration. The chart I have here shows the counties in Wisconsin that have areas designated as shortage areas, but every single state in our Nation has a portion designated as a dental shortage area.

There are proven methods for preventing dental disease, yet 1,116 communities across our country—particularly underserved rural and inner-city communties—do not have enough dentists to provide simple preventive services. Barriers to dental care are particularly acute among lower income families, Medicaid enrollees, and the uninsured. Studies indicate that the prevalence of dental disease increases as income decreases. In many areas, there simply are not enough dentists to provide basic treatment to all who need them, and although there is a federal method for designating such areas as dental health professional shortage areas (DHPSA's) to become eligible for additional funding, the designation process can be so tedious that State dental directors simply lack the resources to complete the necessary documentation.

To illustrate this problem of undercounting shortage areas, as of September 30 of last year, only eight counties in Wisconsin had portions designated as DHPSA's according to the Health Resources and Services Administration (HRSA), but statewide only 23 percent of Medicaid enrollees had received dental care. As you can see from this chart, in 13 Wisconsin counties, fewer than 10 percent of Medicaid enrollees received dental care. According to Wisconsin's state dental director, Dr. Warren LeMay, 80 percent of tooth decay is found in the poorest 25 percent of children. Given the effectiveness of dental health care in preventing dental disease—particularly the combination of check-ups, fluoride, and sealants—the access problems are simply unacceptable.

And the impact of so many people going without dental care is devastating. Those of us who have ever had a toothache remember how excruciating that pain can be, making it difficult if not impossible to work, go to school or otherwise go about our business. For those Americans who lack access to dental services, however, the toothache is more than a bad memory—it is the here and now.

Mr. President, imagine you had a child, a daughter, in need of dental services. But you lack insurance, and cannot afford to pay out-of-pocket to see a dentist. Or you may have Medicaid, but the nearest dentist is more than 2 hours away, and you don't own a car. Since your child hasn't received the preventive care treatments, she has a lot of untreated tooth decay—decay that leads to infection, fevers, stomach aches, and, worst of all, debilitating pain, making it almost impossible for her to concentrate in school. She may also develop speech difficulties, since she may lack the teeth necessary to form certain words and sounds. When you try to get her emergency dental services, you find that the few dentists in the area have waiting lists of two months or more.

Mr. President, one mother, from Rhinelander, WI—which is in Oneida County in the northern part of my state—called me to tell me about her 8-year-old daughter in just that situation. He daughter was in excruciating pain because of a severe toothache, but the one dental provider in the area had a waiting list of several weeks, so that mother had no choice but to take her child to the nearest hospital emergency room, where the child was given painkillers to use until she could be seen by a dentist. Whereas routine primary dental care could have prevented this decay altogether, this mother had to take her young child to the hospital emergency room for prescription painkillers in order to make the wait before seeing the dentist bearable.

Mr. President, the unfortunate reality is that I hear such stories from my constituents on a regular basis, and I have heard enough to know that it's time to stop this needless suffering from dental disease by increasing access to dental care.

The legislation I am introducing today, the Dental Health Access Expansion Act, will establish take three important steps to promote access to dental health services:

First, the bill creates a federal grant program to be administered by the Health Resources and Services Administration through which community health centers and local health departments in designated dental health professionals shortage areas can apply for funding to assist in the hiring of primary care dentists. Strengthening locally run dental access programs ensures a safety net for these vitally important services.

The bill also creates a grant program to give bonus payments to dentists in shortage areas who devote at least 25 percent of their practice to Medicaid patients. More than 90 percent of America's dentists are in private practice, and incentive payments for dentists to increase their Medicaid practice helps to bring needy patients into the dental care mainstream.

Finally, the bill requires that HRSA work with the Association of State and Territorial Dental Directors and other organizations interested in expanding dental health access to simplify the process for designating dental shortage areas. Right now the system is so complicated that states simply don't have the resources to fill out the paperwork needed to get the designation.

Mr. President, the Dental Health Access Expansion Act is meant to complement existing initiatives—such as Health Professions Training Program expansions of general dentistry residencies, and the National Health Service Corps scholarship program—to increase access to primary care dental services in underserved communities. I have supported these and other programs in the past, and will continue to do so. My legislation is also meant to complement the excellent oral health initiatives proposed by my colleague, Senator BINGAMAN of New Mexico. I am thankful for the good work he has done in increasing awareness about this issue, and look forward to working with him to increase access to dental health services.

Through the legislation I am proposing, we can increase the number of dentists providing care to underserved communities, and in doing so strengthen our nation's existing network of Community Health Centers and local health departments.

Advances in dentistry have given us the tools to eradicate most dental diseases—what we need now is to provide people with access to dental care so that they can receive the simple preventive treatments they need, and that's what my legislation can help us achieve.

By Mr. KOHL (for himself, Mr. DODD, and Mr. ROCKEFELLER):

S. 1036. A bill to amend parts A and D of title IV of the Social Security Act to give States the option to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and the option to disregard any child support that the family receives in determining a family's eligibility for, or

amount of, assistance under that program; to the Committee on Finance.

CHILDREN FIRST CHILD SUPPORT REFORM ACT OF 1999

Mr. KOHL. Mr. President, I rise today to introduce legislation, along with my colleagues Senator DODD of Connecticut and Senator ROCKEFELLER of West Virginia, to provide more resources to America's children and families by encouraging more parents to live up to their child support obligations. My legislation, the Children First Child Support Reform Act, would enhance the options and incentives available to states to allow more child support to be paid directly to the families to whom it is owed and not be counted against public assistance benefits. My legislation will help assure more noncustodial parents that the child support they pay will actually contribute to the wellbeing of their child, rather than the government, and also help reduce administrative burdens on the state.

As my colleagues know, since its inception in 1975, our Federal-State Child Support Enforcement Program has been tasked with collecting child support for families receiving public assistance and other families that request help in enforcing child support. Toward this end, the program works to establish paternity and legally binding support orders, while collecting and disbursing funds on behalf of families so that children receive the support they need to grow up in healthy, nurturing surroundings.

But on one crucial point, the current program does not truly work on behalf of families and, perhaps more importantly, actually works against families.

Under current law, if a family is not on public assistance, support collected by the Child Support Enforcement Program is generally sent directly to the family. However, and this is the crux of the problem, support collected on behalf of families receiving public assistance is kept by the State and Federal Governments as reimbursement for welfare expenditures. Thus, for families on public assistance, the child support program ends up benefiting the financial interests of the government, rather than their children.

The research shows that many noncustodial parents are discouraged from paying child support because they realize and resent the fact that their payments go to the government rather than benefiting their children directly. In addition, some custodial parents are skeptical about working with the child support agency to secure payments since the funds are generally not forwarded to them. Obviously, these builtin program obstacles to reliable, timely child support payments serve to undermine the program's intended goals of promoting self-sufficiency and personal responsibility.

Mr. President, we know that an estimated 800,000 families would not need public assistance if they could count on the child support owed to them. In addition, we know that 23 million children are owed more than $43 billion in outstanding support. Clearly, the vital importance of child support in keeping families off of assistance remains as true today as when the program began. In a world with TANF time limits, it has never been more important. And with these figures in mind, it is not unthinkable that some policymakers may have or might still consider this program as a means of recovering welfare expenditures.

But I am convinced that that thinking must change, if not be cast off entirely, because, simply put, times have changed. The welfare reform law of 1996, which I supported, paved the way for time limits and work requirements that provide clear and compelling incentives for families to enter the workforce and find a way to stay there. Open ended, unconditional public support is no longer a reality, and our goal and responsibility as policymakers, now more than ever before, is to give families the tools and resources they need to prepare for and ultimately survive the day when they are without public assistance.

We fundamentally changed welfare, now we fundamentally reexamine the central role of child support in helping families as they struggle to become and remain self-sufficient. To this end, we've made some, but not nearly enough, progress. Under the welfare reform law, states will eventually be required to distribute state-collected child support arrears owed to the family before paying off arrears owed to the state and Federal governments for welfare expenditures. In addition, states were provided with some ability to continue or expand the $50 passthrough that had been required under previous law. But only one state—my homestate of Wisconsin—has opted to let families retain all support paid. As you know, Wisconsin has been a leader and national model in the area of welfare reform. Under Wisconsin's welfare program, child support counts as income in determining financial eligibility for welfare assistance, but once eligibility is established, the child support income is disregarded in calculating program benefits. In other words, families are allowed to keep their own money. Non-custodial parents can be assured that their contribution counts and that their child support payments go to their children. And both parents are presented with a realistic picture of what that support means in the life of their child.

I worked with Wisconsin to secure the waivers necessary to pursue this innovative policy and want to provide the other states with additional flexibility and options so that they can follow Wisconsin's example.

In addition to helping families, the expanded passthrough and disregard approach also has significant benefits on the administrative side. The current distribution requirements place significant accounting and paperwork burdens on the states. They are also costly. Data from the Federal Office of Child Support demonstrates that nearly 20 percent of program expenditures are spent simply processing payments. States are required to maintain a complicated set of accounts to determine whether support collected should be paid to the family or kept by the government. These complex accounting rules depend on whether the family ever received public assistance, the date a family begins and ends assistance, whether the non-custodial parent is current on payments or owes arrears, the method of collection and other factors.

We know that we have already asked much of the states in the realm of automation, systems integration and welfare law child support enforcement adjustments. We hope and believe these improvements will lead to better collection rates. Now we have a chance to simplify and improve distribution of support. What could be simpler than a distribution system in which child support collected would automatically be delivered to the children to whom it is owed? A distribution system in which child support agencies would distribute current support and arrears to both welfare and non-welfare families in exactly the same way?

Mr. President, child support financing must be addressed in the near future. First, our current distribution scheme is out of step with the philosophy of current welfare policy. We must move the child support program from cost-recovery to service delivery for all families. Second, the current financing scheme is no longer workable. TANF caseloads are decreasing dramatically, even as overall child support caseloads are increasing. Therefore, while the system needs additional resources, the portion of the caseload that produces those resources is decreasing. We must put the child support program on a sound financial footing that confirms a strong Federal and state commitment to the program and gives states additional flexibility to put more resources into the hands of children and let families keep more of their own money.

Let me strongly affirm that by advocating an expanded passthrough and disregard approach, I am absolutely not advocating a disinvestment in our child support system by either the Federal government or the states. Our commitment to this program must remain strong and steadfast. I am working to expand the passthrough for the reasons that I've explained, but I am also committed to paying for it in a responsible way. Not knowing what the proposal will cost today necessarily requires that we keep ourselves open to adjustments as the debate proceeds.

That said, it is time for us to envision a child support program that truly serves families and works to advance, not undermine, the TANF policy goals of self-sufficiency and personal responsibility with which it is inextricably

combined. Because assistance is now time-limited, we must give families the tools to survive in a world without public help, a world where they must rely on their own resources. In that equation, we all know that child support is fundamental. Letting as many as 5 years go by with child support payments either not being or accuring to the state rather than the family does nothing to advance those goals.

Mr. President, it's time to put our children first and envision a child support program that truly serves families. We can do that by passing this legislation to improve the public system, let families keep more of their own money, and make child support truly meaningful in the everyday lives of children on public assistance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children First Child Support Reform Act of 1999''.

SEC. 2. DISTRIBUTION AND TREATMENT OF CHILD SUPPORT COLLECTED BY THE STATE.

(a) STATE OPTION TO PASS ALL CHILD SUPPORT COLLECTED DIRECTLY TO THE FAMILY.—

(1) IN GENERAL.—Section 457 of the Social Security Act (42 U.S.C. 657) is amended—

(A) in subsection (a), by striking ''(e) and (f)'' and inserting ''(e), (f), and (g)''; and

(B) by adding at the end the following:

''(g) STATE OPTION TO PASS THROUGH ALL SUPPORT COLLECTED TO THE FAMILY.—

''(1) IN GENERAL.—At State option, subject to paragraph (2), and subsections (a)(4), (b), (e), (d), and (f), this section shall not apply to any amount collected on behalf of a family as support by the State and any amount so collected shall be distributed to the family.

''(2) INCOME PROTECTION REQUIREMENT.—A State may not elect the option described in paragraph (1) unless the State also elects (through an amendment to the State plan submitted under section 402(a)) to disregard any amount so collected and distributed for purposes of determining the amount of assistance that the State will provide to the family under the State program funded under part A pursuant to section 408(a)(12)(B).

''(3) OPTION TO PASS THROUGH AMOUNTS COLLECTED PURSUANT TO A CONTINUED ASSIGNMENT.—At State option, any amount collected pursuant to an assignment continued under subsection (b) may be distributed to the family in accordance with paragraph (1).

''(4) RELEASE OF OBLIGATION TO PAY FEDERAL SHARE.—If a State that elects the option described in paragraph (1) also elects to disregard under section 408(a)(12)(B) at least 50 percent (determined, at the option of the State, in the aggregate or on a case-by-case basis) of the total amount annually collected and distributed to all families in accordance with paragraph (1) for purposes of determining the amount of assistance for such families under the State program funded under part A, the State is released from—

''(A) calculating the Federal share of the amounts so distributed and disregarded; and

''(B) paying such share to the Federal Government.''.

(2) AUTHORITY TO CLAIM PASSED THROUGH AMOUNT FOR PURPOSES OF TANF MAINTENANCE OF EFFORT REQUIREMENTS.—Section 409(a)(7)(B)(i)(I)(aa) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by inserting '', and, in the case of a State that elects under section 457(g) to distribute any amount so collected directly to the family, any amount so distributed (regardless of whether the State also disregards that amount under section 408(a)(12) in determining the eligibility of the family for, or the amount of, such assistance)'' before the period.

(b) STATE OPTION TO DISREGARD CHILD SUPPORT COLLECTED FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, TANF ASSISTANCE.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

''(12) STATE OPTION TO DISREGARD CHILD SUPPORT IN DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, ASSISTANCE.—

''(A) OPTION TO DISREGARD CHILD SUPPORT FOR PURPOSES OF DETERMINING ELIGIBILITY.—A State to which a grant is made under section 403 may disregard any part of any amount received by a family as a result of a child support obligation in determining the family's income for purposes of determining the family's eligibility for assistance under the State program funded under this part.

''(B) OPTION TO DISREGARD CHILD SUPPORT IN DETERMINING AMOUNT OF ASSISTANCE.—A State to which a grant is made under section 403 may disregard any part of any amount received by a family as a result of a child support obligation in determining the amount of assistance that the State will provide to the family under the State program funded under this part.''.

(c) MAINTENANCE OF EFFORT REQUIREMENT.—Section 454 of the Social Security Act (42 U.S.C. 654) is amended—

(1) in paragraph (32), by striking ''and'' at the end;

(2) in paragraph (33), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(34) provide that, if the State elects to distribute support directly to a family in accordance with section 457(g), the State share of expenditures under this part for a fiscal year shall not be less than an amount equal to the highest amount of such share expended for fiscal year 1995, 1996, 1997, or 1998 (determined without regard to any amount expended that was eligible for payment under section 455(a)(3)).''.

(d) CONFORMING AMENDMENT.—Section 457(f) of the Social Security Act (42 U.S.C. 657(f)) is amended by striking ''Notwithstanding'' and inserting ''AMOUNTS COLLECTED ON BEHALF OF CHILDREN IN FOSTER CARE.—Notwithstanding''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999.

By Mrs. BOXER:

S. 1037. A bill to amend the Toxic Substances Control Act to provide for a gradual reduction in the use of methyl tertiary butyl ether, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am pleased to introduce legislation to nationally phase-out the use of the fuel oxygenate methyl tertiary butyl ether (MTBE). My bill provides for a priority phase-out schedule designed to immediately prohibit MTBE use in areas where it is leaking into ground and surface waters, to prevent the spread of MTBE to areas where its use is currently limited or nonexistent, and to set us on a course to removing MTBE in all other areas of the nation.

MTBE has been used in the blending of gasoline since the 1970s, but its use increased dramatically following the passage of the Clean Air Act Amendments of 1990. In regions of the country with particularly poor air quality, including Southern California and Sacramento, the Act required the use of reformulated gasoline.

Under the Act, reformulated gasoline must contain 2% oxygenate by weight.

Today, about 70% of the gasoline sold in California contains 2% oxygen by weight due to this requirement. While other oxygenates like ethanol may be used to meet this 2% requirement, the ready availability of MTBE and its chemical properties made it the oxygenate of choice among most oil companies.

While the oxygenate of choice, however, MTBE is also classified as a possible human carcinogen. Moreover, when MTBE enters groundwater, it moves through the water very fast and very far. Once there, MTBE resists degrading in the environment. We know very little about how long it takes to break down to the point that it becomes harmless. We do know that at even very low levels, MTBE causes water to take on the taste and odor of turpentine—rendering it undrinkable.

That is, it makes water smell and taste so bad that people won't drink it.

I first became aware of the significance of the threat MTBE posed to drinking water following the discovery that MTBE had contaminated drinking water wells in Santa Monica. Ultimately, Santa Monica was forced to close drinking water wells that supplied approximately half of its drinking water due to that contamination. Clean up of Santa Monica's drinking water supply continues today under the oversight of the Environmental Protection Agency (EPA) at significant cost.

Following that discovery, I held a California field hearing of the Senate Committee on Environment and Public Works, of which I am a member, on the issue of MTBE contamination. Based upon the testimony I received at that hearing, I became convinced that MTBE posed a significant threat to drinking water not only in California, but nationwide. Shortly after the hearing, I wrote what would be one of many letters to the Administrator of EPA urging her to take action to remove this threat to the nation's drinking water supply.

While EPA has taken many laudable actions to speed the remediation of MTBE contaminated drinking water, it has been slow to respond to my calls for a nationwide MTBE phase-out. EPA maintains that it lacks the legal authority to phase-out the use of this harmful gasoline additive.

In the face of this federal inaction, and since the discovery of MTBE contamination in Santa Monica and my

hearing in California, revelations of MTBE contamination in California and the nation have proliferated. In June 1998, the Lawrence Livermore National Laboratory estimated that MTBE is leaking from over 10,000 underground storage tanks in California alone. Potential clean up costs associated with MTBE contamination in my state range between $1 to $2 billion. Reports of MTBE contamination in the northeastern United States are also now becoming more common, and several state legislatures have introduced legislation to phase-out or ban MTBE use.

This flurry of activity in the northeastern states follows upon the first state action to prohibit the use of MTBE. Specifically, on March 26, 1999, California Governor Gray Davis provided that MTBE use in California will be prohibited after December 31, 2002.

While the action in California and several other states to begin to address the MTBE problem is certainly to be commended, I believe it demonstrates a failure of federal policymakers to design a national solution to what is clearly a national problem.

The legislation I introduce today would provide that solution.

First, my bill empowers the Environmental Protection Agency (EPA) to immediately prohibit MTBE use in areas where the additive is leaking into ground or surface waters. In my view, we must swiftly stop the use of MTBE in areas where we know we've got leaking underground storage tanks. That's just common sense.

Second, my bill prohibits the use of MTBE after January 1, 2000 in areas around the nation where the use of oxygenates like MTBE is not required by law. It has been recently revealed that oil companies have been adding significant quantities of MTBE to gasoline in the San Francisco area even though oxygenates like MTBE are not required to be used in that area. Notwithstanding California's MTBE phase-out, such MTBE use may legally continue throughout California until the state phase-out deadline of December 31, 2002.

As we face an estimated $1 to $2 billion in MTBE clean up costs in California alone, I believe we must swiftly take steps to prevent the spread of MTBE contamination to areas where its use is currently limited and is in no sense required under the law.

Third, the bill prohibits MTBE use nationwide after January 1, 2003, and provides for specific binding percentage reductions of MTBE use in the interim. Finally, the bill requires EPA to conduct an environmental and health effects study of ethanol use as a fuel additive.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of my legislation to provide a nationwide solution to the nationwide problem of MTBE contamination.

I ask unanimous consent that the full text of my legislation be printed in the RECORD.

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

S. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF METHYL TERTIARY BUTYL ETHER.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

''(f) USE OF METHYL TERTIARY BUTYL ETHER.—

''(1) PROHIBITION ON USE IN SPECIFIED NON-ATTAINMENT AREAS.—Effective beginning January 1, 2000, a person shall not use methyl tertiary butyl ether in an area of the United States that is not a specified non-attainment area that is required to meet the oxygen content requirement for reformulated gasoline established under section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)).

''(2) PROHIBITION ON USE IN AREAS OF LEAKAGE.—If the Administrator finds that methyl tertiary butyl ether is leaking into ground water or surface water in an area, the Administrator may immediately prohibit the use of methyl tertiary butyl ether in the area.

''(3) UPGRADING OF UNDERGROUND STORAGE TANKS.—In enforcing the requirement that underground storage tanks be upgraded in accordance with section 280.21 of title 40, Code of Federal Regulations, the Administrator shall focus enforcement of the requirement on areas described in paragraph (2).

''(4) USE OF METHYL TERTIARY BUTYL ETHER IN GASOLINE.—

''(A) INTERIM PERIOD.—

''(i) PHASED REDUCTION.—

''(I) IN GENERAL.—The Administrator shall promulgate regulations to require—

''(aa) by January 1, 2001, a ⅓ reduction in the quantity of methyl tertiary butyl ether that may be used in gasoline; and

''(bb) by January 1, 2002, a ⅔ reduction in the quantity of methyl tertiary butyl ether that may be used in gasoline.

''(II) BASIS FOR REDUCTIONS.—Reductions under subclause (I) shall be based on the quantity of methyl tertiary butyl ether in use in gasoline in the United States as of the date of enactment of this subsection.

''(ii) LABELING.—During the period beginning on the date of enactment of this subsection and ending December 31, 2002, the Administrator shall require any person selling gasoline that contains methyl tertiary butyl ether at retail to prominently label the fuel dispensing system for the gasoline with a notice that the gasoline contains methyl tertiary butyl ether.

''(B) PROHIBITION.—Effective beginning January 1, 2003, a person shall not use methyl tertiary butyl ether in gasoline.''.

SEC. 2. STUDY OF EFFECTS OF FUEL COMPONENTS.

Not later than July 31, 2000, the Administrator of the Environmental Protection Agency shall—

(1) conduct a study of the behavior, toxicity, carcinogenicity, health effects, and biodegradability, in air and water, of ethanol, olefins, aromatics, benzene, and alkylate; and

(2) report the results of the study to Congress.

By Mr. FRIST:

S. 1041. A bill to amend title 38, United States Code, to permit certain members of the Armed Forces not currently participating in the Montgomery GI Bill educational assistance program to participate in that program, and for other purposes; to the Committee on Veterans Affairs.

GI EDUCATION OPPORTUNITY ACT OF 1999

• Mr. FRIST. Mr. President, I rise today to offer legislation that will assist the men and women serving in our armed forces in attaining an education. The GI Education Opportunity Act is targeted at a group serving in our military that has been forgotten since the passage of the Montgomery GI Bill. Before the GI Bill was enacted in 1985, new servicemen were invited to participate in a program called the Veterans' Educational Assistance Program, or VEAP. This program offered only a modest return on the service member's investment and, as a consequence, provided little assistance to men and women in the armed services who wanted to pursue additional education. It was and is inferior to the Montgomery GI Bill that every new serviceman is offered today.

The GI Education Opportunity Act would allow active duty members of the armed services who entered the service after December 31, 1976 and before July 1, 1985 and who are or were otherwise eligible for the Veterans' Educational Assistance Program to participate in the Montgomery GI Bill. This group of military professionals largely consists of the mid-career and senior noncommissioned officer ranks of our services—the exact group that new recruits have as mentors and leaders. If we really believe in the importance of providing our servicemen and women with the education opportunities afforded by the Montgomery GI Bill, it is critical that we offer all service members the opportunity to participate of they choose.

It is important to remember that much of the impetus for the creation of the Montgomery GI Bill was that the Veterans' Educational Assistance Program was not doing the job. It was not providing sufficient assistance for young men and women to go to college. It was expensive for them to participate, and provided little incentive for young men and women to enter the military. The Montgomery GI Bill offers those serving in the military a significant increase in benefits over its predecessor and has been one of the most important recruiting tools over the last decade. It is essential that active military still covered under VEAP but not by the Montgomery GI Bill be brought into the fold.

The injustice that my bill attempts to address is that new recruits are eligible for a better education program than the noncommissioned officers responsible for their training and well-being. Expanding Montgomery Bill eligibility to those currently eligible for VEAP would, in many cases, help mid-career and senior noncommissioned officers, who are the backbone of our force and set the example for younger troops, become better educated. This legislation is modest in its scope and approach, but is enormously important

for the individual attempting to better himself through education. Moreover, this legislation sends a meaningful message to those serving to protect the American interest that Congress cares. S. 4, the Soldiers, Sailors, Airmen, and Marines Bill of Rights Act which I was proud to cosponsor was an enormous step in this direction, and my legislation complements that effort.

Some of the common sense provisions of The GI Education Opportunity Act are: 1. Regardless of previous enrollment or disenrollment in the VEAP, active military personnel may choose to participate in the GI Bill. 2. Participation for VEAP-eligible members in the GI Bill is to be based on the same ''buy in requirements'' as are currently applicable to any new GI Bill participant. For example, an active duty member is required to pay $100 a month for twelve months in order to be eligible for the Montgomery GI Bill. The same would be required of someone previously eligible for VEAP. 3. Any active duty member who has previously declined participation in the GI bill may also participate. 4. There will be a one year period of eligibility for enrollment.

I believe that if we are to maintain the best trained, and most capable military force in the world, we must be committed to allowing the people that comprise our armed forces to pursue further education opportunities. I believe that this modest legislation will have a positive effect on morale and give our noncommissioned officers additional opportunities for self-improvement and life-long learning. I ask for my colleagues support in this effort.●

By Mrs. HUTCHISON (for herself, Mr. BREAUX, Mr. DOMENICI, Mr. BINGAMAN, Mr. LOTT, Ms. LANDRIEU, Mr. COCHRAN, Mr. THOMAS, Mr. BROWNBACK, and Mr. GRAMM):

S. 1042. A bill to amend the Internal Revenue Code of 1986 to encourage domestic oil and gas production, and for other purposes; to the Committee on Finance.

DOMESTIC ENERGY PRODUCTION SECURITY AND STABILIZATION ACT

● Mrs. HUTCHISON. Mr. President, I am pleased today to introduce with my colleague from Louisiana, Senator BREAUX, the Domestic Energy Production Security and Stabilization Act. This bill represents a necessary and workable proposal to ensure that the United States does not lose even more of its energy independence.

Mr. President, the oil and gas industry in this country is in a state of unprecedented crisis. Over the last year-and-a-half, oil and gas prices have been a historic lows. This has led to the closing of over 200,000 domestic oil and gas wells, has brought new exploration to a virtual standstill, and has cost an estimated quarter of a million American jobs.

Not only is this an economic issue, it is also a national security issue. We are importing more oil than we produce. This is not a healthy situation for shaping our foreign policy agenda. If our domestic industry is to survive, then Congress needs to act now to provide tax incentives to encourage energy production in America.

To reverse these trends and increase our energy independence, I have worked on a bipartisan basis to develop the Domestic Energy Production Security and Stabilization Act. The bill provides tax incentives in our significant areas to ensure that our domestic energy infrastructure is not decimated during prolonged periods of low energy prices.

First, the legislation would provide a $3 dollar a barrel tax credit, on the first three barrels that can offset the cost of keeping marginal wells operating during periods of critically low oil and gas prices. Marginal wells are those that produce 15 barrels a day or less. There are close to 500,000 such wells across the U.S. that collectively produce 20 percent of America's oil, more oil than we import from Saudi Arabia.

Second, the bill would provide some relief from the alternative minimum tax (AMT), again during prolonged periods of low energy prices. In a time of financial crisis for the oil and gas industry, this tax has had the effect of exacerbating the impact of low commodity prices and driving even more producers out of business. The AMT was enacted to ensure that companies reporting large financial income paid at least some level of taxes. Unfortunately, for the oil and gas industry, the AMT has only served to make a bad situation worse.

Third, Mr. President, this legislation would change the net income limitation on percentage depletion by eliminating the 65 percent taxable income limitation. Carried-over percentage depletion could also be carried back ten years. This would enable companies to fully utilize their percentage depletion allowance, which many have not been able to do since the onset of the oil and gas crisis.

Finally, Mr. President, this bill brings the U.S. Tax Code in line with the present-day realities of the oil and gas industry by allowing oil and gas exploration (geological and geophysical) costs to be expensed rather than capitalized, and by allowing delay rental lease payments to be deducted in the year in which they are paid, rather than when the oil is actually pumped. Even the Treasury Department has tacitly endorsed these proposed changes as making for sound economic and tax policy.

Taken together, these four major tax provisions will help the job-creating oil and gas sector of the economy to withstand the volatility of the international oil and gas markets. We simply must not allow our nation to become even more dependent on foreign oil. Nor can we afford to shut-down our domestic gas production capability, particularly since natural gas consumption is expected to grow rapidly in the near future, and, unlike oil, natural gas is not imported.

Mr. President, this legislation is long overdue, and I appreciate the support of Senator BREAUX and my other colleagues who are cosponsoring the bill. Most importantly, I urge my other colleagues, particularly those from non-energy producing states, to join with us in supporting this effort. America simply has too much at stake to stand by and let our domestic oil and gas industry jobs and infrastructure be lost to the whims of the world markets.●

● Mr. BREAUX. Mr. President, I am pleased to join with the distinguished Senator from the State of Texas. Senator HUTCHINSON, in introducing the Domestic Energy Production Security and Stabilization Act. I believe it is legislation all of our colleagues should support.

First, I'd like to outline the problem and then discuss how this legislation helps address it. Oil prices may be in the early stages of recovery, but over the last 17 months, a glut in the world market forced crude oil prices down to their lowest inflation-adjusted levels in 50 years. The Independent Petroleum Association of America estimates that, since November 1997, when the price of oil began to decline, more than 136,000 crude oil wells and more than 57,000 natural gas wells have been shut down.

The U.S. petroleum industry last year lost almost 30,000 jobs because of falling crude prices, according to the American Petroleum Institute's annual report. Despite the recent rise in oil prices, job losses continue. Another 3,600 jobs were lost between February and March. This brings the loss since December 1997 to about 54,400 jobs, a decline of 16 percent. In the first three months of 1999, losses amounted to about 24,000 jobs, or a drop of almost 8 percent.

Mr. President, independent producers account for almost a third of Gulf of Mexico oil production on the outer continental shelf (OCS), and almost half of natural gas production. According to the Minerals Management Service, on a per-day basis, the OCS accounts for 27 percent of the nation's natural gas production and 20 percent of the nation's crude oil production. In 1997, production on the federal OCS off Louisiana resulted in $2.9 billion or 83 percent of the $3.5 billion royalties received for all of the OCS. It is not difficult to see that as domestic production falls, so will federal royalty receipts.

And, let's not forget the thousands of jobs created in non-energy sectors to service the energy industry: computers, steel and other metals, transportation, financial and other service industries. When domestic oil and gas production increases, so does the number of jobs created in all these sectors.

This legislation will provide marginal well tax credits, alternative minimum tax relief, expensing of geological and geophysical costs and delay

rental payments and other measures to encourage domestic oil and gas production. It is a safety net. The bill's provisions phase in and out as oil prices fall and rise between $17 and $14 per barrel and natural gas prices fall and rise between $1.86 and $1.56 per thousand cubic feet. It will provide a permanent mechanism to help our domestic producers cope with substantial and unexpected declines in world energy prices.

Let's examine how one aspect of this bill—marginal well production—affects this nation. A marginal well is one that producers 15 barrels of oil per day or 60,000 cubic feet of natural gas or less. Low prices hit marginal wells especially hard because they typically have low profit margins. While each well produces only a small amount, marginal wells account for almost 25 percent of the oil and 8 percent of the natural gas produced in the continental United States. The United States has more than 500,000 marginal wells that collectively produce nearly 700 million barrels of oil each year. These marginal wells contribute nearly $14 billion a year in economic activity. The marginal well industry is responsible for more than 38,000 jobs and supports thousands of jobs outside the industry.

The National Petroleum Council is a federal advisory committee to the Secretary of Energy. Its sole purpose is to advise, inform, and make recommendations to the Secretary of Energy on any matter requested by the Secretary with relating to oil and natural gas or to the oil and natural gas industries. The National Petroleum Council's 1994 Marginal Well Report said that:

> Preseving marginal wells is central to our energy security. Neither government nor the industry can set the global market price of crude oil. Therefore, the nation's internal cost structure must be relied upon for preserving marginal well contributions.

The 1994 Marginal Well Report went on to recommend a series of tax code modifications including a marginal well tax credit and expensing key capital expenditures. The Independent Petroleum Association of America estimates that as many of half the estimated 140,000 marginal wells closed in the last 17 months could be lost for good.

Mr. President, the facts speak for themselves. The U.S. share of total world crude oil production fell from 52 percent in 1950 to just 10 percent in 1997. At the same time, U.S. dependence on foreign oil has grown from 36 percent in 1973 (the time of the Arab oil embargo) to about 56 percent today. That makes the U.S. more vulnerable than ever—economically and militarily—to disruptions in foreign oil supplies. This legislation will provide a mechanism to help prevent a further decline in domestic energy production and preserve a vital domestic industry.●

● Mr. GRAMM. Mr. President, I am pleased to join Senator KAY BAILEY HUTCHISON and a number of other colleagues in the introduction of legislation which we believe will provide critically needed relief and assistance to our beleaguered domestic oil industry.

Our bill contains a number of incentives designed to increase domestic production of oil and gas. The decline in domestic oil production has resulted in the estimated loss of more than 40,000 jobs in the oil and gas industry since the crash of oil prices at the end of 1997. Our legislation will not only put people back to work, it will revitalize domestic energy production and decrease our dependence on imports.

I have sought relief for the oil and gas industry from a number of sources this year. As a member of the Senate Budget Committee, I strongly opposed the $4 billion tax which the Clinton budget proposed to levy on the oil industry. As my colleagues know, that tax is now dead.

Earlier this year I contacted Secretary of State Madeleine Albright and urged her to conduct a thorough review of our current policy which permits Iraq to sell $5.25 billion worth of oil every six months. The revenue generated from such sales is supposed to be used to purchase food and medicine but reports make it clear that Saddam Hussein has diverted these funds from their intended use and that they are being used to prop up his murderous regime. The United States should not be a party to such a counterproductive policy.

Senator HUTCHISON and I earlier this year introduced legislation which contained a series of tax law changes intended to spur marginal well production. The legislation which we introduce today contains those provisions as well as others, such as reducing the impact of the Alternative Minimum Tax (AMT) on the oil and gas industry and relaxing the existing constraints on use of the allowance for percentage depletion.

I am looking forward to working with my colleagues in an effort to enact the legislation as soon as possible.●

By Mr. MCCAIN:

S. 1043. A bill to provide freedom from regulation by the Federal Communications Commission for the Internet; to the Committee on Commerce, Science, and Transportation.

THE INTERNET REGULATORY FREEDOM ACT

Mr. MCCAIN. Mr. President, I rise today to introduce The Internet Regulatory Freedom Act of 1999. This legislation will help assure that the enormous benefits of advanced telecommunications services are accessible to all Americans, no matter where they live, what they do, or how much they earn.

Advanced telecommunications is a critical component of our economic and social well-being. Information technology now accounts for over one-third of our economic growth. The estimates are that advanced, high-speed Internet services, once fully deployed, will grow to a $150 billion a year market.

What this means is simple: Americans with access to high-speed Internet service will get the best of what the Internet has to offer in the way of online commerce, advanced interactive educational services, telemedicine, telecommuting, and video-on-demand. But what it also means is that Americans who don't have access to high-speed Internet service won't enjoy these same advantages.

Mr. President, Congress cannot stand idly by and allow that to happen.

Advanced high-speed data service finally gives us the means to assure that all Americans really are given a fair shake in terms of economic, social, and educational opportunities. Information Age telecommunications can serve as a great equalizer, eliminating the disadvantages of geographic isolation and socioeconomic status that have carried over from the Industrial Age. But unless these services are available to all Americans on fair and affordable terms, Industrial Age disadvantages will be perpetuated, not eliminated, in the Information Age.

As things now stand, however, the availability of advanced high-speed data service on fair and affordable terms is seriously threatened. Currently, only 2 percent of all American homes are served by networks capable of providing high-speed data service. Of this tiny number, most get high-speed Internet access through cable modems. This is a comparatively costly service —about $500 per year —and most cable modem subscribers are unable to use their own Internet service provider unless they also buy the same service from the cable system's own Internet service provider. This arrangement puts high-speed Internet service beyond the reach of Americans not served by cable service, and limits the choices available to those who are.

If this situation is allowed to continue, many Americans who live in remote areas or who don't make a lot of money won't get high-speed Internet service anywhere near as fast as others will. And, given how critical high-speed data service is becoming to virtually every segment of our everyday lives, creating advanced Internet ''haves'' and ''have nots'' will perpetuate the very social inequalities that our laws otherwise seek to eliminate.

This need not happen. Our nation's local telephone company lines go to almost every home in America, and local telephone companies are ready and willing to upgrade them to provide advanced high-speed data service.

They are ready and willing, Mr. President, but they are not able—at least, not as fully able as the cable companies are. That's because the local telephone companies operate under unique legal and regulatory restrictions. These restrictions are designed

to limit their power in the local voice telephone market, but they are mistakenly being applied to the entirely different advanced data market. And as a result, their ability to build out these networks and offer these services is significantly circumscribed.

Mr. President, it's very expensive for to build high-speed data networks. Unnecessary regulation increases this already-steep cost and thereby limits the deployment of services to people and places that might otherwise receive them—and many of them are people and places that won't otherwise be served. This legislation will get rid of this unnecessary regulation, thereby facilitating the buildout of the advanced data networks necessary to give more Americans access to high-speed Internet service at a cheaper price and with a greater array of service possibilities.

That's called ''competition,'' Mr. President, and some people don't like it very much. AT&T, for example, owns cable TV giant TCI and its proprietary Internet service provider @Home. AT&T doesn't face the same regulatory restrictions as the telephone companies do, and AT&T will fight furiously to retain these restrictions so that it can continue to enjoy the ''first-move'' advantage it now has in the market for high-speed Internet service. So will other local telephone company competitors such as MCI/Worldcom, many of whom, like AT&T, prefer gaming the regulatory process to competing in the marketplace.

They're right about one thing, Mr. President—competition sure isn't nice. It's tough. Some companies win, and some companies lose. But the important thing to me is this: with competition, consumers win.

The 1996 Telecommunications Act effectively nationalized telephone industry competition. That's one of the many reasons I voted against it. As subsequent events have shown, the Act has been a complete and utter failure insofar as most Americans are concerned. All the average consumer has gotten are higher prices for many existing services, with little or no new competitive offerings. Most of the advantages have accrued to gigantic, constantly-merging telecommunications companies and the big business customers they serve.

Mr. President, we must not let this misguided law produce the same misbegotten results when it comes to making high-speed data services available and affordable to all Americans. The service is too important, and the stakes are too high.

Even the former Soviet Union managed to recognize that centralized planning was a flat failure, and abandoned it decades ago. It's time we started doing the same with centralized competition planning under the 1996 Act, and advanced data services are the best place to start. Unfettered competition, not federally-micromanaged regulation, is the best way of making sure that high-speed data services will be widely available and affordable. That's what I want, that's what consumers deserve, and that's what this legislation will do.

The first is the fact that the high-speed cable modem service being rolled out by AT&T on many of the nation's cable television systems favors its own proprietary Internet service provider, which limits consumer choice. Although AT&T's cable customers can access AOL or other Internet service providers of their own choice, they must first pass through, and pay for, AT&T's own Internet service provider, @Home. The fact that it typically costs around $500 a year to subscribe to @Home is a big disincentive to paying even more to access another service provider.

The second problem is every bit as troubling. Even though cable subscribers have only limited choice in accessing high-speed Internet service, 98 percent of Americans are even worse off, because they aren't served by any network that can carry high-speed Internet services.

Obviously, Mr. President, telephone networks serve almost everybody, and the large telephone companies very much want to convert their networks and make these services available to subscribers who might not otherwise get them, especially in rural and low-income areas, and also provide competitive alternatives for AT&T's cable modem subscribers. But, although AT&T can roll out cable modem service in a virtually regulation-free environment, federal regulation significantly impedes the ability of telephone companies to do the same thing.

Mr. President, this is blatantly unfair to the telephone companies—but that's not the worst of it. The benefits of business development, employment, and economic growth will go where the advanced data networks go. If these benefits go to urbanized, high-income areas first, the resulting disparities may well be difficult, if not impossible, to equalize.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 1043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Regulatory Freedom Act of 1999''.

SECTION 2. PURPOSE.

The purpose of this Act is to eliminate unnecessary regulation that impedes making advanced Internet service available to all Americans at affordable rates.

SECTION 3. PROVISIONS OF INTERNET SERVICES.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

''SEC. 231. PROVISION OF INTERENT SERVICES.

''(a) POLICY.—Since Internet services are inherently interstate in nature, it is the policy of the United States to assure that all Americans have the opportunity to benefit from access to advanced Internet service at affordable rates by eliminating regulation that impedes the competitive deployment of advanced broadband data networks.

''(b) FREEDOM FROM REGULATION; LIMITATIONS ON COMMISSION'S AUTHORITY.—Notwithstanding any other provision, including section 271, of this Act, nothing in this Act applies to, or grants authority to Commission with respect to—

''(1) the imposition of wholesale discount obligations on bulk offerings of advanced services to providers of Internet services or telecommunications carriers under section 251(c)(4), or the duty to provide as network elements, under section 251(c)(3), the facilities and equipment used exclusively to provide Internet services;

''(2) technical standards or specifications for the provisions of Internet services; or

''(3) the provision of Internet services.

''(c) INTERNET SERVICES DEFINED.—In this section, the term 'Internet services' means services, other than voice-only telecommunication services, that consist of, or include—

''(1) the transmission of writing, signs, signals, pictures, or sounds by means of the Internet or any other network that includes Internet protocol-based or other packet-switched or equivalent technology, including the facilities and equipment exclusively used to provide those services; and

''(2) the transmission of data between a user and the Internet or such other network.

''(d) ISP NOT A PROVIDER OF INTRASTATE COMMUNICATION SERVICES.—A provider of Internet services may not be considered to be a carrier providing intrastate communication service described in section 2(b)(1) because it provides Internet services.''.

By Mr. KENNEDY:

S. 1044. A bill to require coverage for colorectal cancer screenings; to the Committee on Health, Education, Labor, and Pensions.

THE ELIMINATE COLORECTAL CANCER ACT OF 1999

• Mr. KENNEDY. Mr. President, today we are introducing a bill that will require all private insurers to provide coverage for screening tests for colorectal cancer. More than 56,000 Americans die from colon cancer each year and we know that the vast majority of these tragedies could have been prevented by early detection and treatment.

Millions of Americans are at risk of contracting colon cancer during their lifetime. Persons over age 50 are particularly vulnerable, and so are family members of those who have had this illness. Effective treatments are well-established for this disease, but it must be detected early in order for the treatment to be successful.

Unfortunately, fewer than 20 percent of Americans take advantage of the routine screening tests that can identify those who have the disease or who are at risk. Too many physicians fail to recommend or even mention it. The cost of screening those at risk is minor compared to the savings gained by reducing the overall costs of treatment, suffering, lost productivity, and premature death.

As many colon cancer survivors have told us, early recognition and treatment are essential to winning this battle. Over 90% of people who have been

diagnosed as a result of these screening tests and then treated for this cancer have resumed active and productive lives.

People on Medicare already have the right to these screening tests. The legislation we are introducing today will extend the same benefit to everyone else who has private insurance coverage. Under our proposal, coverage for screening tests will be available to anyone over age 50, and also to younger persons who are at risk for the disease or who have specific symptoms. The type of tests and frequency of tests would be determined by the doctor and the patient. This is a very reasonable and cost-effective measure that is essential to prevent thousands of unnecessary deaths.

Our bill has already received support and endorsements from all the major gastrointestinal professional organizations, the American Cancer Society, the American Gastroenterological Association, the Cancer Research Foundation of America, the American Society for Gastrointestinal Endoscopy, the American Society of Colon and Rectal Surgeons, STOP Colon and Rectal Cancer Foundation, the United Ostomy Association, the Colon Cancer Alliance, Cancer Care, Inc., and the American Association of Homes and Services for the Aging.

A companion bill is being introduced in the House with the bipartisan leadership of my respected colleagues, Congresswomen LOUISE SLAUGHTER and CONNIE MORELLA. They have rightly emphasized that this disease is one that affects women as much as men. I look forward to working with them and my colleagues here in the Senate to get this very important protective legislation passed.●

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BREAUX, Mr. KERREY, and Mr. ROBB):

S. 1045. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Finance.

STRUCTURED SETTLEMENT PROTECTION ACT

Mr. CHAFEE. Mr. President, today I am introducing the Structured Settlement Protection Act, together with Senators BAUCUS, GRASSLEY, ROCKEFELLER, BREAUX, and KERREY of Nebraska. Companion legislation has been introduced in the House as H.R. 263, sponsored by Representatives CLAY SHAW and PETE STARK and a broad bipartisan group of Members of the House Ways and Means Committee.

The Act protects structured settlements and the injured victims who are the recipients of the structured settlement payments from the problems caused by a growing practice known as structured settlement factoring.

Structured settlements were developed because of the pitfalls associated with the traditional lump sum form of recovery in serious personal injury cases. All too often a lump sum meant to last for decades or even a lifetime swiftly eroded away. Structured settlements have proven to be a very valuable tool. They provide long-term financial security in the form of an assured stream of payments to persons suffering serious, often profoundly disabling, physical injuries. These payments enable the recipients to meet ongoing medical and basic living expenses without having to resort to the social safety net.

Congress has adopted special tax rules to encourage and govern the use of structured settlements in physical injury cases. By encouraging the use of structured settlements Congress sought to shield victims and their families from pressures to prematurely dissipate their recoveries. Structured settlement payments are non-assignable. This is consistent with worker's compensation payments and various types of federal disability payments which are also non-assignable under applicable law. In each case, this is done to preserve the injured person's long-term financial security.

I am very concerned that in recent months there has been sharp growth in so-called structured settlement factoring transactions. In these transactions, companies induce injured victims to sell off future structured settlement payments for a steeply-discounted lump sum, thereby unraveling the structured settlement and the crucial long-term financial security that it provides to the injured victim. These factoring company purchases directly contravene the intent and policy of Congress in enacting the special structured settlement tax rules. The Treasury Department shares these concerns and has included a similar proposal in the Administration's FY 2000 budget.

An article in the January 25 issue of U.S. News & World Report highlights the growing problem of structured settlement purchases. Orion Olson was bitten by a dog when he was three years old. The dog bite caused him vision and neurological problems. The settlement resulting from his lawsuit called for Mr. Olson to receive $75,000 in periodic payments once he turned 18. Unfortunately, Mr. Olson was lured into selling his payments for a lump sum payment of $16,100. Within six months this money was gone and Mr. Olson was living in a car.

Last year, the National Spinal Cord Injury Association wrote to the Chairman of the Finance Committee strongly supporting the legislation. They stated: [o]ver the past 16 years, structured settlements have proven to be an ideal method for ensuring that persons with disabilities, particularly minors, are not tempted to squander resources designed to last years or even a lifetime. That is why the National Spinal Cord Injury Association is so deeply concerned about the emergence of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements.''

The legislation we are introducing would impose a substantial penalty tax on a factoring company that purchases the structured settlement payments from the injured victim. This is a penalty, not a tax increase. Similar penalties are imposed in a variety of other contexts in the Internal Revenue Code to discourage transactions that undermine Code provisions, such as private foundation prohibited transactions and greenmail. The factoring company would pay the penalty only if it engages in the transaction that Congress has sought to discourage. An exception is provided for genuine court-approved hardship cases to protect the limited instances where a true hardship warrants the sale of future structured settlement payments.

This bipartisan legislation, which is supported by the Treasury Department, should be enacted as soon as possible to stem this growing nationwide problem.

Mr. President, I ask unanimous consent that a copy of the bill, a summary of the legislation and the article from U.S. News & World Report be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Structured Settlement Protection Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.

Subtitle E is amended by adding at the end the following new chapter:

''CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

''Sec. 5891. Structured settlement factoring transactions.

''SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 50 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

''(b) EXCEPTION FOR COURT-APPROVED HARDSHIP.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is—

''(1) otherwise permissible under applicable law, and

''(2) undertaken pursuant to the order of the relevant court or administrative authority finding that the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or the recipient's spouse or dependents render such a transfer appropriate.

''(c) DEFINITIONS.—For purposes of this section—

''(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

''(A) established by—

''(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

''(ii) agreement for the periodic payment of compensation under any workers' compensation act that is excludable from the gross income of the recipient under section 104(a)(1), and

''(B) where the periodic payments are—

''(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

''(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

''(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

''(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

''(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

''(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

''(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

''(5) RELEVANT COURT OR ADMINISTRATIVE AUTHORITY.—The term 'relevant court or administrative authority' means—

''(A) the court (or where applicable, the administrative authority) which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement, or

''(B) in the event that no action or proceeding was brought, a court (or where applicable, the administrative authority) which—

''(i) would have had jurisdiction over the claim that is the subject of the structured settlement, or

''(ii) has jurisdiction by reason of the residence of the structured settlement recipient.

''(d) COORDINATION WITH OTHER PROVISIONS.—

''(1) IN GENERAL.—In any case where the applicable requirements of sections 72, 130, and 461(h) were satisfied at the time the structured settlement was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

''(2) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to clarify the treatment in the event of a structured settlement factoring transaction of amounts received by the structured settlement recipient.''

SEC. 3. TAX INFORMATION REPORTING OBLIGATIONS.

Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

''SEC. 6050T. REPORTING REQUIREMENTS REGARDING STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IN GENERAL.—In the case of a transfer of structured settlement payment rights in a structured settlement factoring transaction—

''(1) described in section 5891(b) and of which the person making the structured settlement payments has actual notice and knowledge, such person shall make such return and furnish such written statement to the acquirer of the structured settlement payment rights as would be applicable under the provisions of section 6041 (except as provided in subsection (c) of this section), or

''(2) subject to tax under section 5891(a) and of which the person making the structured settlement payments has actual notice and knowledge, such person shall make such return and furnish such written statement to the acquirer of the structured settlement payment rights at such time, and in such manner and form, as the Secretary shall by regulations prescribe.

''(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply in lieu of any other provisions of this part to establish the reporting obligations of the person making the structured settlement payments in the event of a structured settlement factoring transaction. The provisions of section 3405 regarding withholding shall not apply to the person making the structured settlement payments in the event of a structured settlement factoring transaction.

''(c) DEFINITION.—For purposes of this section, the term 'acquirer of the structured settlement payment rights' shall include any person described in section 7701(a)(1).''

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to structured settlement factoring transactions (as defined in section 5891(c)(3) of the Internal Revenue Code of 1986, as added by this Act) occurring after the date of enactment of this Act.

SUMMARY OF THE STRUCTURED SETTLEMENT PROTECTION ACT

1. STRINGENT EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlements and raise such serious concerns for the injured victims that it is appropriate to impose a stringent excise tax against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships). Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (i) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension contexts—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation. A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. EXCEPTION FROM EXCISE TAX FOR GENUINE, COURT-APPROVED HARDSHIP

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. The excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate.

This exception is intended to apply to the limited number of cases in which a genuinely extraordinary, unanticipated, and imminent hardship has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition, as a threshold matter, the transfer of structured settlement payment rights must be permissible under applicable law, including State law. The hardship exception under this legislation is not intended to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. NEED TO PROTECT TAX TREATMENT OF ORIGINAL STRUCTURED SETTLEMENT

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. Sections 72, 130 and 461(h) had been satisfied at the time of the structured

settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. Sections 72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, the section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed. That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments has been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income by the injured victim at the time of the structured settlement.

4. TAX INFORMATION REPORTING OBLIGATIONS WITH RESPECT TO A STRUCTURED SETTLEMENT FACTORING TRANSACTION

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (e.g., form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances, the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction. Under the Act, for purposes of the reporting obligations, the term acquirer of the structured settlement payment rights'' would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provisions of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. EFFECTIVE DATE

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

[From U.S. News & World Report, Jan. 25, 1999]

SETTLING FOR LESS

SHOULD ACCIDENT VICTIMS SELL THEIR MONTHLY PAYOUTS?

(By Margaret Mannix)

Orion Olson has had his share of hard knocks. When he was a 3 year old, a dog bite caused him vision and neurological problems, as well as injuries requiring plastic surgery. In his teens, he dropped out of high school and wound up homeless. But he had hope. On his 18th birthday, the Minneapolis man was to start receiving the first of five periodic payments totaling $75,000 from a lawsuit stemming from the dog attack. He received the first installment of $7,500, but the money didn't last long.

So when Olson saw a television ad for a finance company named J. G. Wentworth & Co. that provided cash to accident victims, he saw a way to get his life back on track. He agreed to sell his remaining future payments of $67,500 to Wentworth for a lump sum of $16,100. ''I needed money,'' says Olson, now 20 years old. ''If I could get the money out like they were saying on TV, I wouldn't have to worry about being on the street anymore.'' Within six months, however, Olson had spent all the money and was living in a car. He now wishes he had waited for his regular payments.

Olson may be financially unsophisticated, but he is also caught up in a burgeoning, and unregulated, new industry that specializes in converting periodic payments into fast cash. Also known as factoring companies, these firms can be a godsend to accident victims, lottery winners, and others who have guaranteed future incomes but need immediate funds. But like a modern-day Esau trading his inheritance for a bowl of soup, the unwary consumer may be selling future sustenance for cheap. A growing number of federal and state legislators, as well as several attorneys general, contend that factoring companies charge usurious interest rates, fail to properly disclose terms, and take advantage of desperate people. ''It's unconscionable,'' says Minnesota Attorney General Mike Hatch. ''They are really preying upon the vulnerable.''

Frittering away. Critics further allege that factoring companies undermine the very law that Congress passed to help beneficiaries of large damage awards. In 1982, seeking to prevent accident victims from frittering away large sums intended to provide for them over their lifetimes, Congress instituted tax breaks for those who agreed to receive their money over a period of years. But now, contends Montana Sen. Max Baucus, a sponsor of that legislation, the careful planning that goes into the structuring of these payments ''can be unraveled in an instant by a factoring company offering quick cash at a steep discount.''

A number of advanced-funding companies compete for their share of future payments that include more than $5 billion in structured settlements awarded each year. The largest buyer is Wentworth, handling an estimated half of all such transactions. Based in Philadelphia, the firm began by financing nursing homes and long-term care facilities. In 1992 it started buying settlements that auto-accident victims were owed by the state of New Jersey. Since then, Wentworth has completed more than 15,000 structured-settlement transactions with an approximate total value of $370 million.

The deals work like this: A structured-settlement recipient who wants to sell, say, $50,000 in future payments, will not get a limp sum of $50,000. That's because, as a result of inflation, money schedule to be paid years from now is worth less today. Formulas based on such factors as inflation and the date that payments begin are used to determine the ''present value'' of the future payments. The seller is, in essence, borrowing a lump sum that is paid back with the insurance company payments. The interest on the borrowed sum is called the ''discount rate.''

Wentworth and other advanced-funding companies say they are providing a valuable service because structured settlements have a basic flaw: They are not flexible. Consumer needs change, they note, and a fixed monthly payment does not. Wentworth points to an Ohio woman who sold the company a $500 portion of her monthly payments for six years when her bills were piling up and her home mortgage was about to be foreclosed. She received instant cash of $21,000, at a discount rate of 15.8 percent. The customer, who did not wish to be identified, says she is grateful to Wentworth for advancing her the money when her insurance company would not. ''The insurance companies just don't understand,'' she says, ''When I needed their help, they were not there.'' Likewise, a New York quadriplegic, who also did not want to be named, says he secured funds from Wentworth at a 12 percent discount rate to expand his won business and, as a result, is more successful than ever. ''It was definitely worth it for me,'' he ways.

But other customers are not as satisfied. New York City resident Raymond White lost part of one leg when we has struck by a subway train in 1990. A lawsuit led to a settlement that guaranteed White a monthly payment of $1,100, with annual cost-of-living increases of 3 percent. In 1996, White, who did not have a job, wanted cash to buy a car and pay medical bills. So he turned to Wentworth, selling portions of his monthly payments for the next 15 years in six different transactions.

Altogether White gave up future payments totaling $198,000. He received a total of $54,000 in return, but the money, which he used for living expenses, is now gone. He bought a car, but it has been repossessed. He bought a plot of land in Florida, but lost it to foreclosure. With debts mounting, he now relies partially on public assistance to get by. ''Unfortunately I was so overwhelmed with debt and striving for a better life that I went along with it,'' says White. ''In reality, what I was doing was accumulating more debt for myself.''

Some Wentworth customers say they might have realized the repercussions of their transactions had the contracts been clearer about the long-term costs. Jerry Magee of Magnolia, Miss., who has filed a class action suit against the company, is one of them. In a mortgage contract, for instance, lending laws require that consumers see their interest rate and the total amount of money they will be paying over the life of the loan. By contrast, Magee's lawyer says, neither the effective interest rate nor the total amount of the transaction was clearly spelled out in the 13-page contract or in the 25 other documents Wentworth required him to sign. Wentworth says it has been revising its documents to make them easier to understand.

Change of address. While the factoring transaction itself is complex, the transfer of payments is simple. The structured settlement recipient instructs the insurance company to change his or her address to that of the factoring company. The check remains in the recipient's name, and the factoring company uses a power of attorney, granted by the recipient, to cash it.

This roundabout method is used because insurance companies say structured payments should not be sold. Most settlement contracts specify that payments cannot be ''assigned,'' and the Internal Revenue Service says that payments ''cannot be accelerated, deferred, increased or decreased.'' Selling payments, the insurance companies say, amounts to accelerating them. And that may threaten the claimant's tax break. Insurance companies say that if their annuitants start selling their payments, the social good that justifies the tax break disappears. Ironically, they make this argument even though some insurance companies themselves are not making counteroffers to factoring companies, accelerating payments to their own claimants. Berkshire Hathaway Life Insurance Co., for example, recently offered a claimant a lump sum of $59,000, beating Wentworth's offer of $45,000. The IRS has not formally addressed the tax issues, but the U.S. Department of the Treasury has recommended a tax on factoring transactions to discourage them.

Insurance companies also worry about having to pay twice. Last year, a judge ruled an insurance company was obligated to pay a workers' compensation recipient his monthly payments because the factoring transaction he entered into was invalid under Florida's workers' compensation statute. For their part, the factoring companies argue that even though the claimants do not own the annuities—the insurance companies do—the factoring companies can buy the ''right to receive'' the payments.

Insurance companies are getting wise to these factoring deals—CNA, a Chicago-based insurer, noticed that annuitants from all over the country were changing their addresses to Wentworth's Philadelphia post office box—and some are trying to stop the transactions. Some insurance companies, for example, refuse to honor change-of-address requests or redirect the payments back to the annuitant after the deal is done. But redirecting a payment can cause serious consequences for the claimant. In Wentworth's case, the company has each customer sign a clause called a ''confession of judgment,'' which allows the factoring company to sue customers quickly for default when their payments are not received; customers also waive the right to defend themselves.

Christopher Hicks, a 20-year-old accident victim from Oklahoma City, learned the effects of that clause the hard way. In 1997, Hicks signed over to Wentworth half of his $2,000 monthly payments for the next 32 months and $1,500 for the 26 months after that. In exchange, Hicks received $37,500, which he admits he quickly spent on furniture, clothes, and other items. When Wentworth failed to receive a check from the insurance company that pays Hicks the annuity, it secured a judgment against him for the entire amount of the deal—$71,000.

No clue. To collect, Wentworth garnisheed Metropolitan Life, meaning that Metropolitan Life was supposed to start sending Hicks's monthly checks to Wentworth. It did not—the company won't say why—and Hicks, who was supposed to be getting $1,000 back from Wentworth, was left with nothing. ''When the money stopped, I had no clue what was going on,'' says Hicks, who had to rely on family and friends until the two companies settled their differences in court. Hicks now wishes he had never gotten involved with Wentworth. ''They make you think you are doing the right thing in the long run,'' says Hicks, ''but you are really messing up your life.''

Wentworth makes liberal use of confession-of-judgment clauses even though they are illegal in consumer transactions in the company's home state of Pennsylvania. The Federal Trade Commission also bans the clauses as an unfair practice in consumer-credit transactions. The clauses are allowable in business transactions in Pennsylvania if they are accompanied by a statement of business purpose. So in each case Wentworth certifies that the agreements ''were not entered into for family, personal, or household purposes.''

Such language is used in affidavits despite cases like that of Davinia Willis, a 24-year-old resident of Richmond, Calif., who entered into a transaction with Wentworth in 1996 to stop her house from being foreclosed upon and to repair wheelchair ramps—clearly, she says, personal uses. In a class action lawsuit against the company, she cites the confession of judgment as one reason why the contract is ''illegal, usurious, and unconscionable.'' Wentworth says the clauses are necessary to keep its customers from reneging on their agreements.

In the end, the controversy over factoring companies comes down to a fundamental disagreement over the definition of their business. The factoring companies say they are not subject to usury or consumer-credit disclosure laws because they are not, in fact, lenders. ''We don't make loans,'' declares Andrew Hillman, Wentworth's general counsel. ''We buy assets.'' But some state attorneys general say these transactions differ very little, if at all, from loans and perhaps should be classified as such. That way, says Shirley Sarna, chief of the New York attorney general's consumer fraud and protection bureau, the law could prevent factoring companies from charging discount rates that she says in some cases have exceeded 75 percent. Wentworth says its average rate is 16 percent, and several factoring companies insist their rates would be much lower if insurance companies did not make it expensive from them to complete the deals. ''By getting the insurance companies to process the address changes, it would overnight transform our discount rates from high teens to the single digits,'' says Jeffrey Grieco, managing director of Stone Street Capital, an advanced-funding firm in Bethesda, Md.

Who is right and who is wrong is being hammered out in courtrooms and statehouses across the country. The insurance companies were heartened last summer when a Kentucky judge denied four of Wentworth's garnishment actions, saying the purchase agreements the customers signed were neither valid nor legal. But other courts have ruled differently.

In Illinois, a new state law says that structured settlements can be sold as long as a judge approves the transaction. Wentworth notes that more than 100 such sales have been approved. At the same time, several state attorneys general are examining the factoring industry's practices. ''You have got to worry about people who have a debilitating injury,'' says Joseph Goldberg, senior deputy attorney general for Pennsylvania. ''The injury is never going away and they have no real means of income and probably no means of employment. . . . If they give that monthly payment up, it could have serious consequences.'' Voicing similar concerns, disability groups like the National Spinal Cord Injury Association, which now refuses to accept factoring companies' advertisements in its magazine, are warning members about the hazards of cashing out. The association is ''deeply concerned about the emergency of companies that purchase payments intended for disabled persons at a drastic discount,'' says its executive director, Thomas Countee.

While opinions are divided about the validity of factoring transactions, both sides agree that regulation of the secondary market is necessary. As in Illinois, Connecticut and Kentucky have passed laws requiring a judge's approval of advanced-funding deals, as well as fuller disclosure of costs. Faced with mounting criticism, Wentworth this week will announce its pledge to submit every request for purchase of a settlement to a court for approval. Other states are expected to address the issue this year, and in Congress, Rep. Clay Shaw, a Florida Republican, has reintroduced a measure that would tax factoring transactions.

The factoring companies respond to all these efforts by also calling for better disclosure from the primary market—the insurance companies, attorneys, and brokers that set up the structured settlements in the first place. Factoring companies argue that structured settlements are not always as generous as they are represented to be. ''We challenge insurance companies and their brokers to take the same pledge.'' said Michael Goodman, Wentworth's executive vice president.

Whatever the outcome of the debate, consumers thinking about selling their future payments are well advised to take a hard look at what they are getting into.

• Mr. BAUCUS. Mr. President, I am pleased to join today with Senator CHAFEE and a bipartisan group of our colleagues from the Finance Committee in introducing the Structured Settlement Protection Act.

Companion legislation has been introduced in the House (H.R. 263) by Representatives CLAY SHAW and PETE STARK. The House legislation is cosponsored by a broad bipartisan group of Members of the House Ways and Means Committee.

The Treasury Department supports this bipartisan legislation

I speak today as the original Senate sponsor of the structured settlement tax rules that Congress enacted in 1982. I rise because of my very grave concern that the recent emergence of structured settlement factoring transactions—in which favoring companies buy up the structured settlement payments from injured victims in return for a deeply-discounted lump sum—complete undermines what Congress intended when we enacted these structured settlement tax rules.

In introducing the original 1982 legislation, I pointed to the concern over the premature dissipation of lump sum

recoveries by seriously-injured victims and their families:

In the past, these awards have typically been paid by defendants to successful plaintiffs in the form of a single payment settlement. This approach has proven unsatisfactory, however, in many cases because it assumes that injured parties will wisely manage large sums of money so as to provide for their lifetime needs. In fact, many of these successful litigants, particularly minors, have dissipated their awards in a few years and are then without means of support. [CONGRESSIONAL RECORD (daily ed.) 12/10/81, at S15005.]

I introduced the original legislation to encourage structured settlements because they provide a better approach, as I said at the time: ''Periodic payment settlements, on the other hand, provide plaintiffs with a steady income over a long period of time and insulate them from pressures to squander their awards.'' (Id.)

Thus, our focus in enacting these tax rules in section 104(a)(2) and 130 of the Internal Revenue Code was to encourage and govern the use of structured settlements in order to provide long-term financial security to seriously-injured victims and their families and to insulate them from pressures to squander their awards.

Over the almost two decades since we enacted these tax rules, structured settlements have proven to be a very effective means of providing long-term financial protection to persons with serious, long-term physical injuries through an assured stream of payments designed to meet the victim's ongoing expenses for medical care, living, and family support. Structured settlements are voluntary agreements reached between the parties that are negotiated by counsel and tailored to meet the specific medical and living needs of the victim and his or her family, often with the aid of economic experts. This process may be overseen by the court, particularly in minor's cases. Often, the structured settlement payment stream is for the rest of the victim's life to ensure that future medical expenses and the family's basic living needs will be met and that the victim will not outlive his or her compensation.

I now find that all of this careful planning and long-term financial security for the victim and his or her family can be unraveled in an instant by a factoring company offering quick cash at a steep discount. What happens next month or next year when the lump sum from the factoring company is gone, and the stream of payments for future financial support is no longer coming in? These structured settlement factoring transactions place the injured victim in the very predicament that the structured settlement was intended to avoid.

Court records show that across the country factoring companies are buying up future structured settlement payments from persons who are quadriplegic, paraplegic, have traumatic brain injuries or other grave injuries. That is why the National Spinal Cord Injury Association and the American Association of Persons With Disabilities (AAPD) actively support the legislation we are introducing today. The National Spinal Cord Injury Association stated in a recent letter to Chairman ROTH of the Finance Committee that the Spinal Cord Injury Association is ''deeply concerned about the emergency of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements.''

As a long-time supporter of structured settlements and an architect of the Congressional policy embodied in the structured settlement tax rules, I cannot stand by as this structured settlement factoring problem continues to mushroom across the country, leaving injured victims without financial means for the future and forcing the injured victims onto the social safety net—precisely the result that we were seeking to avoid when we enacted the structured settlement tax rules.

Accordingly, I am pleased to join with Senator CHAFEE in introducing the Structured Settlement Protection Act. The legislation would impose a substantial penalty tax on a factoring company that purchases structured settlement payments from an injured victim. There is ample precedent throughout the Internal Revenue Code, such as the tax-exempt organization area, for the use of penalties to discourage transactions that undermine existing provisions of the Code. I would stress that this is a penalty, not a tax increase—the factoring company only pays the penalty if it undertakes the factoring transaction that Congress is seeking to discourage because the transaction thwarts a clear Congressional policy. Under the Act, the imposition of the penalty would be subject to an exception for court-approved hardship cases to protect the limited instances of true hardship of the victim.

I urge my colleagues that the time to act is now, to stem as quickly as possible these harsh consequences that structured settlement factoring transactions visit upon seriously-injured victims and their families.●

By Mr. REED:

S. 1046. A bill to amend title V of the Public Health Service Act to revise and extend certain programs under the authority of the Substance Abuse and Mental Health Service Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

WRAP AROUND SERVICES FOR DETAINED OR INCARCERATED YOUTH ACT OF 1999

Mr. REED. Mr. President, I rise today to introduce legislation that would help local communities coordinate services for juvenile offenders who are leaving the juvenile justice system and returning to their communities. This provision was included in the Robb amendment to S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, which was unfortunately tabled earlier this week.

The problem of mental illness plagues an alarming number of youth, who too often find themselves caught up in the juvenile justice system. While overall crime rates in this country have been in decline for the past few years, we have seen alarming increases in the number of serious and violent crimes committed by minors. Each year, more than two million youngsters under the age of 18 are arrested. What's more, statistics show that thirty percent of these young people will commit another crime within a year of their initial arrest.

Often, society views these young people, who have turned to crime at such an early age, as a ''lost cause'' or simply beyond hope of rehabilitation. The said fact that often gets overlooked is that many of these youngsters are battling with a serious emotional or mental disorder that winds up manifesting itself in criminal behavior. We cannot condone this behavior, yet, we as a society have failed to dedicate the resources necessary to bring these children back from the edge of self-destruction.

The legislation I am introducing today would help local agencies to coordinate the array of mental health, substance abuse, vocational, and education services a youngster may need to successfully transition back into the mainstream. Once a youth has been through the juvenile or criminal justice system, we need to do all we can to prevent a similar incident. If these children have been identified as having a mental or emotional disorder, they need to have access to appropriate treatment and services while they are incarcerated, but perhaps more imperatively when they leave incarceration. Turning these young people out on the street with no services to facilitate their transition does not help these children and does not help society as a whole.

Studies have found the rate of mental disorder is two to three times higher among the juvenile offender population than among youth in the general population. According to a 1994 Department of Justice study, 73 percent of juvenile offenders reported mental health problems and 57 percent reported past treatment for their condition. In addition, it is estimated that over 60 percent of youth in the juvenile justice system have substance abuse disorders, compared to 22 percent in the general population.

In an effort to bring desperately needed mental health services to this terribly underserved population, my legislation would authorize the Substance Abuse and Mental Health Services Administration (SAMHSA), in collaboration with the Departments of Justice and Education, to administer a

competitive grant program that responds to the array of social and educational needs of children who are leaving the juvenile justice system.

These cooperative ''wrap-around services'' would enable juvenile justice agencies to work together with educational and health agencies to provide transitional services for youth who have had contact with the juvenile justice system, in order to decrease the likelihood that these young people will commit additional criminal offenses.

These services, which would be targeted toward youth offenders who have serious emotional disturbances or are at risk of developing such disturbances, could include diagnostic and evaluation services, substance abuse treatment, outpatient mental health care, medication management, intensive home-based therapy, intensive day treatment services, respite care, and therapeutic foster care.

I think it is important for my colleagues to note that this proposal is modeled after existing programs with a proven record of success. For instance, my home state of Rhode Island is one of four states (the others include California, Wisconsin, and Virginia) that has sought to target teens who have been diagnosed with a serious emotional disturbance and provide them with the services they need to get back on track.

The Rhode Island Department of Youth and Families last year initiated a statewide program called ''Project Hope'', for youth ages 12 to 18 with serious emotional disturbances who are in the process of transitioning from the Rhode Island Training School back into their communities. The goal of the partnership is to develop a single, community-based system of care for these children to reduce the likelihood that they will re-offend. The program brings a core set of services to these young people that includes health care, substance abuse treatment, educational/vocational services, domestic violence and abuse support groups, recreational programs, and day care services. A key component in the program's strategy is to engage young people and their families in the planning and implementation of these transition services.

A similar program that has been in operation in Milwaukee, Wisconsin since 1994 has reported a 40 percent decline in the number of felonies committed and a 30% decrease in misdemeanors after providing comprehensive services to children with serious emotional disorders for one year.

This legislation would provide states with the resources and flexibility to start filing a critical service gap for youngsters who are leaving the juvenile justice system and re-entering their communities. The provisions of adequate transitional and aftercare services to prevent recidivism is essential to reducing the societal costs associated with juvenile delinquency, promoting teen health, and fostering safe communities.

I am pleased to introduce this legislation today. The provisions outlined in this bill will help community agencies to coordinate services, which will prevent these troubled juveniles from committing additional crimes and falling into a life on the fringes of society. It is in our best interest to take responsibility for these teens instead of turning our backs on them at such a critical stage.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request):

S. 1047. A bill to provide for a more competitive electric power industry and for other purposes; to the Committee on Energy and Natural Resources.

S. 1048. A bill to provide for a more competitive electric power industry, and for other purposes, to the Committee on Finance.

COMPREHENSIVE ELECTRICITY COMPETITION AND TAX ACTS

Mr. MURKOWSKI. Mr. President, at the request of the Administration, Senator BINGAMAN and I are introducing the President's proposed electricity legislation. The Administration's legislation is being introduced as two separate bills because Title X of their proposed legislation amends the Internal Revenue Code. I will speak first with respect to the restructuring portion of the Administration's legislation, Titles I through IX.

Mr. President, I am not introducing the restructuring portion of the Administration's legislation because I support it—I do not. Some of its provisions I agree with, but many of its key provisions I am opposed to. Instead, I am introducing the Administration's legislation in order to initiate the debate in the hope that through the legislative process Congress can craft legislation that will enjoy bipartisan support and will benefit consumers.

At the outset, let me observe that our electric power industry isn't broken. We have the finest electric system in the world bar none. Our electric utilities have done an excellent job supplying electricity to the consumers of this Nation. As a result, today electricity is both reliable and reasonably-priced. But that isn't to say that improvements cannot, and should not, be made. I believe that consumers will benefit through enhanced competition. The key question we face is: Should we try to enhance competition through increased reliance on the free market, or through increased use of government regulation? I think the answer is self evident.

Although deregulation is our goal, some regulation will remain necessary to protect consumers. However, such regulation should not be made the exclusive jurisdiction of the Federal government, as some have suggested. The retail market has traditionally been the jurisdiction of the States, and it should remain that way. States are the closest to the people, and are best able to determine what is in their consumers' best interests. Let me speak now about some of the key provisions of the Administration's legislation.

There are several important components of the Administration's legislation that I strongly support. For example, it proposes to repeal the Public Utility Holding Company Act (PUHCA) and the Public Utility Regulatory Policies Act of 1978 (PURPA), two anti-competitive laws that cost consumers billions of dollars every year in above-market electric rates. If we do nothing else, repeal of PUHCA and PURPA would materially advance competition and reduce electric rates to consumers.

The Administration's legislation also shows a clear interest in addressing several contentious issues left out in their bill in the last Congress. For example, the Administration's legislation includes provisions that will begin the debate on what to do about the Federal utilities—the Federal power marketing administrations and the Tennessee Valley Authority. The Administration's legislation also takes a significant step forward by addressing the very difficult issue of creating a level playing field between municipal and private utilities—the tax-exempt municipal bond issue. This is an issue that must be dealt with. The Administration's bill also addresses reliability and it makes all wholesale transmission open access, two very important matters. Also of note is the Administration's recognition of the need to deal with the high cost of electricity in rural communities. Senator DASCHLE and I have introduced legislation to deal with this problem, and the Administration's legislation incorporates part of our bill.

There are, however, several provisions in the Administration's legislation that I am opposed to. First, I do not support its Federal retail competition mandate which overrides State law. I see no need for this. The States are moving aggressively to implement retail competition in a manner and a time frame that benefits consumers. According to the DOE's Energy Information Administration, twenty States have already enacted restructuring legislation or issued a comprehensive regulatory order. More than half the U.S. population live in these twenty States. Again according to DOE's Energy Information Administration, twenty-eight of the remaining thirty States are in the process of deciding what is in the best interests of its residents. Accordingly I ask: With States making such good progress on retail competition what need is there for a Federal mandate—assuming such a mandate is Constitutional? Moreover, because the Administration's proposed mandate would apply even to the twenty States that have already acted, I am concerned that such a Federal mandate would upset the progress these States have made. In this connection, I am not convinced that the Administration's ''opt-out'' provision will in fact

protect consumers from the adverse consequences of Federally-mandated retail competition.

Second, the bill's so-called ''renewable portfolio mandate'' is also a significant problem. For reasons that I do not understand, the Administration has decided to exclude hydroelectric power from the definition of renewable energy, even though hydro is this Nation's most significant renewable energy source. Without hydroelectric power being counted, to meet this new Federal mandate ''renewable'' generation would have to increase to 7.5 percent by the year 2010. Clearly, an impossibility.

Third, I am also troubled with the Administration's so-called ''public benefits'' fund. It puts a Federal $3 billion per year tax on electric consumers, that a Federal board gets to spend for vaguely defined public purposes. It also appears to require a matching $3 billion per year State expenditure. At the very outset, this eats up a very large share of the claimed consumer savings resulting from enactment of the Administration's bill.

Finally, the Administration's bill also contains numerous new Federal oversight, regulatory and environmental programs, many of which give the Federal Energy Regulatory Commission major oversight—much of which comes at the expense of the States. There are far too many of these in the Administration's legislation to identify and discuss here. Some of these may be worthwhile, but clearly many are not. Each will have to be carefully scrutinized and will have to be justified on their own merits if it is to be included in a final bill. I will speak now about the tax provisions of the Administration's proposed legislation which I am introducing as a separate measure.

Mr. President, at the request of the Administration I am also introducing the portion of their electricity restructuring bill that deals with tax-exempt debt issued by municipal utilities. This is Title X of the Administration's proposed legislation. In addiition, the Administration's bill clarifies the tax rules regarding contributions to nuclear decommissioning costs.

Mr. President, if consumers and businesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity providers to interconnect their families into the entire electric grid. Unfortunately, this system efficiency is significantly impaired because of current tax law rules that effectively preclude public power entities—entities that financed their facilities with tax-exempt bonds—from participating in State open access restructuring plans, without jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retroactively taxable because a municipality chooses to participate in a state open access plan. That would cause havoc in the financial markets and could undermine the financial stability of many municipalities. At the same time, public power should be obtain a competitive advantage in the open marketplace based on the federal subsidy that flows from the ability to issue tax-exempt debt.

The Administration's proposal attempts to resolve this issue by prohibiting public power facilities from issuing new tax-exempt bonds for generating facilities and transmission facilities. However, tax exempt debt could be issued for new distribution facilities. In addition, the Administration's proposal ensures that outstanding bonds would not lose their tax-exempt status if transmission facilities violate the private use rules because of a FERC order requiring nondiscriminatory open access to such facilities. Outstanding debt for generation would not lose it's tax-exempt status if the private use rules were triggered simply because the entity entered into a contract in response to a marketplace based on competition.

Mr. President, I am not endorsing every concept in the tax portion of the Administration's proposal. I believe it is a good starting point for discussion of how we transition from a regulated environment to a free market competitive landscape. It is my hope that the public power and the investor owned utilities will sit down and come to a reasonable compromise on how to resolve the tax issues affecting the industry. My door is always open to hear all sides on this issue and see whether we can fix the problems that exist in the tax code so that competition in the industry becomes a reality.

Mr. President, the introduction of the Administration's bill is just the beginning of a very long and arduous process. I hope to be able to work with the electric power industry, my Republican and Democratic colleagues to both the Finance Committee and the Energy and Natural Resources Committee, and DOE Secretary Richardson to craft legislation that will benefit consumers and our Nation.

Mr. President, I ask unanimous consent that the Administration's transmittal letter and section-by-section analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, April 15, 1999.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation, the Comprehensive Electricity Competition Act (CECA), that will reduce electricity costs, benefit the economy, and improve the environment by promoting competition and consumer choice in the electricity industry.

The basic Federal regulatory framework for the electric power industry was established with the enactment in 1935 of the Public Utility Holding Company Act and Title II of the Federal Power Act. These statutes are premised upon State-regulated monopolies rather than competition. Now, however, economic forces are beginning to forge a new era in the electricity industry, one in which generation prices will be determined primarily by the market rather than by legislation and regulation. Consequently, Federal electricity laws need to be updated so that they stimulate, rather than stifle, competition.

In this new era of retail competition, consumers will choose their electricity supplier. The Administration estimates that consumers will save $20 billion a year. Competition will also spark innovation in the American economy and create new industries, jobs, products, and services, just as telecommunications reform spawned cellular phones and other new technologies.

Competition also will benefit the environment. The market will reward a generator that wrings as much energy as possible from every unit of fuel. More efficient fuel use means lower emissions. In addition, competition provides increased opportunities to sell energy efficiency services and green power. Moreover, CECA's renewable portfolio standard and enhanced public benefit funding will lead to substantial environmental benefits.

The following are key provisions of CECA:

All electric consumers would be able to choose their electricity supplier by January 1, 2003, but a State or unregulated cooperative or municipal utility may opt out of retail competition if it believes its consumers would be better off under the status quo or an alternative retail competition plan.

States would be encouraged to allow the recovery of prudently incurred, legitimate, and verifiable retail stranded costs that cannot be reasonably mitigated.

The regions served by the Tennessee Valley Authority and the Federal Power Marketing Administrations would have greater access to alternative sources of power.

All consumers would have the opportunity to reap the full benefits of competition, because CECA would require retail suppliers to provide information regarding the service being offered; provide the Federal Trade Commission with the authority to prevent ''slamming'' and ''cramming;'' require States to consider implementing anti-redlining requirements; allow for aggregation; authorize the establishment of an electricity consumer database to help consumers compare various offers, and establish a Model Retail Supplier Code for States.

All users of the interstate transmission grid would be subject to mandatory reliability standards. The Federal Energy Regulatory Commission (FERC) would approve and oversee an organization that would develop and enforce these standards.

FERC would have the authority to require utilities to turn over operational control of transmission facilities to an independent regional system operator.

A Renewable Portfolio Standard would be established to ensure that by 2010 at least 7.5 percent of all electricity sales consist of generation from non-hydroelectric renewable energy sources.

A Public Benefits Fund would be established to provide matching funds of up to $3 billion per year to States and Indian tribes for low-income energy assistance, energy-efficiency programs, consumer information, and the development and demonstration of emerging technologies, particularly renewable energy technologies. A rural safety net would be created if significant adverse economic effects on rural areas have occurred or will occur as a result of electric industry restructuring.

Indian tribes would receive additional support through the creation of a grant's program, the establishment of an Energy Policy and Programs Office of the Department of

Energy, and special incentives for renewable energy production on Indian lands.

Barriers would be removed in order to encourage combined heat and power and distributed power technologies.

The Environmental Protection Agency would be given authority for interstate nitrogen oxides trading to facilitate attainment of the ambient air quality standard for ozone in the eastern United States.

Federal electricity laws would be modernized to achieve the right balance of competition without market abuse by repealing outdated laws including the Public Utility Holding Company Act of 1935 and the ''must buy'' provision of the Public Utility Regulatory Policies Act of 1978 and by giving FERC enhanced authority to address market power.

A separate bill being transmitted today would change Federal tax law to address certain tax-exempt bonds, nuclear decommissioning costs, class life for distributed power facilities, and to provide a temporary tax credit for combined heat and power facilities.

We urge the prompt enactment of CECA to provide lower prices, a cleaner environment, and increased technical innovation and efficiency.

The Omnibus Budget Reconciliation Act requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in net budget costs: and if it does, it could contribute to a sequester if it is not fully offset. This proposal affects direct spending and receipts; therefore, it is subject to the PAYGO requirement. The net PAYGO effect of this bill is currently estimated to be a net cost of $60 million in FY 2000 and a net savings of $274 million from FY 2000 to FY 2004.

The proposals to provide an investment tax credit for combined heat and power and to deny tax-exempt status for new electric utility bonds except for distribution related expenses, are included in the President's FY 2000 Budget. The Budget contains proposals for mandatory spending reductions and increases in receipts that are sufficient to finance these proposals.

This estimate is preliminary and subject to change.

The pay-as-you-go effect of this draft bill is:

FISCAL YEAR

[In millions of dollars]

	1999	2000	2001	2002	2003	2004
Tax Provisions:						
Revenue Effect [1]	−1	−60	−88	−90	−22	34
Renewable Portfolio Standards:						
Offsetting receipts	.....	−5	−9	−9	−9	−9
Outlays	.....	5	9	9	9	9
Net Cost	.....	.....	.....	.....	.....	.....
Public Benefits Fund and Electricity Reliability Organization:						
Offsetting receipts	.....	.....	−3,005	−3,005	−3,005	−3,005
Outlays	.....	.....	2,505	3,005	3,005	3,005
Net Cost	.....	.....	−500	.....	.....	.....
Total Net Cost	1	60	−412	90	22	−34

[1] For tax provisions, a "+" is a revenue gain; a "−" is a revenue loss. These proposals have been fully offset in the President's budget.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation to the Congress and that its enactment would be in accord with the program of the President.

If you require any additional information, please call me or have a member of your staff contact Mr. John C. Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586–5450.

Yours sincerely,

BILL RICHARDSON.

SECTION-BY-SECTION ANALYSIS OF THE COMPREHENSIVE ELECTRICITY COMPETITION ACT

TITLE I. RETAIL ELECTRIC SERVICE

Section 101. Retail competition

This provision would amend the Public Utility Regulatory Policies Act of 1978 (PURPA) to require each distribution utility to permit all of its retail customers to purchase power from the supplier of their choice by January 1, 2003, but would permit a State regulatory authority (with respect to a distribution utility for which it has ratemaking authority) or a non-regulated utility to opt out if it finds, on the basis of a public proceeding, that consumers of the utility would be served better by the current monopoly system or an alternative retail competition plan.

The section also would enunciate a Federal policy that utilities should be able to recover prudently incurred, legitimate, and verifiable retail stranded costs that cannot be mitigated reasonably, but States and non-regulated utilities would continue to determine whether to provide for retail stranded costs recovery. If States and non-regulated utilities are considering implementation of retail competition, they would also be required to consider providing assistance for electric utility workers who may become or have become unemployed as a result of the implementation of retail competition. If a State or non-regulated utility decides to impose a stranded cost charge, it would be required to consider reducing that charge if the charge results from the use of on-site efficient or renewable generation. This section does not retrocede to States authority over Federal enclaves.

Section 102. Authority to impose reciprocity requirements

This section would amend PURPA to permit a State that has filed a notice indicating it is implementing retail competition to prohibit a distribution utility that is not under the ratemaking authority of the State and that has not implemented retail competition from directly or indirectly selling electricity to the consumers covered by the State's notice. This section also would permit a non-regulated utility that has filed a notice of retail competition to prohibit any other utility that has not implemented retail competition from directly or indirectly selling electricity to the consumers covered by the non-regulated utility's notice.

Section 103. Aggregation for purchase of retail electric energy

This section would amend PURPA to ensure that electricity customers and entities acting on their behalf, subject to legitimate and non-discriminatory State requirements, would be allowed to acquire retail electric energy on an aggregate basis if they are served by one or more distribution utilities for which a notice of retail competition has been filed.

TITLE II. CONSUMER PROTECTION

Section 201. Consumer information

This section would amend PURPA to permit the Secretary of Energy to require all suppliers of electricity to disclose information on price, terms, and conditions; the type of energy resource used to generate the electric energy; and the environmental attributes of the generation, including air emissions characteristics. This requirement would be enforceable by the Federal Trade Commission and by individual States.

Section 202. Access to electric service for low-income consumers

This section would amend PURPA to require a State regulatory authority or non-regulated distribution utility that files a notice of retail competition to consider assuring that its low-income residential consumers have service comparable to its other residential consumers and that all retail electric suppliers in the State share equitably any costs necessary to provide such service.

Section 203. Unfair trade practices

This section would amend the Federal Trade Commission Act to establish slamming and cramming in supplying electricity as unfair trade practices punishable by the Federal Trade Commission (FTC). Under this section, a person may not submit or change, in violation of procedures established by the FTC, a retail electric customer's selection of a retail electric supplier. Also, a person may not charge a retail electric customer for a particular service, except in accordance with procedures established by the FTC.

Section 204. Residential electricity consumer database

This section would amend PURPA to authorize the Secretary of Energy to establish a database containing information to help residential electric consumers compare the offers of various retail electric suppliers.

Section 205. Model retail supplier code

This section would amend PURPA to authorize the Secretary of Energy to develop for State use a model code for the regulation of retail electricity suppliers for the protection of electric consumers.

Section 206. Model electric utility worker code

This section would amend PURPA to authorize the Secretary of Energy to develop for State use a model code setting standards for electric utility workers to ensure that electric utilities are operated safely and reliably.

TITLE III—FACILITATING STATE AND REGIONAL REGULATION

Section 301. Clarification of State and Federal authority over retail transmission services

Subsection (a) would clarify that the Federal Power Act (FPA) does not prevent States and nonregulated distribution utilities from ordering retail competition or imposing conditions, such as a fee, on the receipt of electric energy by an ultimate customer within the State. This section also would clarify the Federal Energy Regulatory Commission's (FERC) authority over unbundled retail transmission.

Subsection (b) would reinforce FERC's authority to require public utilities to provide open access transmission services and permit recovery of stranded costs. This section also would provide retroactive effect to Commission Order No. 888 and clarify FERC's authority to order retail transmission service to complete an authorized retail sale.

Subsection (c) would extend FERC's jurisdiction over transmission services to municipal and other publicly-owned utilities and cooperatives.

Subsection (d) would give the Secretary of Agriculture intervention rights in FERC rulemakings that directly affect a cooperative with loans made or guaranteed under the Rural Electrification Act of 1936.

Section 302. Interstate compacts on regional transmission planning

This section would amend the FPA to permit FERC to approve interstate compacts that establish regional transmission planning agencies if the agencies meet certain criteria relating to their governance.

Section 303. Backup authority to impose a charge on an ultimate consumer's receipt of electric energy

This section would amend the FPA to reinforce FERC's authority to provide a back-up for the recovery of retail stranded costs if a State or a non-regulated utility has filed a

retail competition notice and concludes that such charges are appropriate but lacks authority to impose a charge on the consumer's receipt of electric energy.

Section 304. Authority to establish and require independent regional system operation

This section would amend section 202 of the FPA by permitting FERC to establish an entity for independent operation, planning, and control of interconnected transmission facilities and to require a utility to relinquish control over operation of its transmission facilities to an independent regional system operator.

TITLE IV—PUBLIC BENEFITS

Section 401. Public benefits fund

This section would amend PURPA by establishing a Public Benefits Fund administered by a Joint Board that would disburse matching funds to participating States and tribal governments to carry out programs that support affordable electricity service to low-income customers; implement energy conservation and energy efficiency measures and energy management practices; provide consumer education; and develop emerging electricity generation technologies. Funds for the Federal share would be collected from generators, which, as a condition of interconnection with facilities of any transmitting utility, would pay to the transmitting utility a charge, not to exceed one mill per kilowatt-hour. The transmitting utility then would pay the collected amounts to a fiscal agent for the Fund. States and tribal governments would have the flexibility to decide whether to seek funds and how to allocate funds among public purposes. In addition, a rural safety net would be created if the Secretary of Energy determines, in consultation with the Secretary of Agriculture, that significant adverse economic effects on rural areas have occurred or will occur as a result of electric restructuring.

Section 402. Federal renewable portfolio standard

This section would amend PURPA to establish a Federal Renewable Portfolio Standard (RPS) to guarantee that a minimum level of renewable generation is developed in the United States. The RPS would require electricity sellers to have renewable credits based on a percentage of their electricity sales. The seller would receive credits by generating power from non-hydroelectric renewable technologies, such as wind, solar, biomass, or geothermal generation; purchasing credits from renewable generators; or a combination of these, but would receive twice the number of credits if the power was generated on Indian lands. The RPS requirement for 2000–2004 would be set at the current ratio of RPS-eligible generation to retail electricity sales. Between 2005–2009, the Secretary of Energy would determine the required annual percentage, which would be greater than the baseline percentage but less than 7.5%. In 2010–2015, the percentage would be 7.5%. The RPS credits would be subject to a cost cap of 1.5 cents per kilowatt hour, adjusted for inflation.

Section 403. Net metering

This section would amend PURPA by requiring all retail electric suppliers to make available to consumers ''net metering service,'' through which a consumer would offset purchases of electric energy from the supplier with electric energy generated by the consumer at a small on-site renewable generating facility and delivered to the distribution system. This section also would clarify that States are not preempted under Federal law from requiring a retail electric supplier to make available net metering service.

Section 404. Reform of section 210 of PURPA

This section would repeal prospectively the ''must buy'' provision of section 210 of PURPA. Existing contracts would be preserved, and the other provisions of section 210 would continue to apply.

Section 405. Interconnections for certain facilities

This section would amend PURPA to require a distribution utility to allow a combined heat and power or a distributed power facility to interconnect with it if the facility is located in the distribution utility's service territory and complies with rules issued by the Secretary of Energy and related safety and power quality standards.

Section 406. Rural and remote communities electrification grants

This section would amend the Rural Electrification Act of 1936 to authorize the Secretary of Agriculture, in consultation with the Secretary of Energy, to provide grants for the purpose of increasing energy efficiency, lowering or stabilizing electric rates to end users, or providing or modernizing electric facilities for rural and remote communities and Indian tribes.

Section 407. Indian tribe assistance

This section would amend the Energy Policy Act of 1992 to require the Secretary of Energy to establish a grant and technical assistance program to assist Indian tribes to meet their electricity needs. Among other things, the program could provide assistance in planning and constructing electricity generation, transmission, and distribution facilities.

Section 408. Office of Indian Energy Policy and Programs

This section would authorize the Secretary of Energy to establish an office within the Department of Energy to coordinate and implement energy, energy management, and energy conservation programs for Indian tribes.

Section 409. Southeast Alaska electrical power

This section would authorize appropriations as necessary to ensure the availability of adequate electric power to the greater Ketchikan area in southeast Alaska, including an intertie.

TITLE V—REGULATION OF MERGERS AND CORPORATE STRUCTURE

Section 501. Reform of holding company regulation under PUHCA

This section would repeal the Public Utility Holding Company Act of 1935 (PUHCA). In addition, FERC and State regulatory commissions would be given greater access to the books and records of holding companies and affiliates.

Section 502. Electric company mergers

This section would amend the FPA by conferring on FERC jurisdiction over the merger or consolidation of electric utility holding companies and generation-only companies. This section also would streamline FERC's review of mergers. In addition, this section would require that FERC consider the effect a merger could have on wholesale and retail electric generation markets.

Section 503. Remedial measures for market power

This section would amend the FPA to authorize FERC to remedy market power in wholesale markets. This section also would authorize FERC, upon petition from a State, to remedy market power in retail markets.

TITLE VI—ELECTRICITY RELIABILITY

Section 601. Electric reliability organization and oversight

This section would amend the FPA to give FERC authority to approve and oversee an Electric Reliability Organization to prescribe and enforce mandatory reliability standards. Membership in the organization would be open to all entities that use the bulk-power system and would be required for all entities critical to system reliability. The Electric Reliability Organization would be authorized to delegate authority to one or more Affiliated Regional Reliability Entities, which could implement and enforce the standards within a region.

Section 602. Electricity outage investigation

This section would amend the Department of Energy Organization Act to establish in the Department of Energy a board to investigate and determine the causes of a major bulk-power system failure in the United States.

Section 603. Additional transmission capacity

This section would amend PURPA to give the Secretary of Energy authority to call and chair a meeting of representatives of States in a region in order to discuss provision of additional transmission capacity and related concerns.

TITLE VII—ENVIRONMENTAL PROTECTION

Section 701. Nitrogen oxides cap and trade program

This section would clarify Environmental Protection Agency authority to require a cost-effective interstate trading system for nitrogen oxide pollutant reductions addressing the regional transport contributions needed to attain and maintain the National Ambient Air Quality Standards for ozone.

TITLE VIII—FEDERAL POWER SYSTEMS

Subtitle A—Tennessee Valley Authority (TVA)

Section 801. Definition

Section 802. Application of Federal Power Act

This section would subject TVA to relevant provisions of the FPA for purposes of TVA's transmission system, but would provide that any determination of the Commission would be subject to any other laws applicable to TVA, including the requirement that TVA recover its costs.

Section 803. Antitrust coverage

This section would subject TVA to the antitrust laws effective January 1, 2003, except that TVA would not be liable for civil damages or attorney's fees.

Section 804. TVA power sales

This section would permit TVA, effective January 1, 2003, to sell electric power at wholesale to any person. With regard to sales at retail, this section would permit TVA to sell (1) to existing customers or (2) to customers of an existing wholesale customer of TVA, if the distributor has firm power purchases from TVA of 50 percent or less of its total retail sales, or if the distributor agrees that TVA can sell power to the customer.

Section 805. Renegotiation of long-term power contracts

This section would require TVA to renegotiate its long-term power contracts with respect to the remaining term; the length of the termination notice; the amount of power a distributor may purchase from a supplier other than TVA beginning January 1, 2003, and access to the TVA transmission system for that power; and stranded cost recovery. This section would require that, if the parties are unable to reach agreement within the one year, they would submit the issues in dispute to the Federal Regulatory Commission for final resolution.

Section 806. Stranded cost recovery

This section would provide the Commission with the authority to provide TVA with stranded cost recovery

Section 807. Conforming amendments

This section would make conforming amendments to the Tennessee Valley Authority Act.

Subtitle B—Bonneville Power Administration

Section 811. Definitions

Section 812. Application of Federal Power Act

This section would subject Bonneville to relevant provisions of the FPA for purposes of Bonneville's transmission system, but would provide that any determination of the Commission would be subject to a list of conditions, including a requirement that the rates and charges are sufficient to recover existing and future Federal investment in the Bonneville Transmission System.

Section 813. Surcharge on transmission rates to recover otherwise nonrecoverable costs

This section would require the Commission to establish a mechanism that would enable the Administrator to place a surcharge on rates or charges for transmission services over the Bonneville Transmission System under limited circumstances in order to recover power costs unable to be recovered through power revenues in time to meet Bonneville's cost recovery requirements.

Section 814. Complaints

This section would clarify that the PMAs may file complaints with the Commission.

Section 815. Review of Commission orders

This section would clarify that the PMAs may file a rehearing request or may appeal a Commission order.

Section 816. Conforming amendments

This section would make conforming amendments to the FPA, the Federal Columbia River Transmission System Act, the Pacific Northwest Regional Preference Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the Bonneville Project Act.

Subtitle C—Western Area Power Administration (WAPA) and Southwestern Power Administration (SWPA)

Section 821. Definitions

Section 822. Application of Federal Power Act

This section would subject SWPA and WAPA to relevant provisions of the FPA for purposes of the transmission systems of SWPA and WAPA, but would provide that any determination of the Commission would be subject to a list of conditions, including a requirement that the rates and charges are sufficient to recover existing and future Federal investment in the transmission systems.

Section 823. Surcharge on transmission rates to recover otherwise nonrecoverable costs

This section would require the Commission to establish a mechanism that would enable the Administrator to place a surcharge on rates or charges for transmission services over the SWPA or WAPA Transmission System when necessary in order to recover power costs unable to be recovered through power revenues in time to meet SWPA's or WAPA's cost recovery requirements.

Section 824. Conforming amendments

This section would make conforming amendments to the Department of Energy Organization Act and the Reclamation Reform Act of 1982.

TITLE IX—OTHER PROVISIONS

Section 901. Treatment of nuclear decommissioning costs in bankruptcy

This section would amend the Bankruptcy Act to provide that decommissioning costs be a nondischargeable priority claim.

Section 902. Energy Information Administration study of impacts of competition in electricity markets

This section would amend the Department of Energy Organization Act to direct the Energy Information Administration to collect and publish information on the impacts of wholesale and retail competition.

Section 903. Antitrust savings clause

This section would provide that nothing in this Act would supersede the operation of the antitrust laws.

Section 904. Elimination of antitrust review by the Nuclear Regulatory Commission

This section would eliminate Nuclear Regulatory Commission antitrust review of an application for a license to construct or operate a commercial utilization or production facility.

Section 905. Environmental law savings clause

This section would provide that nothing in this Act would alter environmental requirements of Federal or State law.

Section 906. Generating plant efficiency study

This section would amend the Department of Energy Organization Act to require the Secretary of Energy to issue a report on the efficiency of new and existing electric generating facilities before and after electric competition is in effect.

Section 907. Conforming amendments

TITLE X—AMENDMENTS TO INTERNAL REVENUE CODE

Section 1001. Treatment of bonds issued to finance output facilities

This section would amend the Internal Revenue Code to clarify the status of tax-exempt bonds used to finance utility facilities owned by municipalities. The section would grandfather current tax treatment for bonds that exist already, continue to permit public utilities to issue tax-exempt bonds in the future for new electricity distribution facilities, and eliminate their ability in the future to issue tax-exempt bonds for new transmission and generation facilities.

Section 1002. Nuclear decommissioning costs

This section would amend the Internal Revenue Code to clarify that an investor-owned utility could take a tax deduction for the amount paid into a qualified nuclear decommissioning fund for any taxable year, notwithstanding the elimination of ''cost of service'' ratemaking.

Section 1003. Depreciation treatment of distributed power property

This section would amend the Internal Revenue Code of 1986 to clarify that distributed power facilities have a tax life of 15 years.

Section 1004. Tax credit for combined heat and power system property

This section would amend the Internal Revenue Code to provide an 8 percent investment credit for qualified combined heat and power (CHP) systems placed in service in calendar years 2000 through 2002. The measure would apply to large CHP systems that have a total energy efficiency exceeding 70 percent and to smaller systems that have a total energy efficiency exceeding 60 percent.

● Mr. BINGAMAN. Mr. President, at the request of the administration, I am today joining with my good friend Senator MURKOWSKI, the Chairman of the Energy and Natural Resources Committee, to introduce the president's electricity restructuring legislation.

The administration has presented Congress a fully comprehensive set of legislative proposals. For the first time we have detailed provisions on every major issue affecting the electricity industry as it moves into the new world of competition. Significantly, the president's comprehensive proposals include a framework for the transition of the Bonneville Power Administration and the Tennessee Valley Authority into the new competitive arena.

In considering the administration's proposals, Congress should look to areas that complement the states' ongoing restructuring activities, while leaving the key decisions on retail competition to state and local authorities. Let me mention three areas for federal concern. First, I believe Congress should remove federal impediments to states that chose to implement retail competition. Second, we should take steps to improve the regulation of interstate transmission and assure the continued security and reliability of the nation's grid. And third, Congress should ensure that fair competition can operate at both the wholesale and retail levels. These are the issues that only Congress can address.

Mr. President, Congress should not dwell any longer on whether retail competition is good or bad, or whether or not it will benefit all consumers—the states are already making these decisions. It should be clear to all senators that retail competition for electric power generation is quickly becoming a reality. Nearly half of the states have now enacted restructuring legislation. Last month, New Mexico enacted restructuring legislation that will soon bring retail competition in electricity to my state.

The consensus is growing on the need for federal legislation focused narrowly on wholesale transactions, interstate transmission, and reliability. Mr. President, this is not a simple question of ''de-regulation'' versus ''re-regulation;'' this is about keeping America's high-tension grid system secure, reliable, and economical. The federal role in regulating interstate commerce in electric power is clear. I hope we will move forward soon to resolve, at a minimum, the critical federal issues.

Rather than commenting here on the pros and cons of any particular provision in the president's bill, I will wait until the administration has a fair opportunity to explain the bill to the Energy Committee in a legislative hearing. I know the committee already has a very full plate, but I hope the Chairman will find time to hold a hearing soon on this important topic.

Mr. President, Congress still has time to pass vital federal electricity legislation, but we've got to get the process underway promptly. I hope the administration's proposals will help fuel interest in the Senate. Today America has the world's best electric power system. Let's not wait until serious problems develop to begin making the needed changes in federal regulation. Electricity is too important to the nation to leave critical federal issues unresolved.●

By Mr. MURKOWSKI:

S. 1049. A bill to improve the administration of oil and gas leases on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL OIL AND GAS LEASE MANAGEMENT IMPROVEMENT ACT OF 1999

By Mr. MURKOWSKI:

S. 1050. A bill to amend the Internal Revenue Code of 1986 to provide incentives for gas and oil producers, and for other purposes; to the Committee on Finance.

ENERGY SECURITY TAX POLICY ACT OF 1999

Mr. MURKOWSKI. Mr. President, the production of oil and gas in the United States is fast becoming a thing of the past. I am introducing two bills today to halt, and if possible, reverse that trend.

The economic consequences of the 1973 oil embargo were severe and long lasting. Whole sectors of our economy underwent significant changes and dislocations. Parts of the United States were plunged into recession which remained for a decade as they adjusted to the fluctuations and insecurity of energy supplies in the 1970's. At the time of the embargo, imports made up 36% of our oil consumption.

Our foreign policy was modified to reflect our growing dependence and protecting oil-producing regions of the world took on a new importance. By the time of the Gulf War of 1990–91, oil imports were roughly 50%.

Today, the United States depends upon foreign sources for some 56% of our supply. This is despite Corporate Average Fuel Efficiency (CAFE) standards for cars which have almost doubled gas mileage. This is despite the creation of the Department of Energy. This is despite the untold billions of dollars which have been invested by U.S. industry in energy-saving equipment and processes in order to remain competitive in a world economy.

If no changes are made in federal policy to protect our domestic oil and gas industry—the ''pilot light'' of our nation's economy and security upon which all productive enterprise depends—our future indeed may be bleak. The Department of Energy predicts 68% dependency on foreign oil by the year 2010. This is just shy of a doubling of our oil imports since the embargo of 1973.

In two recent hearings the Senate Energy & Natural Resources Committee examined the state of the domestic oil and gas industries and their future. What we learned has been the impetus for my introduction of these bills today.

During the past 18 months, 136,000 U.S. oil wells and 57,000 gas wells have been shut in. 50,000 men and women throughout the United States have lost their jobs in these industries—15% of all employees. With operating oil rigs at an all-time low and new investment in the U.S. drying up, the future for domestic production of oil and gas is grim.

While the consumption of natural gas is favored by the Administration as a means to reduce emissions, unless changes are made now in federal policy to make production and delivery of natural gas easier, the projected 50% increase in the need for natural gas by the year 2010 will not be met without severe price shocks for American citizens.

The price of oil today is high enough for investment in the U.S. by those who will or can still invest in our domestic oil and gas economy. However, the fact is that the fundamentals for investment in America are not good. Access to prospective areas is severely restricted, environmental costs are extremely high and production rates from U.S. wells are liable to be quite low, in comparison to other areas in the world.

The U.S. is a mature and high cost oil producing region of the world. In response to a changing world oil market, other producing countries are undertaking changes in their government policies to attract and retain economic investment in what they properly consider to be an important national industry.

For example, the United Kingdom has undertaken a significant regulatory reform effort to speed, simplify and provide certainty to investments in their energy industry. They are actively reviewing their tax and royalty systems to adjust them to the new realities of the world energy markets. Colombia, likewise, is undertaking major reductions in royalties to attract and retain investment. These nations and others have determined that they must compete with the rest of the world for investment capital, and are thus moving to make their nations more attractive to such investment. The U.S. lags far behind.

The first of the bills I am introducing is identical to a measure being introduced in the U.S. House of Representatives by Congresswoman BARBARA CUBIN, Chairman of the Subcommittee on Energy and Mineral Resources. It makes significant changes in the oil and gas leasing policies of the United States, by simplifying procedures and granting more certainty for those who choose to invest in our domestic energy business.

This legislation grants States the option of assuming federal regulation of oil and gas leases within their borders, after a federal decision to lease is made. States already perform identical functions on their lands, and this would standardize regulatory functions within a State's borders. The States are closer than the federal government to oil and gas leasing activities within their borders, and are best positioned to make timely and responsible regulatory decisions. In return for opting to assume the specified federal responsibilities for these activities, the States would receive payment of up to 50% of the costs currently assessed them by the federal government for these functions. Federal ownership of the lands would continue.

An important part of this legislation clarifies that the federal government can no longer charge States via the existing ''net receipts sharing'' program for the costs of programmatic planning activities on federal lands unrelated to mineral leasing activities. This would stop creative legal interpretations by the Department of Interior like that which charged Utah for the government's secret planning which resulted in the creation of an enormous National Monument in that State. This type of creative accounting undermines the respect of the citizenry in their governmental institutions, and with this bill, we will plug this leak in the public trust.

The legislation also assists States by dropping the requirement that their share of mineral leasing on federal lands within their borders be reduced by the government's costs of administering mineral leasing if a State opts to assume the federal government's responsibility for regulation of oil and gas activities.

In order to speed development of secure sources of domestic oil and gas by making federal practices more competitive with the rest of the world, I have included in the bill certain provisions which are intended to correct federal practices which are hastening the flight of oil and gas development capital to foreign shores.

One recurring criticism from those who would like to invest in America's domestic energy development is the uncertainty they encounter when they do business with their own federal government. In order to make investment decisions, they must have some certainty about when they might reasonably be expected to be able to actually take possession of, and invest capital in, a federal lease. Moreover, the government is increasingly charging potential lessees for governmental activities before they have any reasonable expectation of being granted a lease. This is akin to charging customers just to stand in line to buy a lottery ticket for a drawing which may never be held. This is absurd, and is a clear signal to potential investors that the U.S. cares little about whether the investment is made here or abroad. This legislation will reverse that signal and provide the certainty that investors need.

Additionally, my legislation would establish reasonable and responsible time frames for the government to respond to requests for permits. If legally-required analyses could not be undertaken by the government within a reasonable time, the applicant could be offered the opportunity to contract for such analyses by an independent party for the government's use. My bill would allow the applicant to receive a credit against royalties due from eventual production in the area for such costs, in recognition of the fact that the more rapidly lands are leased and put into oil or gas production, the more revenues the government will receive and the quicker it will receive it.

My legislation also sets fair but rigid performance deadlines for the completion of federal lease decision-making.

One of the most frequent concerns I hear from small companies throughout the country in the oil and gas producing business is the snail-like pace of federal decision-making. Customers of government services deserve a ''yes'' or ''no'', instead of the endless series of ''maybes'' to which they have become accustomed. They deserve no less, and I seek to correct that deficiency before *all* oil and gas investment flees our shores.

Coordination among federal land management agencies over leasing policies is also long overdue. The bill requires the Secretaries of the Interior and Agriculture to report to Congress with recommendations explaining the most efficient means of eliminating duplication of effort and inconsistent policy between the Bureau of Land Management and the Forest Service with respect to the treatment of oil and gas leases.

The U.S. government and the public deserve to have the best knowledge possible about our domestic supplies of energy. The legislation I am introducing today initiates a modern, science-based energy inventory process to be undertaken by the Secretary of Interior and the Director of the U.S. Geological Survey. Technology for determining oil and gas availability has revolutionized the private sector; it is time for this quantum leap information to be used by the government.

I am particularly happy to include as Title 4 of the bill a provision that Senator DON NICKLES recently introduced as S. 924, concerning federal royalty certainty. This would put an end to the seemingly intractable problem that has sprung up between lessees and the Department of Interior over the issue of where oil is to be valued for royalty purposes. While other nations around the world are taking steps to become more competitive for energy investments by changing laws to encourage investment and provide certainty to possible investors, this recent backdoor royalty increase by the Administration has sent a strong signal to domestic producers that they are no longer welcome here. Title 4 merely clarifies what congress has been saying all along—that oil should be valued for royalty purposes at or near the lease. This clarification is absolutely essential if consumers are to receive the 30 trillion cubic feet of gas the Administration says they will demand in a decade at a cost they can afford.

The final title of the legislation will serve as a strong signal to our domestic industry that we value the jobs they provide for our neighbors and the investment they make right here at home. It recognizes that when world oil prices make investments in American energy production uncompetitive with foreign investments, the U.S. will adjust our take from the current direct royalty to a system which promotes jobs and investment in down times and increases royalty and U.S. production later. Specifically, it calls for a 20% credit against royalties due the federal government against capital expenditures during times of lowered oil and gas prices. If a landlord discovered that his rental units were vacant because they were overpriced compared to the competition, he would drop the price to attract renters. The federal government should do the same.

The legislation would also adjust the definition of what constitutes a ''marginal'' oil well, and allow for suspensions of leases at the lessee's option when oil prices dip precipitously.

This bill is a comprehensive attempt to bring some of our mineral leasing laws and regulations up-to-date with the realities of today's world energy markets. Our domestic industry is dying on the vine because of a combination of governmental actions and inactions, complex regulation and outdated governmental approaches to this important part of our national economy. We need to take steps to make sure that the ''pilot light'' of our economy does not go out, and it is my belief that this legislation will go a long way to ensuring its continuing contributions to our nation's strength.

Mr. President, the second measure that I am introducing today will redress some of the unfair tax penalties that hinder the continued development and modernization of a domestic oil and gas industry. In particular the legislation focuses on aspects of the alternative minimum tax (AMT) that have a perverse effect on the industry, especially when energy prices are low.

Mr. President, in adopting the AMT in 1986, Congress stated that its purpose was to ''serve one overriding objective: to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions and credits.'' Yet the unintended consequence of the AMT is that companies with high fixed costs, such as the oil and gas industry, can face higher effective AMT tax rates when the price of oil is low than when the price is high. In other words, when oil and gas companies are struggling to cope with low world prices, the AMT serves to impose a tax penalty simply because prices are low.

Let me give you an example of the perverse effect of the AMT. If the price of oil is $10 a barrel and an oil and gas company sells 100,000 barrels of oil, the company's revenues would be $1 million. If its production costs were $500,000, its gross profits would be $500,000. If the company took advantage of percentage depletion and other oil and gas incentives, it could reduce it's taxable income to $100,000 and owe $35,000 in taxes. However, because the AMT takes back many of these oil and gas incentives, the same company would be subject to a $90,000 AMT. That is a 90 percent tax rate.

By contrast, assuming the same fixed costs and incentives, if the price of oil was $20 a barrel and the company had $1.1 million in taxable income, its regular tax rate would only be 35 percent and it's AMT liability would be only 26.4 percent. Mr. President, that is not the way the AMT was designed to work.

My bill tackles this problem head-on. It eliminates the AMT preferences for intangible drilling costs, percentage depletion, and the depreciation adjustment for oil and gas assets. In addition, it eliminates the impact of intangible drilling costs, depletion and depreciation on oil and gas assets from the adjusted current earnings adjustment. Finally, the proposal allows the enhanced oil recovery credit and the Section 29 credit to be used to offset the AMT.

In addition to trying to resolve the AMT problems that face the industry, I have adopted a portion of a bill introduced by Senator Kay Bailey Hutchison that attempts to maintain viable independent producers and ensure that marginal wells stay in operation. Marginal wells are those that produce less than 15 barrels a day. In reality they produce on average about 2.2 barrels of oil a day. While individually these wells may not seem like important components of our domestic energy supply, together they produce as much oil as the United States imports from Saudia Arabia. To maintain these marginal wells, the legislation includes a marginal well tax credit of $3.00 per barrel in order to prolong marginal domestic oil and gas well production.

Mr. President, in an effort to stimulate enhanced recovery of oil and thereby increase U.S. production, my legislation enlarges the definition of enhanced oil recovery by including horizontal drilling in areas of Alaska where the only feasible method of recovering some oil is to use such methods. In Alaska, it is just not economically feasible to search for oil by moving drilling platforms from area to area. Instead, the oil companies attempt to locate oil by using a single drilling platform and employing horizontal drilling techniques to search for oil. My legislation recognizes these economic realities and encourages further development of horizontal drilling techniques so that we can recover oil more feasibly.

Finally, Mr. President, this second measure addresses a problem that has recently arisen with natural gas gathering lines. These lines are used to transport natural gas from the wellhead to a central processing facility for processing before it can be transported via trunk lines to an end user such as a distribution facility. The Federal Energy Regulatory Commission (FERC) exempts gas processor gather lines from FERC jurisdiction because they are classified as gas gathering equipment that is part of the production facility, not pipeline transportation under FERC rules.

IRS has taken the position that these lines should be depreciated over a 15 year period if they are owned and operated by an entity that does not produce oil or gas transported in the line. However, if gas transported in the line is

owned by the producer, the line can be depreciated over 7 years.

Mr. President, this rule does not make sense. The depreciable life of an asset should depend on the use of the asset and not who owns the asset. For that reason, my legislation clarifies that these gathering lines are depreciable over 7 years no matter who the owner of the pipeline is.

Mr. President, there are many other tax changes that have been proposed to assist the oil and gas industry. It is my view that the proposals I have offered will, over the long term, improve the health of the industry in the most cost-effective manner.

I ask unanimous consent that the text of the two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Oil and Gas Lease Management Improvement Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. No property right.

TITLE I—STATE OPTION TO REGULATE OIL AND GAS LEASE OPERATIONS ON FEDERAL LAND

Sec. 101. Transfer of authority.
Sec. 102. Activity following transfer of authority.

TITLE II—USE OF COST SAVINGS FROM STATE REGULATION

Sec. 201. Compensation for costs.
Sec. 202. Exclusion of costs of preparing planning documents and analyses.
Sec. 203. Receipt sharing.

TITLE III—STREAMLINING AND COST REDUCTION

Sec. 301. Applications.
Sec. 302. Timely issuance of decisions.
Sec. 303. Elimination of unwarranted denials and stays.
Sec. 304. Reports.
Sec. 305. Scientific inventory of oil and gas reserves.

TITLE IV—FEDERAL ROYALTY CERTAINTY

Sec. 401. Definitions.
Sec. 402. Amendment of Outer Continental Shelf Lands Act.
Sec. 403. Amendment of Mineral Leasing Act.
Sec. 404. Indian land.

TITLE V—ROYALTY REINVESTMENT IN AMERICA

Sec. 501. Royalty incentive program.
Sec. 502. Marginal well production incentives.
Sec. 503. Suspension of production on oil and gas operations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) State governments have a long and successful history of regulation of operations to explore for and produce oil and gas; the special role of the States was recognized by Congress in 1935 through its ratification under the Constitution of the Interstate Compact to Conserve Oil and Gas;

(2) under the guidance of the Interstate Oil and Gas Compact Commission, States have established effective regulation of the oil and natural gas industry and subject their programs to periodic peer review through the Commission;

(3) it is significantly less expensive for State governments than for the Federal Government to regulate oil and gas lease operations on Federal land;

(4) significant cost savings could be achieved, with no reduction in environmental protection or in the conservation of oil and gas resources, by having the Federal Government defer to State regulation of oil and gas lease operations on Federal land;

(5) State governments carry out regulatory oversight on Federal, State, and private land; oil and gas companies operating on Federal land are burdened with the additional cost and time of duplicative oversight by both Federal and State conservation authorities; additional cost savings could be achieved within the private sector by having the Secretary defer to State regulation;

(6) the Federal Government is presently cast in opposing roles as a mineral owner and regulator; State regulation of oil and gas operations on Federal land would eliminate this conflict of interest;

(7) it remains the responsibility of the Secretary of the Interior to carry out the Federal policy set forth in the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) to foster and encourage private sector enterprise in the development of economically sound and stable domestic mineral industries, and the orderly and economic development of domestic mineral resources and reserves, including oil and gas resources; and

(8) resource management analyses and surveys conducted under the conservation laws of the United States benefit the public at large and are an expense properly borne by the Federal Government.

(b) PURPOSES.—The purposes of this Act are—

(1) to transfer from the Secretary to each State in which Federal land is present authority to regulate oil and gas operations on leased tracts and related operations as fully as if the operations were occurring on privately owned land;

(2) to share the costs saved through more efficient State enforcement among State governments and the Federal treasury;

(3) to prevent the imposition of unwarranted delays and recoupments of Federal administrative costs on Federal oil and gas lessees;

(4) to effect no change in the administration of Indian land; and

(5) to ensure that funds deducted from the States' net receipt share are directly tied to administrative costs related to mineral leasing on Federal land.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPLICATION FOR A PERMIT TO DRILL.—The term ''application for a permit to drill'' means a drilling plan including design, mechanical, and engineering aspects for drilling a well.

(2) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means all land and interests in land owned by the United States that are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate.

(B) EXCLUSION.—The term ''Federal land'' does not include—

(i) Indian land (as defined in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702)); or

(ii) submerged land on the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

(3) OIL AND GAS CONSERVATION AUTHORITY.—The term ''oil and gas conservation authority'' means the agency or agencies in each State responsible for regulating for conservation purposes operations to explore for and produce oil and natural gas.

(4) PROJECT.—The term ''project'' means an activity by a lessee, an operator, or an operating rights owner to explore for, develop, produce, or transport oil or gas resources.

(5) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of the Interior, with respect to land under the administrative jurisdiction of the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to land under the administrative jurisdiction of the Department of Agriculture.

(6) SURFACE USE PLAN OF OPERATIONS.—The term ''surface use plan of operations'' means a plan for surface use, disturbance, and reclamation.

SEC. 4. NO PROPERTY RIGHT.

Nothing in this Act gives a State a property right or interest in any Federal lease or land.

TITLE I—STATE OPTION TO REGULATE OIL AND GAS LEASE OPERATIONS ON FEDERAL LAND

SEC. 101. TRANSFER OF AUTHORITY.

(a) NOTIFICATION.—Not before the date that is 180 days after the date of enactment of this Act, a State may notify the Secretary of its intent to accept authority for regulation of operations, as described in subparagraphs (A) through (K) of subsection (b)(2), under oil and gas leases on Federal land within the State.

(b) TRANSFER OF AUTHORITY.—

(1) IN GENERAL.—Effective 180 days after the Secretary receives the State's notice, authority for the regulation of oil and gas leasing operations is transferred from the Secretary to the State.

(2) AUTHORITY INCLUDED.—The authority transferred under paragraph (1) includes—

(A) processing and approving applications for permits to drill, subject to surface use agreements and other terms and conditions determined by the Secretary;

(B) production operations;

(C) well testing;

(D) well completion;

(E) well spacing;

(F) communization;

(G) conversion of a producing well to a water well;

(H) well abandonment procedures;

(I) inspections;

(J) enforcement activities; and

(K) site security.

(c) RETAINED AUTHORITY.—The Secretary shall—

(1) retain authority over the issuance of leases and the approval of surface use plans of operations and project-level environmental analyses; and

(2) spend appropriated funds to ensure that timely decisions are made respecting oil and gas leasing, taking into consideration multiple uses of Federal land, socioeconomic and environmental impacts, and the results of consultations with State and local government officials.

SEC. 102. ACTIVITY FOLLOWING TRANSFER OF AUTHORITY.

(a) FEDERAL AGENCIES.—Following the transfer of authority, no Federal agency shall exercise the authority formerly held by the Secretary as to oil and gas lease operations and related operations on Federal land.

(b) STATE AUTHORITY.—

(1) IN GENERAL.—Following the transfer of authority, each State shall enforce its own oil and gas conservation laws and requirements pertaining to transferred oil and gas lease operations and related operations with due regard to the national interest in the expedited, environmentally sound development of oil and gas resources in a manner consistent with oil and gas conservation principles.

(2) APPEALS.—Following a transfer of authority under section 101, an appeal of any decision made by a State oil and gas conservation authority shall be made in accordance with State administrative procedures.

(c) PENDING ENFORCEMENT ACTIONS.—The Secretary may continue to enforce any pending actions respecting acts committed before the date on which authority is transferred to a State under section 101 until those proceedings are concluded.

(d) PENDING APPLICATIONS.—

(1) TRANSFER TO STATE.—All applications respecting oil and gas lease operations and related operations on Federal land pending before the Secretary on the date on which authority is transferred under section 101 shall be immediately transferred to the oil and gas conservation authority of the State in which the lease is located.

(2) ACTION BY THE STATE.—The oil and gas conservation authority shall act on the application in accordance with State laws (including regulations) and requirements.

TITLE II—USE OF COST SAVINGS FROM STATE REGULATION

SEC. 201. COMPENSATION FOR COSTS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall compensate any State for costs incurred to carry out the authorities transferred under section 101.

(b) PAYMENT SCHEDULE.—Payments shall be made not less frequently than every quarter.

(c) COST BREAKDOWN REPORT.—Each State seeking compensation shall report to the Secretary a cost breakdown for the authorities transferred.

(d) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—Compensation to a State may not exceed 50 percent of the Secretary's allocated cost for oil and gas leasing activities under section 35(b) of the Act of February 25, 1920 (commonly known as the ''Mineral Leasing Act'') (30 U.S.C. 191(b)) for the State for fiscal year 1997.

(2) ADJUSTMENT.—The Secretary shall adjust the maximum level of cost compensation at least once every 2 years to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor, using 1997 as the baseline year.

SEC. 202. EXCLUSION OF COSTS OF PREPARING PLANNING DOCUMENTS AND ANALYSES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191(b)) is amended by adding at the end the following:

''(6) The Secretary shall not include, for the purpose of calculating the deduction under paragraph (1), costs of preparing resource management planning documents and analyses for areas in which mineral leasing is excluded or areas in which the primary activity under review is not mineral leasing and development.''.

SEC. 203. RECEIPT SHARING.

Section 35(b) of the Act of February 25, 1920 (30 U.S.C. 191(b)) is amended by striking ''paid to States'' and inserting ''paid to States (other than States that accept a transfer of authority under section 101 of the Federal Oil and Gas Lease Management Act of 1999)''.

TITLE III—STREAMLINING AND COST REDUCTION

SEC. 301. APPLICATIONS.

(a) LIMITATION ON COST RECOVERY.—Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating to oil and gas leases.

(b) COMPLETION OF PLANNING DOCUMENTS AND ANALYSES.—

(1) IN GENERAL.—The Secretary shall complete any resource management planning documents and analyses not later than 90 days after receiving any offer, application, or request for which a planning document or analysis is required to be prepared.

(2) PREPARATION BY APPLICANT OR LESSEE.—If the Secretary is unable to complete the document or analysis within the time prescribed by paragraph (1), the Secretary shall notify the applicant or lessee of the opportunity to prepare the required document or analysis for the agency's review and use in decisionmaking.

(c) REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.—If—

(1) adequate funding to enable the Secretary to timely prepare a project-level analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to an oil or gas lease is not appropriated; and

(2) the lessee, operator, or operating rights owner voluntarily pays for the cost of the required analysis, documentation, or related study;

the Secretary shall reimburse the lessee, operator, or operating rights owner for its costs through royalty credits attributable to the lease, unit agreement, or project area.

SEC. 302. TIMELY ISSUANCE OF DECISIONS.

(a) IN GENERAL.—The Secretary shall ensure the timely issuance of Federal agency decisions respecting oil and gas leasing and operations on Federal land.

(b) OFFER TO LEASE.—

(1) DEADLINE.—The Secretary shall accept or reject an offer to lease not later than 90 days after the filing of the offer.

(2) FAILURE TO MEET DEADLINE.—If an offer is not acted upon within that time, the offer shall be deemed to have been accepted.

(c) APPLICATION FOR PERMIT TO DRILL.—

(1) DEADLINE.—The Secretary and a State that has accepted a transfer of authority under section 101 shall approve or disapprove an application for permit to drill not later than 30 days after receiving a complete application.

(2) FAILURE TO MEET DEADLINE.—If the application is not acted on within the time prescribed by paragraph (1), the application shall be deemed to have been approved.

(d) SURFACE USE PLAN OF OPERATIONS.—The Secretary shall approve or disapprove a surface use plan of operations not later than 30 days after receipt of a complete plan.

(e) ADMINISTRATIVE APPEALS.—

(1) DEADLINE.—From the time that a Federal oil and gas lessee or operator files a notice of administrative appeal of a decision or order of an officer or employee of the Department of the Interior or the Forest Service respecting a Federal oil and gas Federal lease, the Secretary shall have 2 years in which to issue a final decision in the appeal.

(2) FAILURE TO MEET DEADLINE.—If no final decision has been issued within the time prescribed by paragraph (1), the appeal shall be deemed to have been granted.

SEC. 303. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.

(a) IN GENERAL.—The Secretary shall ensure that unwarranted denials and stays of lease issuance and unwarranted restrictions on lease operations are eliminated from the administration of oil and gas leasing on Federal land.

(b) LAND DESIGNATED FOR MULTIPLE USE.—

(1) IN GENERAL.—Land designated as available for multiple use under Bureau of Land Management resource management plans and Forest Service leasing analyses shall be available for oil and gas leasing without lease stipulations more stringent than restrictions on surface use and operations imposed under the laws (including regulations) of the State oil and gas conservation authority unless the Secretary includes in the decision approving the management plan or leasing analysis a written explanation why more stringent stipulations are warranted.

(2) APPEAL.—Any decision to require a more stringent stipulation shall be administratively appealable and, following a final agency decision, shall be subject to judicial review.

(c) REJECTION OF OFFER TO LEASE.—

(1) IN GENERAL.—If the Secretary rejects an offer to lease on the ground that the land is unavailable for leasing, the Secretary shall provide a written, detailed explanation of the reasons the land is unavailable for leasing.

(2) PREVIOUS RESOURCE MANAGEMENT DECISION.—If the determination of unavailability is based on a previous resource management decision, the explanation shall include a careful assessment of whether the reasons underlying the previous decision are still persuasive.

(3) SEGREGATION OF AVAILABLE LAND FROM UNAVAILABLE LAND.—The Secretary may not reject an offer to lease land available for leasing on the ground that the offer includes land unavailable for leasing, and the Secretary shall segregate available land from unavailable land, on the offeror's request following notice by the Secretary, before acting on the offer to lease.

(d) DISAPPROVAL OR REQUIRED MODIFICATION OF SURFACE USE PLANS OF OPERATIONS AND APPLICATION FOR PERMIT TO DRILL.—The Secretary shall provide a written, detailed explanation of the reasons for disapproving or requiring modifications of any surface use plan of operations or application for permit to drill.

(e) EFFECTIVENESS OF DECISION.—A decision of the Secretary respecting an oil and gas lease shall be effective pending administrative appeal to the appropriate office within the Department of the Interior or the Department of Agriculture unless that office grants a stay in response to a petition satisfying the criteria for a stay established by section 4.21(b) of title 43, Code of Federal Regulations (or any successor regulation).

SEC. 304. REPORTS.

(a) IN GENERAL.—Not later than March 31, 2000, the Secretaries shall jointly submit to the President of the Senate and the Speaker of the House of Representatives a report explaining the most efficient means of eliminating overlapping jurisdiction, duplication of effort, and inconsistent policymaking and policy implementation as between the Bureau of Land Management and the Forest Service.

(b) RECOMMENDATIONS.—The report shall include recommendations on statutory changes needed to implement the report's conclusions.

SEC. 305. SCIENTIFIC INVENTORY OF OIL AND GAS RESERVES.

(a) IN GENERAL.—Not later than March 31, 2000, the Secretary of the Interior, in consultation with the Director of the United States Geological Survey, shall publish, through notice in the Federal Register, a science-based national inventory of the oil

and gas reserves and potential resources underlying Federal land and the outer Continental Shelf.

(b) CONTENTS.—The inventory shall—

(1) indicate what percentage of the oil and gas reserves and resources is currently available for leasing and development; and

(2) specify the percentages of the reserves and resources that are on—

(A) land that is open for leasing as of the date of enactment of this Act that has never been leased;

(B) land that is open for leasing or development subject to no surface occupancy stipulations; and

(C) land that is open for leasing or development subject to other lease stipulations that have significantly impeded or prevented, or are likely to significantly impede or prevent, development; and

(3) indicate the percentage of oil and gas resources that are not available for leasing or are withdrawn from leasing.

(c) PUBLIC COMMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall invite public comment on the inventory to be filed not later than September 30, 2000.

(2) RESOURCE MANAGEMENT DECISIONS.—Specifically, the Secretary of the Interior shall invite public comment on the effect of Federal resource management decisions on past and future oil and gas development.

(d) REPORT.—

(1) IN GENERAL.—Not later than March 31, 2001, the Secretary of the Interior shall submit to the President of the Senate and the Speaker of the House of Representatives a report comprised of the revised inventory and responses to the public comments.

(2) CONTENTS.—The report shall specifically indicate what steps the Secretaries believe are necessary to increase the percentage of land open for development of oil and gas resources.

TITLE IV—FEDERAL ROYALTY CERTAINTY

SEC. 401. DEFINITIONS.

In this title:

(1) MARKETABLE CONDITION.—The term ''marketable condition'' means lease production that is sufficiently free from impurities and otherwise in a condition that the production will be accepted by a purchaser under a sales contract typical for the field or area.

(2) REASONABLE COMMERCIAL RATE.—

(A) IN GENERAL.—The term ''reasonable commercial rate'' means—

(i) in the case of an arm's-length contract, the actual cost incurred by the lessee; or

(ii) in the case of a non-arm's-length contract—

(I) the rate charged in a contract for similar services in the same area between parties with opposing economic interests; or

(II) if there are no arm's-length contracts for similar services in the same area, the just and reasonable rate for the transportation service rendered by the lessee or lessee's affiliate.

(B) DISPUTES.—Disputes between the Secretary and a lessee over what constitutes a just and reasonable rate for such service shall be resolved by the Federal Energy Regulatory Commission.

SEC. 402. AMENDMENT OF OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(b)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(b)(3)) is amended by striking the semicolon at the end and adding the following:

''*Provided*: That if the payment is in value or amount, the royalty due in value shall be based on the value of oil or gas production at the lease in marketable condition, and the royalty due in amount shall be based on the royalty share of production at the lease; if the payment in value or amount is calculated from a point away from the lease, the payment shall be adjusted for quality and location differentials, and the lessee shall be allowed reimbursements at a reasonable commercial rate for transportation (including transportation to the point where the production is put in marketable condition), marketing, processing, and other services beyond the lease through the point of sale, other disposition, or delivery;''.

SEC. 403. AMENDMENT OF MINERAL LEASING ACT.

Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)) (commonly known as the ''Mineral Leasing Act''), is amended by adding at the end the following:

''(3) ROYALTY DUE IN VALUE.—

''(A) IN GENERAL.—Royalty due in value shall be based on the value of oil or gas production at the lease in marketable condition, and the royalty due in amount shall be based on the royalty share of production at the lease.

''(B) CALCULATION OF VALUE OR AMOUNT FROM A POINT AWAY FROM A LEASE.—If the payment in value or amount is calculated from a point away from the lease—

''(i) the payment shall be adjusted for quality and location differentials; and

''(ii) the lessee shall be allowed reimbursements at a reasonable commercial rate for transportation (including transportation to the point where the production is put in marketable condition), marketing, processing, and other services beyond the lease through the point of sale, other disposition, or delivery;''.

SEC. 404. INDIAN LAND.

This title shall not apply with respect to Indian land.

TITLE V—ROYALTY REINVESTMENT IN AMERICA

SEC. 501. ROYALTY INCENTIVE PROGRAM.

(a) IN GENERAL.—To encourage exploration and development expenditures on Federal land and the outer Continental Shelf for the development of oil and gas resources when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart is less than $18 per barrel for 90 consecutive pricing days or when natural gas prices as delivered at Henry Hub, Louisiana, are less than $2.30 per million British thermal units for 90 consecutive days, the Secretary shall allow a credit against the payment of royalties on Federal oil production and gas production, respectively, in an amount equal to 20 percent of the capital expenditures made on exploration and development activities on Federal oil and gas leases.

(b) NO CREDITING AGAINST ONSHORE FEDERAL ROYALTY OBLIGATIONS.—In no case shall such capital expenditures made on Outer Continental Shelf leases be credited against onshore Federal royalty obligations.

SEC. 502. MARGINAL WELL PRODUCTION INCENTIVES.

To enhance the economics of marginal oil and gas production by increasing the ultimate recovery from marginal wells when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart is less than $18 per barrel for 90 consecutive pricing days or when natural gas prices are delivered at Henry Hub, Louisiana, are less than $2.30 per million British thermal units for 90 consecutive days, the Secretary shall reduce the royalty rate as production declines for—

(1) onshore oil wells producing less than 30 barrels per day;

(2) onshore gas wells producing less than 120 million British thermal units per day;

(3) offshore oil well producing less than 300 barrels of oil per day; and

(4) offshore gas wells producing less than 1,200 million British thermal units per day.

SEC. 503. SUSPENSION OF PRODUCTION ON OIL AND GAS OPERATIONS.

(a) IN GENERAL.—Any person operating an oil well under a lease issued under the Act of February 25, 1920 (commonly known as the ''Mineral Leasing Act'') (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) may submit a notice to the Secretary of the Interior of suspension of operation and production at the well.

(b) PRODUCTION QUANTITIES NOT A FACTOR.—A notice under subsection (a) may be submitted without regard to per day production quantities at the well and without regard to the requirements of subsection (a) of section 3103.4–4 of title 43 of the Code of Federal Regulations (or any successor regulation) respecting the granting of such relief, except that the notice shall be submitted to an office in the Department of the Interior designated by the Secretary of the Interior.

(c) PERIOD OF RELIEF.—On submission of a notice under subsection (a) for an oil well, the operator of the well may suspend operation and production at the well for a period beginning on the date of submission of the notice and ending on the later of—

(1) the date that is 2 years after the date on which the suspension of operation and production commences; or

(2) the date on which the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart is greater than $15 per barrel for 90 consecutive pricing days.

S. 1050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Security Tax Policy Act of 1999''.

SEC. 2. ELIMINATION OF CERTAIN AMT PREFERENCES FOR OIL AND GAS ASSETS.

(a) DEPLETION.—Section 57(a)(1) of the Internal Revenue Code of 1986 (relating to depletion) is amended by striking the second sentence and inserting the following: ''This paragraph shall not apply to any deduction for depletion computed in accordance with section 613A.''

(b) INTANGIBLE DRILLING COSTS.—Section 57(a)(2)(E) of the Internal Revenue Code of 1986 (relating to exception for independent producers) is amended to read as follows:

''(E) TERMINATION OF APPLICATION TO OIL AND GAS PROPERTIES.—In the case of any taxable year beginning after December 31, 1998, this paragraph shall not apply in the case of any oil or gas property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. DEPRECIATION ADJUSTMENT NOT TO APPLY TO OIL AND GAS ASSETS.

(a) IN GENERAL.—Subparagraph (B) of section 56(a)(1) of the Internal Revenue Code of 1986 (relating to depreciation adjustments) is amended to read as follows:

''(B) EXCEPTIONS.—This paragraph shall not apply to—

''(i) property described in paragraph (1), (2), (3), or (4) of section 168(f), or

''(ii) property used in the active conduct of the trade or business of exploring for, extracting, developing, or gathering crude oil or natural gas.''

(b) DEPRECIATION ADJUSTMENT FOR PURPOSES OF ADJUSTED CURRENT EARNINGS.—Paragraph (4)(A) of section 56(g) of such Code (relating to adjustments based on adjusted current earnings) is amended by adding at the end the following new clause:

''(vi) OIL AND GAS PROPERTY.—In the case of property used in the active conduct of the trade or business of exploring for, extracting, developing, or gathering crude oil or natural gas, the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing the regular tax.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 4. REPEAL CERTAIN ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS RELATING TO OIL AND GAS ASSETS.

(a) INTANGIBLE DRILLING COSTS.—Clause (i) of section 56(g)(4)(D) of the Internal Revenue Code of 1986 (relating to certain other earnings and profits adjustments) is amended by striking the second sentence and inserting the following: ''In the case of any oil or gas well, this clause shall not apply to amounts paid or incurred in taxable years beginning after December 31, 1998.''

(b) DEPLETION.—Clause (ii) of section 56(g)(4)(F) of the Internal Revenue Code of 1986 (relating to depletion) is amended to read as follows:

''(ii) EXCEPTION FOR OIL AND GAS WELLS.—In the case of any taxable year beginning after December 31, 1998, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 5. ENHANCED OIL RECOVERY CREDIT AND CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE ALLOWED AGAINST MINIMUM TAX.

(a) ENHANCED OIL RECOVERY CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) ALLOWING CREDIT AGAINST MINIMUM TAX.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR ENHANCED OIL RECOVERY CREDIT.—

''(A) IN GENERAL.—In the case of the enhanced oil recovery credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the enhanced oil recovery credit).

''(B) ENHANCED OIL RECOVERY CREDIT.—For purposes of this subsection, the term 'enhanced oil recovery credit' means the credit allowable under subsection (a) by reason of section 43(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the enhanced oil recovery credit'' after ''employment credit''.

(b) CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

(1) ALLOWING CREDIT AGAINST MINIMUM TAX.—Section 29(b)(6) of the Internal Revenue Code of 1986 is amended to read as follows:

''(6) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed—

''(A) the regular tax for the taxable year and the tax imposed by section 55, reduced by

''(B) the sum of the credits allowable under subpart A and section 27.''

(2) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) of such Code is amended by inserting ''as in effect on the date of the enactment of the Energy Security Tax Policy Act of 1999,'' after ''29(b)(6)(B),''.

(B) Section 55(c)(2) of such Code is amended by striking ''29(b)(6),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 6. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND NATURAL GAS WELL PRODUCTION.

(a) CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following new section:

''SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.56 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '1999' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the marginal oil and gas well production credit determined under section 45D(a).''.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax), as amended by section 5(a)(1), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45D(a).''.

(2) CONFORMING AMENDMENTS.—

(A) Subclause (II) of section 38(c)(2)(A)(ii) of such Code, as amended by section 5(a)(2), is amended by striking ''or the enhanced oil recovery credit'' and inserting ''the enhanced oil recovery credit, or the marginal oil and gas well production credit''.

(B) Subclause (II) of section 38(c)(3)(A)(ii) of such Code, as added by section 5(a)(1), is amended by inserting ''or the marginal oil and gas well production credit'' after ''recovery credit''.

(d) COORDINATION WITH SECTION 29.—Section 29(d) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) with respect to production from any marginal well (as defined in section 45D(c)(3)(A)) if the taxpayer elects to not have this section apply to such well.''

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''45D. Credit for producing oil and gas from marginal wells.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years ending after the date of the enactment of this Act.

SEC. 7. ALLOWANCE OF ADDITIONAL ENHANCED OIL RECOVERY METHOD.

(a) IN GENERAL.—Clause (i) of section 43(c)(2)(A) of the Internal Revenue Code of 1986 (defining qualified enhanced oil recovery project) is amended to read as follows:

''(i) which involves the application (in accordance with sound engineering principles) of—

''(I) one or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered, or

''(II) a qualified horizontal drilling method which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered or lead to the discovery or delineation of previously undeveloped accumulations of crude oil,''

(b) QUALIFIED HORIZONTAL DRILLING METHOD.—Section 43(c)(2) of the Internal Revenue Code of 1986 (relating to qualified enhanced oil recovery project) is amended by adding at the end the following new subparagraph:

''(C) QUALIFIED HORIZONTAL DRILLING METHOD.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified horizontal drilling method' means the drilling of a horizontal well in order to penetrate hydrocarbon bearing formations located north of latitude 54 degrees North.

''(ii) HORIZONTAL WELL.—The term 'horizontal well' means a well which is drilled—

''(I) at an inclination of at least 70 degrees off the vertical, and

''(II) for a distance in excess of 1,000 feet.''

(c) CONFORMING AMENDMENT.—Clause (iii) of section 43(c)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(iii) with respect to which—

''(I) in the case of a tertiary recovery method, the first injection of liquids, gases, or other matter commences after December 31, 1990, and

''(II) in the case of a qualified horizontal drilling method, the implementation of the method begins after December 31, 1998.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1998.

SEC. 8. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(15) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead to the point at which such gas first reaches—

''(A) a gas processing plant,

''(B) an interconnection with an interstate natural-gas company (as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6))), or

''(C) an interconnection with an intrastate transmission pipeline.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service before, on, or after the date of the enactment of this Act.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN (by request)):

S. 1051. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Mr. MURKOWSKI. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of Energy, I introduce a bill cited as the ''Energy Policy and Conservation Act Amendments.'' The bill would amend and extend certain authorities in the Energy and Policy Conservation Act which either have expired or will expire September 30, 1999. I would like to submit a copy of the transmittal letter and the text of the bill and ask that it be printed in the RECORD. I do this on behalf of myself and Senator BINGAMAN.

The Act was passed in 1975. Title I of the Act authorized the creation and maintenance of the Strategic Petroleum Reserve that would be used to mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency.

The proposed legislation would extend the Strategic Petroleum Reserve and International Energy Program authorities to September 30, 2003. It would also delete or amend certain provisions which are outdated or unnecessary.

I ask unanimous consent that the bill and the executive communication which accompanied the proposal be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the ''Energy Policy and Conservation Act Amendments''.

SEC. 2. Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(a) in paragraph (1) by striking ''standby'' and '', subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and''; and

(b) by striking paragraphs (3) and (6).

SEC. 3. Section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202) is amended in paragraph (8) by inserting ''or international'' before ''energy supply shortage''.

SEC. 4. Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking section 102 (42 U.S.C. 6211) and its heading;

(b) by striking section 104(b)(1);

(c) in section 105 (42 U.S.C. 6213)—

(1) by amending subsection (e) to read as follows—

''On or after December 31, 2000, the Secretary shall establish a program for setting the terms of joint bidding by any person for the right to explore for and develop crude oil, natural gas, natural gas liquids, sulphur, and other minerals located on Outer Continental Shelf lands. The program shall consider the goals of ensuring a fair return, encouraging timely and efficient resource development, and other goals as the Secretary deems appropriate. Conditions under which joint bidding will be permitted or restricted will be established through regulation.'';

(2) by adding subsection (f) to read as follows—

''(f) Subsections (a) though (d) of this section shall expire on the effective date of the program established by the Secretary pursuant to subsection (e).''.

(d) by striking section 106 (42 U.S.C. 6214) and its heading;

(e) by amending section 151(b) (42 U.S.C. 6231) to read as follows:

''(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products, to carry out obligations of the United States under the international energy program, and for other purposes as provided for in this Act.'';

(f) in section 152 (42 U.S.C. 6232)—

(1) by striking paragraphs (1), (3) and (7), and

(2) in paragraph (11) by striking '';such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve''.

(g) by striking section 153 (42 U.S.C. 6233) and its heading;

(h) in section 154 (42 U.S.C. 6234)—

(1) by amending subsection (a) to read as follows:

''(a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.'';

(2) by amending subsection (b) to read as follows:

''(b) The Secretary, in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.''; and

(3) by striking subsections (c), (d), and (e);

(i) by striking section 155 (42 U.S.C. 6235) and its heading;

(j) by striking section 156 (42 U.S.C. 6236) and its heading;

(k) by striking section 157 (42 U.S.C. 6237) and its heading;

(l) by striking section 158 (42 U.S.C. 6238) and its heading;

(m) by amending the heading for section 159 (42 U.S.C. 6239) to read, ''Development, Operation, and Maintenance of the Reserve'';

(n) in section 159 (42 U.S.C. 6239)—

(1) by striking subsections (a), (b), (c), (d), and (e);

(2) by striking subsections (f), to read as follows:

''(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

''(1) issue rules, regulations, or orders;

''(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

''(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

''(4) use, lease, maintain, sell or otherwise dispose of land or interests in land, or of storage and related facilities acquired under this part, under such terms and conditions as the Secretary considers necessary or appropriate;

''(5) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

''(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

''(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

''(8) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land;'' and

(3) in subsection (g)—

(A) by striking ''implementation'' and inserting ''development''; and

(B) by striking ''Plan'';

(4) by striking subsections (h) and (i);

(5) by amending subsection (j) to read as follows:

''(j) If the Secretary determines expansion beyond 680,000,000 barrels of petroleum product inventory is appropriate, the Secretary shall submit a plan for expansion to the Congress.''; and

(6) by amending subsection (l) to read as follows:

''(l) During a drawdown and sale of Strategic Petroleum Reserve petroleum products, the Secretary may issue implementing rules, regulations, or orders in accordance with section 553 of title 5, United States Code, without regard to rulemaking requirements in section 523 of this Act, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).'';

(o) in section 160 (42 U.S.C. 6240)—

(1) in subsection (a), by striking all before the dash and inserting the following—

''(a) The Secretary may acquire, place in storage, transport, or exchange'';

(2) in subsection (a)(1) by striking all after ''Federal lands'';

(3) in subsection (b), by striking, ''including the Early Storage Reserve and the Regional Petroleum Reserve'' and by striking paragraph (2); and

(4) by striking subsections (c), (d), (e) and (g);

(p) in section 161 (42 U.S.C. 6241)—

(1) by striking ''Distribution of the Reserve'' in the title of this section and inserting ''Sale of Petroleum Products'';

(2) in subsection (a), by striking ''drawdown and distribute'' and inserting ''draw down and sell petroleum products in'';

(3) by striking subsections (b), (c), and (f);

(4) by amending subsection (d)(1) to read as follows:

''(d)(1) Drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the President has found drawdown and sale are required by a severe energy supply interruption or by obligations of the United States under the international energy program.'';

(5) by amending subsection (e) to read as follows:

''(e)(1) The Secretary shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale considered appropriate by the Secretary, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

''(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and sale under this Section.''; and

(6) in subsection (g)—

(A) by amending paragraph (1) to read as follows—

''(g)(1) The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures. In the conduct of an evaluation, the Secretary is authorized to carry out a test drawdown and sale or exchange of petroleum products from the Reserve. Such a test drawdown and sale or exchange may not exceed 5,000,000 barrels of petroleum products.'';

(B) by striking paragraphs (2) and (6A), striking the subparagraph designator ''(B)'' in paragraph (6), and by deleting the last sentence of paragraph (6);

(C) in paragraph (4), by striking ''90'' and inserting ''95'';

(D) in paragraph (5), by striking ''drawdown and distribution'' and inserting ''test''; and

(E) in paragraph (8), by striking ''drawdown and distribution'' and inserting ''test'';

(7) insubsection (h)—

(A) in paragraph (1) by striking ''distribute'' and inserting ''sell petroleum products from'';

(B) in paragraph (2) by striking ''In no case may the Reserve'' and inserting ''Petroleum products from the Reserve may not''; and

(C) in paragraph (3) by striking ''distribution'' each time it appears and inserting ''sale'';

(q) by striking section 164 (42 U.S.C. 6244) and its heading;

(r) by amending section 165 (42 U.S.C. 6245) and its heading to read as follows

''ANNUAL REPORT

''Sec. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

''(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum products in the Reserve;

''(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including upgrades and investments carried out as part of operational maintenance or extension of life activities;

''(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing those remedial actions;

''(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on those rates and capabilities;

''(5) a listing of petroleum product acquisitions made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

''(6) A summary of the actions taken to develop, operate, and maintain the Reserve;

''(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year.

''(8) a summary of expenses for the year, and the number of Federal and contractor employees;

''(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part;

''(10) a summary of foreign oil storage agreements and their implementation status;

''(11) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary or appropriate to implement this part.'';

(s) in section 166 (42 U.S.C. 6246) by striking ''for fiscal year 1997.'';

(t) in section 167 (42 U.S.C. 6247)—

(1) in subsection (b)—

(A) by inserting ''for test sales of petroleum products from the Reserve,'' after ''Strategic Petroleum Reserve,'', and by inserting ''for'' before ''the drawdown'' and inserting '', sale,'' after ''drawdown'';

(B) by striking paragraph (1); and

(C) in paragraph (2), by striking ''after fiscal year 1982''; and

(2) by striking subsection (e);

(u) in section 171 (42 U.S.C. 6249)—

(1) by amending subsection (b)(2)(B) to read as follows:

''(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum products proposed to be stored, in the Reserve, and an estimate of the proposed benefits.'';

(2) in subsection (b)(3), by striking ''distribution of'' and inserting ''sale of petroleum products from'';

(v) in section 172 (42 U.S.C. 6249a), by striking subsections (a) and (b);

(w) by striking section 173 (42 U.S.C. 6249b) and its heading; and

(x) in section 181 (42 U.S.C. 6251), by striking ''September 30, 1999'' each time it appears and inserting ''September 30, 2003''.

SEC. 5. Title II of the energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking Part A (42 U.S.C. 6261 through 6264) and its heading;

(b) by adding at the end of section 256(h), ''There are authorized to be appropriated for fiscal years 1999 through 2003, such sums as may be necessary.''

(c) by striking Part C (42 U.S.C. 6281 through 6282) and its heading; and

(d) in section 281 (42 U.S.C. 6285), by striking ''September 30, 1999'' each time it appears and inserting ''September 30, 2003''.

SEC. 6. The Table of Contents for the Energy Policy and Conservation Act is amended—

(a) by striking the items relating to sections 102, 106, 153, 155, 156, 157, 158, and 164;

(b) by amending the item relating to section 159 to read as follows: ''Development, Operation, and maintenance of the Reserve.'';

(c) by amending the item relating to section 161 to read as follows: ''Drawdown and Sale of Petroleum Products''

(d) by amending the item relating to section 165 to read as follows: ''Annual Report''

THE SECRETARY OF ENERGY,
Washington, DC, March 15, 1999.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a legislative proposal cited as the ''Energy Policy and Conservation Act Amendments.'' This proposal would amend and extend certain authorities in the Energy Policy and Conservation Act (Act) which either have expired or will expire September 30, 1999. Not all sections of the current act are proposed for extension.

The Act was passed in 1975. Title I authorized the creation and maintenance of the Strategic Petroleum Reserve that would mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency. This is our method of coordinating energy emergency response programs with other countries. These programs are currently authorized until September 30, 1999.

The proposed legislation would extend the Strategic Petroleum Reserve and International Energy Program authorities to September 30, 2003. It would also amend or delete certain provisions which are outdated or unnecessary.

The proposed legislation and a sectional analysis are enclosed.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President. We look forward to working with the Congress toward enactment of this legislation.

Sincerely,

BILL RICHARDSON.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, and Mr. BINGAMAN):

S. 1052. A bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT

• Mr. MURKOWSKI. Mr. President, today I am introducing a modified version of legislation that the Committee on Energy and Natural Resources reported to the Senate last Congress to address various problems that have arisen in the Commonwealth of the Northern Mariana Islands. As reported by the Committee last Congress, the legislation would have created an industry committee to establish minimum wage levels similar to committees that had been created for other territories and that still exist for American Samoa. The legislation would also have established a mechanism for the extension of federal immigration laws if the government of the Northern Marianas proved unable or unwilling to adopt and enforce an effective immigration system. The legislation that I am introducing today does not include any provisions dealing with wages. I continue to believe that an industry committee is preferable to outright extension of federal wage rates, but the Northern Marianas, the Administration, and some of my cosponsors would prefer to have that debate on another vehicle.

Immigration, however, is at the heart of the problems facing the Northern Marianas. This legislation reflects the recommendation of the Committee on Energy and Natural Resources last Congress. What appears on the surface to be a prosperous diversified economy in the Northern Marianas, is in fact a far more fragile economy that is becoming ever more dependent on a system of imported labor. Unemployment among US residents remains high and the public sector is rapidly becoming the only source of employment for US citizens residing in the Marianas. The public sector workforce has doubled over the past several years and payroll is the largest expense of the government. The recent downturn in tourism as a result of economic problems in Asia has only served to aggravate the situation in the Marianas, increase the pressures on public sector employment, and tighten the dependence of the Marianas on imported labor for the private sector, mainly garment manufacturing.

The Commonwealth of the Northern Mariana Islands (CNMI) is a three hundred mile archipelago consisting of fourteen islands stretching north of Guam. The largest inhabited islands are Saipan, Rota, and Tinian. Magellan landed at Saipan in 1521 and the area was controlled by Spain until the end of the Spanish American War. Guam, the southernmost of the Marianas, was ceded to the United States following the Spanish-American War and the balance sold to Germany together with the remainder of Spain's possessions in the Caroline and Marshall Islands.

Japan seized the area during World War I and became the mandatory power under a League of Nations Mandate for Germany's possessions north of the equator on December 17, 1920. By the 1930's Japan had developed major portions of the area and begun to fortify the islands. Guam was invaded by Japanese forces from Saipan in 1941. The Marianas were secured after heavy fighting in 1944 and the bases on Tinian were used for the invasion of Okinawa and for raids on Japan, including the nuclear missions on Hiroshima and Nagasaki. In 1947, the Mandated islands were placed under the United Nations trusteeship system as the Trust Territory of the Pacific Islands (TTPI) and the United States was appointed as the Administering Authority. The area was divided into six administrative districts with the headquarters located in Hawaii and then in Guam. The TTPI was the only ''strategic'' trusteeship with review by the Security Council rather than the General Assembly of the United Nations. The Navy administered the Trusteeship, together with Guam, until 1951, when administrative jurisdiction was transferred to the Department of the Interior. The Northern Marianas, however, were returned to Navy jurisdiction from 1952–1962. In 1963, administrative headquarters were moved to Saipan.

With the establishment of the Congress of Micronesia in 1965, efforts to reach an agreement on the future political status of the area began. Attempts to maintain a political unity within the TTPI were unsuccessful, and each of the administrative districts (Kosrae eventually separated from Pohnpei District in the Carolines) sought to retain its separate identity. Four of the districts became the Federated States of Micronesia, the Marshalls became the Republic of the Marshall Islands, and Palau became the Republic of Palau, all sovereign countries in free association with the United States under Compacts of Free Association. The Marianas had sought reunification with Guam and US territorial status from the beginning of the Trusteeship. Separate negotiations with the Marianas began in December, 1972 and concluded in 1975.

In 1976, Congress approved a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (PL 94–241). The Covenant had been approved in a United Nations observed plebescite in the Northern Mariana Islands and formed the basis for the termination of the United Nations Trusteeship with respect to the Northern Mariana Islands in 1986 together with the Republic of the Marshall Islands and the Federated States of Micronesia. Prior to termination, those provisions of the Covenant that were not inconsistent with the status of the area (such as extension of US sovereignty) were made applicable by the US as Administering Authority. Upon termination of the Trusteeship, the CNMI became a territory of the United States and its residents became United States citizens. Under the terms of the Covenant certain federal laws would be inapplicable in the CNMI, including minimum wage to take into consideration the relative economic situation of the islands and their relation to other east Asian countries.

Although the population of the CNMI was only 15,000 people in 1976 when the Covenant went into effect, the population now exceeds 60,000 and US citizens are a minority. The resident population is probably about 24,000 with about 28,000 alien workers and estimates of at least 10,000 illegal aliens. Permits for non-resident workers were reported at 22,500 for 1994, the largest category being for manufacturing. Tourism has climbed from about 230,000

visitors in 1987 to almost 600,000 in 1994. Total revenues for the CNMI for 1993 were estimated at $157 million.

The 1995 census statistics from the Commonwealth list unemployment at 7.1%, with CNMI born at 14.2% and Asia born at 4.5%. Since no guest workers should be on island without jobs, the 4.5% suggests a serious problem in the CNMI. The 14.2% local unemployment suggests that either guest workers are taking jobs from local residents, or the wage rates or types of occupation are not adequate to attract local workers.

The Covenant established a unique system in the CNMI under which the local government controlled immigration and minimum wage levels and also had the benefit of duty and quota free entry of manufactured goods under the provisions of General Note 3(a) of the Harmonized Tariff Schedules. The Section by Section analysis of the Committee Report on the Covenant provides in part:

Section 503.—This section deals with certain laws of the United States which are not now applicable to the Northern Mariana Islands and provides that they will remain inapplicable except in the manner and to the extent that they are made applicable by specific legislation enacted after the termination of the Trusteeship. These laws are:

The Immigration and Naturalization Laws (subsection (a)). The reason this provision is included is to cope with the problems which unrestricted immigration may impose upon small island communities. Congress is aware of those problems. . . . It may well be that these problems will have been solved by the time of the termination of the Trusteeship Agreement and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands. . . .

The same consideration applies to the introduction of the Minimum Wage Laws. (Subsection (c)). Congress realizes that the special conditions prevailing in the various territories require different treatment. . . . In these circumstances, it would be inappropriate to introduce the Act to the Northern Mariana Islands without preliminary studies. There is nothing which would prevent the Northern Mariana Islands from enacting their own Minimum Wage Legislation. Moreover, as set forth in section 502(b), the activities of the United States and its contractors in the Northern Mariana Islands will be subject to existing pertinent Federal Wages and Hours Legislation. (S. Rept. 94–433, pp.77–78)

The Committee anticipated that by the termination of the Trusteeship, the federal government would have found some way of preventing a large influx of persons into the Marianas, recognizing the Constitutional limitations on restrictions on travel. In part, the Covenant attempted to deal with that possibility by enacting a restraint on land alienation for twenty-five years, subject to extension by the CNMI. The minimum wage issue was more difficult, especially in light of the Committee's experience in the Pacific. The extension of minimum wage to Kwajalein was a proximate cause of the overcrowding at Ebeye in the Kwajalein Atoll as hundreds of Marshallese moved to the small island in hope of obtaining a job at the Missile Range. The CNMI, at the time the Covenant was negotiated, had a limited private sector economy and was under the overall Trust Territory minimum wage, which was considerably lower than the federal minimum wage. The Marianas also had been a closed security area until the early 1960's, further limiting development. Congress fully expected that the Marianas would establish its own schedule and would, within a reasonable time frame, raise minimum wages as the local economy grew. At the time of the Covenant, Guam's local minimum wage exceeded the federal levels, and the Committee anticipated that the Northern Marianas would mirror the history of Guam.

Shortly after the Covenant went into effect, the CNMI began to experience a growth in tourism and a need for workers in both the tourist and construction industries. Interest also began to grow in the possibility of textile production. Initial interest was in production of sweaters made of cotton, wool and synthetic fibers. The CNMI, like the other territories, except for Puerto Rico, is outside the U.S. customs territory but can import products manufactured in the territory duty free provided that the products meet a certain value added amount under General Note 3(a) of the Tariff Schedules (then called Headnote 3(a)). The first company began operation in October, 1983 and within a year was joined by two other companies. Total employment for the three firms was 250 of which 100 were local residents. At the time, Guam had a single firm, Sigallo-Pac, also engaged in sweater manufacture with 275 workers, all of whom, however, were U.S. citizens.

Attempts by territories to develop textile or apparel industries have traditionally met resistence from Stateside industries. The use of alien labor in the CNMI intensified that concern, and efforts began in 1984 to sharply cut back or eliminate the availability of duty free treatment for the territories. The concerns also complicated Senate consideration of the Compacts of Free Association in 1985 and led to a delay of several months in floor consideration when some Members sought to attach textile legislation to the Compact legislation. By 1986, conditions led the Assistant Secretary, Territorial and International Affairs of the Department of the Interior to write the Governor on the situation and that ''[w]ithout timely and effective action to reverse the current situation, I must consider proposing Congressional enactment of U.S. Immigration and Naturalization requirements for the NMI''.

By 1990, the population of the CNMI was estimated at 43,345 of whom only 16,752 had been born in the CNMI. Of the 26,593 born elsewhere, 2,491 had entered from 1980–1984, 2,591 had entered in 1985 or 1986, 6,438 had entered in 1987 or 1988, and 12,955 had entered in 1989 or 1990. Of the population in 1990, 21,332 were classified as Asian. The labor force (all persons 16+ years including temporary alien labor) grew from 9,599 in 1980 to 32,522 in 1990. Manufacturing grew from 1.9% of the workforce in 1980 to 21.9% in 1990, only slightly behind construction which grew from 16.8% to 22.2% in the same time frame. The construction numbers track a major increase in hotel construction. At the same time, increases in the minimum wage were halted although wages paid to U.S. citizens (mainly public sector and management) exceeded federal levels.

In 1993, in response to Congressional concerns, the CNMI stated that it proposed to enact legislation to raise the wage rates from $2.15 to federal levels by stages and that legislation would be enacted to prevent any abuse of workers.

Repeated allegations of violations of applicable federal laws relating to worker health and safety, concerns with respect to immigration problems, including the admission of undesirable aliens, and reports of worker abuse, especially in the domestic and garment worker sectors, led to the inclusion of a $7 million set aside in appropriations in 1994 to support federal agency presence in the CNMI. The Administration was not prepared to commit agency resources to the CNMI absent the funding, but with an agreement for reimbursement, the Department of the Interior reported to the Committee on April 24, 1995 that:

1) $3 million would be used by the CNMI for a computerized immigration identification and tracking system and for local projects;

2) $2.2 million would be used by the Department of Justice to strengthen law enforcement, including the hiring of an additional FBI agent and Assistant US Attorney;

3) $1.6 million would be used by Labor for two senior investigators as well as for training; and

4) $200,000 would be used by Treasury for assistance in investigating violations of federal law with respect to firearms, organized crime, and counterfeiting.

In addition, the report recommended that federal law be enacted to phase in the current CNMI minimum wage rates to the federal minimum wage level in 30 cent increments (as then provided by CNMI legislation), end mandatory assistance to the CNMI when the current agreement was fulfilled, continue annual support of federal agencies at a $3 million/year level (which would include funding for a detention facility that meets federal standards), and possible extension of federal immigration laws.

During the 104th Congress, the Senate passed S. 638, legislation supported by the Administration, that in part would have enacted the phase in of the CNMI minimum wage rate to US levels in 30 cent increments. No action was taken by the House, and, in the interim, the CNMI delayed the scheduled increases and then instituted a limited increase of 30 cents/hour except for the garment and construction industries

where the increase was limited to 15 cents/hour. The legislation also required the Commonwealth ''to cooperate in the identification and, if necessary, exclusion or deportation from the Commonwealth of the Northern Mariana Islands of persons who represent security or law enforcement risks to the Commonwealth of the Northern Mariana Islands or the United States.'' (Section 4 of S. 638) At the same time that Congress began to consider legislation on minimum wage and immigration issues, concern over the commitment of federal agencies to administer and enforce those federal laws already applicable to the CNMI led the Committee to include a provision in S. 638 that the annual report on the law enforcement initiative also include: ''(6) the reasons why Federal agencies are unable or unwilling to fully and effectively enforce Federal laws applicable within the Commonwealth of the Northern Mariana Islands unless such activities are funded by the Secretary of the Interior.'' (Section 3 of S. 638)

In February, 1996, I led a Committee trip to the CNMI. We met with local and federal officials as well as inspecting a garment factory and meeting with Bangladesh security guards who had not been paid and who were living in substandard conditions. Their living conditions were intolerable. There was no running water, no workable toilets, the shack—and that is being kind—was in deplorable condition. As I said at the time, this was a condition that should never exist on American soil. It existed in the shadow of the Hyatt Hotel.

I raised my concerns with the Governor and with other officials in Saipan. We were assured that corrective action would be taken. Those assurances, especially those dealing with minimum wages, seem to have disappeared as soon as our plane was airborne. As a result of the meetings and continued expressions of concern over conditions, the Committee held an oversight hearing on June 26, 1996 to review the situation in the CNMI. At the hearing, the acting Attorney General of the Commonwealth requested that the Committee delay any action on legislation until the Commonwealth could complete a study on minimum wage and promised that the study would be completed by January. That timing would have enabled the Committee to revisit the issue in the April-May 1997 period after the Administration had transmitted its annual report on the law enforcement initiative. While the CNMI Study was not finally transmitted until April, the Administration did not transmit its annual report, which was due in April, until July. On May 30, 1997, the President wrote the Governor of the Northern Marianas that he was concerned over activities in the Commonwealth and had concluded that federal immigration, naturalization, and minimum wage laws should apply.

Given the reaction that followed the President's letter, I asked the Administration to provide a drafting service of the language needed to implement the recommendations in the annual report and informed the Governor of the Commonwealth of the request and that the Committee intended to consider the legislation after the Commonwealth had an opportunity to review it. The drafting service was not provided until October 6, 1997 and was introduced on October 8, 1997, shortly before the elections in the CNMI. The Committee deferred hearings so as not to intrude unnecessarily into local politics and to allow the CNMI an opportunity to review and comment on the legislation after the local elections.

The U.S. Commission on Immigration Reform conducted a site visit to the Northern Marianas in July 1997 and issued a report which, in general, supports the need to address immigration. The report, however, also raises some concerns with the extension of US immigration laws. The report found problems in the CNMI ''ranging from bureaucratic inefficiencies to labor abuses to an unsustainable economic, social and political system that is antithetical to most American values'' but ''a willingness on the part of some CNMI officials and business leaders to address the various problems''. The report expressed some concerns over the extension of federal immigration laws, but that absent the threat of federal extension, ''the CNMI is unlikely on its own to correct the problems inherent in its immigration system''. The report recommended that specific benchmarks for an effective immigration system be negotiated and that the ''benchmarks should be codified in statute, with provision for immediate imposition of federal law if the benchmarks are not met within the prescribed time.'' Specifically the report recommended that ''[s]hould the CNMI fail to negotiate expeditiously and in good faith, or renege on the negotiated agreements, we agree that imposition of federal law by Congress would be required.'' (Emphasis in original)

While the outright exception from the minimum wage provisions of federal law in the Covenant is an anomaly, so also was the direct phase in to federal levels contained in the legislation as transmitted by the Administration. Congress has generally recognized the different economic circumstances of the territories and provided for a ''special industry committee''. The objective of an industry committee is to set wage rates by industry ''to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the [federal] minimum wage rate'' (29 U.S.C. 208(a)). The committees may make classifications within industries. Such committees were established for Puerto Rico and the Virgin Islands in 1940 and continued until Congress provided for step increases in 1977 for the remaining covered industries. An industry committee has been applicable in American Samoa since 1956. In 1992, the Department of the Interior provided formal Administration opposition to legislation that would have extended federal minimum wage rates to Samoa stating that ''[i]mposition of the United States mainland minimum wage on American Samoa would have a serious, perhaps devastating effect on the territorial economy and jobs''. The industry committee for Samoa set rates for 1996 that ranged from $2.45/hour for local government employees to $3.75/hour for the subclass of stevedoring and lighterage. Wages for the canneries was set at $3.10/hour.

While the economic situation of the CNMI is considerably different from that of American Samoa, it is not absolutely clear that all segments of all industries in the CNMI are capable of sustaining federal minimum wage rates. Unlike American Samoa, the minimum wage issue in the CNMI appears to involve only temporary nonimmigrant workers. All U.S. citizens resident in the CNMI appear to be earning at or above federal minimum wage levels. The CNMI completed a minimum wage analysis in April 1997 by the HayGroup. The analysis recommended against a change in current wage rates for at least three years and planning to accommodate growth. An industry committee would be able to assess the merits of claims by individual industries and structure a system that takes into account the individual needs of particular industries or sub-classes.

As I stated earlier, I believe that an industry committee is the proper approach. I have not included the provision in this legislation due to the opposition of the Northern Marianas, the Administration, and several of my colleagues. The Northern Marianas believes that it can avoid becoming entangled in the federal minimum wage legislation pending in Congress. I don't share their belief, but this is their choice.

The Committee conducted a hearing on March 31, 1998 on S. 1275 and S. 1100, similar legislation introduced by Senator AKAKA and others. The Committee heard from the Administration, the government of the CNMI, workers and representatives of the local industry, as well as public witnesses. At a business meeting of the Committee on May 20, 1998, the legislation was amended and then ordered to be favorably reported to the Senate. Unfortunately, the Senate did not take action on the measure prior to adjournment.

The portion of the Committee amendment that I am introducing today provides for full extension of the Immigration and Nationality Act contingent on the Attorney General finding that 1) the Northern Marianas does not possess the institutional capacity to administer an effective system of immigration control or 2) the Northern Marianas does not have a genuine commitment to enforce the system. Neither I nor the Committee question the

commitment of the current administration of the Northern Marianas to attempt to rectify the problems that led to this legislation, but we are mindful that commitments have been made in the past and then ignored. We also recognized that the Commisssion on Immigration Reform and others have concluded that some of the problem is structural and that a local government simply may not have the capability to maintain an effective immigration program within our federal system. As a result, the Committee adopted a provision that will take effect without further Congressional action if the requisite findings are made. The Committee viewed this as a last opportunity for the local government and provided that the Attorney General must promptly issue standards so that the Marianas is on full notice of what will be required.

If, however, it does become necessary to extend federal law, the Committee also adopted amendments to the bill as introduced to ensure that those industries, especially construction, that depend on temporary workers for temporary jobs will have full access to alien labor as necessary. The Committee was mindful of the concern by the hotel industry over access to workers, and accordingly adopted a provision that would permit the transition provisions to be extended for additional five year periods as long as necessary. The Committee amendment required the Attorney General and the Secretary of Labor to consult with the Northern Marianas one year prior to the expiration of the transition period, and at 5-year intervals thereafter, to determine whether the provisions will continue to be needed. The Committee and I fully expect that any uncertainty be resolved in favor of the Northern Marianas. If the provisions are extended, a similar consultation will occur in the fourth year of the extension to decide if further extensions are warranted.

The Committee reluctantly adopted these provisions because it believes that conditions in the Northern Marianas leave no alternative. Extension of additional federal laws, however, will not resolve the problems if federal agencies do not maintain their present commitment to administration and enforcement of federal law. A continuation of local efforts by the present administration of the Northern Marianas will also be necessary.

Although the legislation contains the one-year grace period contained in the Committee amendment from last Congress, the one year has expired. The record of the Northern Marianas, and the status of local legislation, will determine whether and on what terms federal laws should be extended. The action earlier this year by the Northern Marianas to lift the moratorium on entry permits for new workers is particularly troubling.

There are legitimate questions concerning immigration and minimum wage. We should now have sufficient experience to assess whether the Marianas is capable of providing the preclearance for any persons who attempt to enter the Marianas. The Immigration Commission concluded that they are not capable of undertaking such prescreening and clearance because they do not have the resources of the federal government through the State Department. The United States routinely does prescreening in foreign countries as part of our visa process. The situation that I saw with the Bangladesh workers should never have happened and would not have happened had federal immigration laws and procedures been in place and enforced. Reports of other workers who arrive only to find no jobs would also never happen. A particularly troubling aspect of the current situation in the Northern Marianas is the level of unemployment among guest workers. There should be no unemployment among the guest workers. If there are no jobs, then the workers should not be present. These are legitimate immigration related issues. They do not necessarily lead to a federal takeover, but they are legitimate issues and it serves no purpose to distort history and pretend that the current situation was the goal of the Covenant negotiators. That does not make the Marianas corrupt, but if accurate, it points out that this Committee was correct when it stated that we would need to make changes in the immigration laws prior to termination of the Trusteeship so that they could be extended to the Marianas.

The report of the Immigration Commission also raises legitimate questions about the availability of asylum and the lack of civil rights since the Marianas is using temporary workers for permanent jobs, thereby denying workers the rights they would have if admitted into the US with a right of residency. That needs to be addressed. The Commission also expresses some grave concerns over outright extension of the Immigration laws and questions the willingness or commitment of the INS to devote the personnel or resources to effective administration. While I fully expect the INS to support the Administration position in our hearings on this legislation, I also share that concern. We do not need to make a bad local problem an equally bad federal one.

I also think that the focus on the garment industry by the Administration and most of the critics of the situation in the Northern Marianas is somewhat shortsighted. The advantages that the Marianas can provide garment manufacturers in terms of duty and quota free treatment expire with the implementation of the multifibre agreement. The suggestion in the Administration's task force report last year that these jobs will move to the mainland if the garment industry is curtailed in the Marianas is simply wrong. Those jobs in all likelihood are temporary until they move back to the Asian mainland in about five years. That, by the way, is well within the transition period contemplated under the legislation submitted by the Administration last year. The legislation will actually have little or no effect on the industry that the Administration is targeting. I should also note that the Bank of Hawaii, in its economic study also concluded that the garment industry in the Marianas was not likely to last. Other studies have also come to that conclusion. The Administration has made it clear that they hope the effect of this legislation will be the end of the garment industry in the Marianas. Given both the studies and the Administration's objective, I do have a question about why the President's budget claims about $187 million per year in additional revenues from the enactment of the amendments to General Note 3(a). If there is no industry, there will be no imports, and there will be no revenues.

The problem is that the Administration does not seem to comprehend that the Marianas is the United States. It is not a foreign country. The failure of the Administration to enforce federal laws has led to a climate conducive to worker abuse and to some sense within the Marianas that federal laws will not be applied. On the other side, a large population of workers without full civil rights also offers the opportunity for people to exploit the situation. I am not happy with either side of this debate. The cries for federal takeover are too strident and too partisan to ring true. The defense is simply unacceptable. In the middle are the workers who apparently no one cares about, except for their value in being put on display in the media.

Complicating consideration of this legislation, however, is the Administration's somewhat lackluster response to the flood of illegal entries into Guam from China. These individuals are being smuggled into Guam by boat. Most of the aliens come from the China mainland from Fujian Province, but some have sought entry from the Northern Marianas. So far this year, over 800 illegal aliens have been apprehended either in Guam or attempting to reach Guam.

Earlier this year I met with the Governor of Guam. He expressed his frustration with the Immigration and Naturalization Service for diverting revenues from Guam to the mainland. The result was that Guam had to assume the costs of incarceration for these aliens. An article in the Pacific Daily News on Sunday May 9 suggested that as many as 2,000 illegal aliens may already be in Guam. Only after the situation became even worse and the national media began to draw attention to what was happening, did the White House become involved. As a result of that involvement, the Administration has finally begun to pay some attention and is beginning to dedicate resources to the interdiction of these aliens. The Administration plans to

send three more Coast Guard vessels and two C–130 aircraft to Guam and apparently will reimburse the local government for its expenditures on behalf of federal agencies. That response was too long in coming. Parenthetically, I would note that INS did not care about extending immigration laws to the Northern Marianas until after the Readers Digest and other publications began to question the Administration's commitment to human rights and the White House became concerned with its image.

A continuing concern for my Committee over the years has been the reluctance of Executive Branch agencies, specifically the INS, to treat the Marianas as part of the United States. Up until last Congress, the INS resisted any attempt to extend the immigration laws to the Northern Mariana Islands. That resistance was not based on policy grounds or from a belief that the Northern Marianas was operating an effective immigration system, but from the narrow administrative concern of not wanting to dedicate the personnel and resources. I must admit that I have some apprehension over how solid the recent conversion of the INS is. Last Congress, they testified in support of the Administration's proposal to extend the immigration laws. They promised the Committee that they would dedicate the necessary resources to ensure successful implementation. Now we see that they are unwilling to dedicate the resources in Guam, where federal immigration laws already apply, until they are directed to do so by the White House. The situation in the Marianas may be sufficiently problematic that we will have to go forward with the legislation despite my reservations. I intend to closely examine the INS when we schedule hearings on this legislation.

I also am concerned over the Administration's decision to use the Northern Marianas as a holding area for illegal aliens who are intercepted at sea. On May 8, the Coast Guard intercepted a Taiwanese vessel with 80 people suspected of trying to illegally enter Guam. The vessel was escorted to Tinian in the Northern Mariana Islands. Apparently the Administration made that decision because the federal immigration laws do not apply in the Marianas and that makes it easier to repatriate the aliens and prevent them from claiming asylum. If we extend the immigration laws, as one portion of the Administration wants, we will frustrate the interdiction and repatriation program being pursued by another portion of the Administration. The Committee will need to sort this out during our hearings. I also will look forward to an explanation of why the use of Tinian in the Northern Marianas avoids claims of asylum. The asylum requirements are matters of international obligation and federal policy. In fact, the failure of the Northern Marianas to deal with asylum issues as a matter of local legislation was one of the arguments that the Administration made in support of the extension of federal legislation. That contradiction will also need to be explored. It appears from press reports that the Administration plans to consider claims of asylum, but given the peculiar situation of refugees from mainland China, it will be interesting to see how those claims are processed.

I am also aware of suggestions in Guam that we need to amend the immigration laws to prevent the claim of asylum on Guam. Congressman Underwood has introduced legislation to that effect already. I think we need to be very careful in considering legislation to extend the immigration laws to the Northern Marianas that we do not create an even larger problem than the one we already have in Guam. Guam is a single island, about 33 miles by 12 miles. The Commonwealth of the Northern Mariana Islands is an archipelago of fourteen islands three hundred miles long. If we can not adequately patrol Guam, how are we going to patrol the entire Marianas? That also is a question that will need to be answered before we move this legislation.

Before the opponents of this legislation start their celebration, I want to repeat that I find the conditions and circumstances in the Northern Marianas to be unacceptable. I have serious concerns over this legislation, but something needs to be done. I am willing to consider modifications to the legislation. Last year I included provisions to guarantee both construction and tourism sectors access to sufficient workers, and I am willing to revisit those provisions or consider other changes to support the economy of the Northern Marianas. At some point, however, the Marianas needs to take a hard look at the structure of their economy. They can not continue indefinitely with the public sector being the only source of employment for US residents. They need to provide a future for their children. The federal government needs to ensure that federal laws are enforced and that they are applied in a manner that recognizes the unique circumstances of this island community. I support as much local authority and control as is possible. There are certain functions, however, that only the federal government can effectively perform. There are also certain rights that every individual who works and resides in the United States should expect to be guaranteed. This legislation will provide an opportunity for the Committee to see that those responsibilities are performed and that those rights are protected.●

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Kentucky [Mr. BUNNING] were added as cosponsors of S. 38, a bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

S. 39

At the request of Mr. STEVENS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 39, a bill to provide a national medal for public safety officers who act with extraordinary valor above the call of duty, and for other purposes.

S. 61

At the request of Mr. DEWINE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 219

At the request of Mr. MOYNIHAN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 219, a bill to authorize appropriations for the United States Customs Service.

S. 313

At the request of Mr. SHELBY, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 313, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1999, and for other purposes.

S. 395

At the request of Mr. ROCKEFELLER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 395, a bill to ensure that the volume of steel imports does not exceed the average monthly volume of such imports during the 36-month period preceding July 1997.

S. 409

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 409, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 566

At the request of Mr. LUGAR, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from

unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 642

At the request of Mr. GRASSLEY, the names of the Senator from Maine [Ms. COLLINS] and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 642, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 687

At the request of Mr. HARKIN, the names of the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. DORGAN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from South Dakota [Mr. JOHNSON], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 687, a bill to direct the Secretary of Defense to eliminate the backlog in satisfying requests of former members of the Armed Forces for the issuance or replacement of military medals and decorations.

S. 763

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 763, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, and for other purposes.

S. 765

At the request of Ms. COLLINS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 765, a bill to ensure the efficient allocation of telephone numbers.

S. 783

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 783, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 791

At the request of Mr. KERRY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 791, a bill to amend the Small Business Act with respect to the women's business center program.

S. 820

At the request of Mr. CHAFEE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 820, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 847

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 847, a bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the medicare skilled nursing facility prospective payment system.

S. 881

At the request of Mr. BENNETT, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 881, a bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes.

S. 903

At the request of Mr. KOHL, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 903, a bill to facilitate the exchange by law enforcement agencies of DNA identification information relating to violent offenders, and for other purposes.

S. 941

At the request of Mr. WYDEN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 941, a bill to amend the Public Health Service Act to provide for a public response to the public health crisis of pain, and for other purposes.

S. 1007

At the request of Mr. JEFFORDS, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 1007, a bill to assist in the conservation of great apes by supporting and providing financial resources for the conservation programs of countries within the range of great apes and projects of persons with demonstrated expertise in the conservation of great apes.

SENATE CONCURRENT RESOLUTION 9

At the request of Ms. SNOWE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the name of the Senator from Idaho [Mr. CRAPO] was added as a cosponsor of Senate Resolution 59, a resolution designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

AMENDMENT NO. 328

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 328 proposed to S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

AMENDMENT NO. 335

At the request of Mr. HATCH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of amendment No. 335 proposed to S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

SENATE RESOLUTION 101—EXPRESSING THE SENSE OF THE SENATE ON AGRICULTURAL TRADE NEGOTIATIONS

Mr. FITZGERALD (for himself, Mr. GRASSLEY, Mr. ROBERTS, and Mr. ASHCROFT) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 101

Whereas the United States is the world's largest exporter of agricultural commodities and products;

Whereas 96 percent of the world's consumers live outside the United States;

Whereas the profitability of the United States agricultural sector is dependent on a healthy export market; and

Whereas the next round of multilateral trade negotiations is scheduled to begin on November 30, 1999: Now, therefore, be it

Resolved, That the Senate supports and strongly encourages the President to adopt the following trade negotiating objectives:

(1) The initiation of a comprehensive round of multilateral trade negotiations that—

(A) covers all goods and services;

(B) continues to reform agricultural and food trade policy;

(C) promotes global food security through open trade; and

(D) increases trade liberalization in agriculture and food.

(2) The simultaneous conclusion of the negotiations for all sectors.

(3) The adoption of the framework established under the Uruguay Round Agreements for the agricultural negotiations conducted in 1999 to ensure that there are no product or policy exceptions.

(4) The establishment of a 3-year goal for the conclusion of the negotiations by December 2002.

(5) The elimination of all export subsidies and tightening of rules for circumvention of export subsidies.

(6) The elimination of all nontariff barriers to trade.

(7) The transition of domestic agricultural support programs to a form decoupled from agricultural production, as the United States has already done under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(8) The commercially meaningful reduction or elimination of bound and applied tariffs, and the mutual elimination of restrictive tariff barriers, on an accelerated basis.

(9) The improved administration of tariff rate quotas.

(10)(A) The elimination of state trading enterprises; or

(B) the adoption of policies that ensure operational transparency, the end of discriminatory pricing practices, and competition for state trading enterprises.

(11) The maintenance of sound science and risk assessment for sanitary and phytosanitary measures.

(12) The assurance of market access for biotechnology products, with the regulation

of the products based solely on sound science.

(13) The accelerated resolution of trade disputes and prompt enforcement of dispute panels of the World Trade Organization.

(14) The provision of food security for importing nations by ensuring access to supplies through a commitment by World Trade Organization member countries not to restrict or prohibit the export of agricultural products.

(15) The resolution of labor and environmental issues in a manner that facilitates, rather than restricts, agricultural trade.

(16) The establishment of World Trade Organization rules that will allow developing countries to graduate, using objective economic criteria, to full participation in, and obligations under, the World Trade Organization.

● Mr. FITZGERALD. Mr. President, I rise today along with my colleagues, Senators GRASSLEY, ROBERTS, and ASHCROFT, to submit a resolution expressing the sense of the Senate regarding the next round of agricultural trade negotiations. As a member of the Senate Agriculture Committee, I am very concerned about U.S. agriculture's position in the next round of negotiations. This resolution establishes clear direction to the Administration as it enters the Seattle negotiations this November.

These process and procedural guidelines have been developed through a consensus process of the Seattle Round Agricultural Committee (SRAC). SRAC represents over 70 agricultural organizations—from the Farm Bureau to the National Oilseed Processors Association of Kraft Foods. This diverse group of agriculturalists have spent many hours developing these principles to ensure that our international agriculture markets remain strong, open and fair for our nation's farmers.

The U.S. agricultural sector is one of the only segments of our economy that consistently produces a trade surplus. In fact, our agricultural surplus totaled $27.2 billion in 1996. However, we must not rest on our laurels; the United States Department of Agriculture projects that our agricultural trade surplus in 1999 will dwindle to approximately $12 billion. We must not let this trend continue.

Free and open international markets are vital to my home state. Illinois' 76,000 farms cover more than 28 million acres—nearly 80 percent of Illinois. Our farm product sales generate nine billion dollars annually and Illinois ranks third in agricultural exports. In fiscal year 1997 alone, Illinois agricultural exports totaled $3.7 billion and created 57,000 jobs for our state. Needless to say, agriculture makes up a significant portion of my state's economy, and a healthy export market for these products is important to my constituents.

As you know, farm commodity prices have recently been in a slump. This situation makes open debate on agricultural trade and the Seattle round even more timely and necessary. While the average tariff assessed by the United States on agricultural products is less than five percent, the average agricultural tariff assessed by other World Trade Organization members exceeds 40 percent. This situation is clearly unfair and certainly depresses U.S. agricultural commodity prices. Accordingly, this issue must be addressed in the next round.

I look forward to working with my colleagues on policies to tear down international trade barriers and ensure that our agricultural trade surplus expands and remains strong. This resolution is the first step toward ensuring that agriculture is a top priority of the Administration during the next round of multilateral trade negotiations.

I want to recognize and commend my colleagues, Senators GRASSLEY, ROBERTS, and ASHCROFT, for joining me as original co-sponsors of this resolution. This resolution should enjoy bipartisan support, and I urge my colleagues to join me in co-sponsoring this legislation important to our nation's farmers.●

SENATE RESOLUTION 102—APPOINTING SENATE LEGAL COUNSEL

By Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 102

Resolved, That the appointment of Patricia Mack Bryan, of Virginia, to be Senate Legal Counsel, made by the President pro tempore of the Senate on May 13, 1999, shall become effective as of June 1, 1999, and the term of service of the appointee shall expire at the end of the 107th Congress.

AMENDMENTS SUBMITTED

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

LANDRIEU AMENDMENT NO. 341

(Ordered to lie on the table.)

Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; as follows:

On page 129, strike lines 5 and 6, and insert the following: ''ernment or combination thereof;

''(24) provide that juveniles alleged to be or found to be delinquent of an act that, if committed by an adult, would be a misdemeanor offense, and juveniles charged with or convicted of such an offense, will not be detailed or confined in any institution in which they have—

''(A) any physical contact (or proximity that provides an opportunity for physical contact) with juveniles who are alleged to be or found to be delinquent of an act that, if committed by an adult, would constitute a felony offense, or who are charged with or convicted of such an offense; or

''(B) the opportunity for the imparting or interchange of speech by or between such juveniles and juveniles described in subparagraph (A), except that this subparagraph does not include the imparting or interchange of sounds or noises that cannot reasonably be considered to be speech; and

''(25) to the extent that segments of the juve-''.

ASHCROFT AMENDMENT NO. 342

Mr. ASHCROFT proposed an amendment to the bill S. 254, supra; as follows:

To be inserted at the appropriate place:

TITLE __. RESTRICTING JUVENILE ACCESS TO CERTAIN FIREARMS

SECTION 1. PENALTIES FOR UNLAWFUL ACTS BY JUVENILES.

(a) JUVENILE WEAPONS PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking ''Whoever'' at the beginning of the first sentence, and inserting in lieu thereof, ''Except as provided in paragraph (6) of this subsection, whoever''; and

(2) in paragraph (6), by amending it to read as follows—

''(6)(A) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except—

''(i) a juvenile shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, larger capacity ammunition feeding device or a semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense; or

''(ii) a juvenile shall be fined under this title, imprisoned not more than 20 years, or both, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) during the same course of conduct in violating section 922(x)(2), the juvenile violated section 922(q), with the intent to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon in the commission of a violent felony.

''(B) A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

''(ii) if the person sold, delivered, or otherwise transferred a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon in the commission of a violent felony, shall be fined under this title, imprisoned not more than 20 years, or both.

''(C) For purposes of this paragraph a 'violent felony' means conduct as described in section 924(e)(2)(B) of this title.

''(D) Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United

States, and the juvenile is subject to the penalties under clause (ii) of paragraph (A), the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.''.

(b) UNLAWFUL WEAPONS TRANSFERS TO JUVENILES.—Section 922(x) of title 18, United States Code, is amended to read as follows:

''(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun;

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.

''(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun;

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.

''(3) This subsection does not apply to—

''(A) a temporary transfer of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon to a juvenile or to the possession or use of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon by a juvenile—

(i) if the handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon are possessed and used by the juvenile—

''(I) in the course of employment,

''(II) in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch),

''(III) for target practice.

''(IV) for hunting, or

''(V) for a course of instruction in the safe and lawful use of a firearm.

''(ii) Clause (i) shall apply only if the juvenile's possession and use of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon under this subparagraph are in accordance with State and local law, and the following conditions are met—

''(I) except when a parent or guardian of the juvenile is in the immediate and supervisory presence of the juvenile, the juvenile shall have in the juvenile's possession at all times when a handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon is in the possession of the juvenile, the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition; and

''(II) during transportation by the juvenile directly from the place of transfer to a place at which a activity described in clause (i) is to take place the firearm shall be unloaded and in a locked container or case, and during the transportation by the juvenile of that firearm, directly from the place at which such an activity took place to the transferor, the firearm shall also be unloaded and in a locked container or case; or

''(III) with respect to employment, ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault rifle with the prior written approval of the juvenile's parent or legal guardian, if such approval is on file with the adult who is not prohibited by Federal, State or local law from possessing a firearm or ammunition and that person is directing the ranching or farming activities of the juvenile.

''(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon in the line of duty;

''(C) a transfer by inheritance of title (but not possession) of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon to a juvenile; or

''(D) the possession of a handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon taken in lawful defense of the juvenile or other persons in the residence of the juvenile or a residence in which the juvenile is an invited guest.

''(4) A handgun, ammunition, large capacity ammunition feeding device or a semiautomatic assault weapon, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection, shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon is no longer required by the Government for the purposes of investigation or prosecution.

''(5) For purposes of this subsection, the term ''juvenile'' means a person who is less than 18 years of age.

''(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

''(B) The court may use the contempt power to enforce subparagraph (A).

''(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.''

(7) For purposes of this subsection only, the term ''large capacity ammunition feeding device'' has the same meaning as in section 921(a)(31) of title __ and includes similar devices manufactured before the effective date of the Violent Crime Control and Law Enforcement Act of 1994.

SEC. 2. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 343

Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mr. KENNEDY, Mr. SCHUMER, Mr. TORRICELLI, Mr. LEVIN, Mr. DURBIN, Ms. LANDRIEU, Mrs. MURRAY, Mr. INOUYE, and Mr. REED) proposed an amendment to the bill, S. 254, supra; as follows:

On page 276, below the matter following line 3, add the following:

TITLE V—ASSAULT WEAPONS

SEC. 501. SHORT TITLE.

This Act may be cited as the ''Juvenile Assault Weapon Loophole Closure Act of 1999''.

SEC. 502. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''(1) Except as provided in paragraph (2)'' and inserting ''(1)(A) Except as provided in subparagraph (B)'';

(2) in paragraph (2), by striking ''(2) Paragraph (1)'' and inserting ''(B) Subparagraph (A)'';

(3) by inserting before paragraph (3) the following new paragraph (2):

''(2) It shall be unlawful for any person to import a large capacity ammunition feeding device.''; and

(4) in paragraph (4)—

(A) by striking ''(1)'' each place it appears and inserting ''(1)(A)''; and

(B) by striking ''(2)'' and inserting ''(1)(B)''.

SEC. 503. PROHIBITION ON TRANSFER TO AND POSSESSION BY JUVENILES OF SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(x) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.''; and

(3) in paragraph (3)—

(A) in subparagraph (B), by inserting '', semiautomatic assault weapon, or large capacity ammunition feeding device'' after ''handgun''; and

(B) in subparagraph (D), by striking ''or ammunition'' and inserting '', ammunition, semiautomatic assault weapon, or large capacity ammunition feeding device''.

SEC. 504. ENHANCED CRIMINAL PENALTIES FOR TRANSFERS OF HANDGUNS, AMMUNITION, SEMIAUTOMATIC ASSAULT WEAPONS, AND LARGE CAPACITY AMMUNITION FEEDING DEVICES TO JUVENILES.

Section 924(a)(6)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''1 year'' and inserting ''5 years''; and

(2) in clause (ii)—

(A) by inserting '', semiautomatic assault weapon, large capacity ammunition feeding device, or'' after ''handgun'' both places it appears; and

(B) by striking ''10 years'' and inserting ''20 years''.

SEC. 505. DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.

Section 921(a)(31) of title 18, United States Code, is amended by striking ''manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994''.

SEC. 506. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

HATCH (AND OTHERS) AMENDMENT NO. 344

Mr. HATCH (for himself, Mr. CRAIG, Mr. MCCAIN, Mr. SMITH of Oregon Ms. COLLINS, Mr. ABRAHAM, and Ms. SNOWE) proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place insert:

TITLE —EFFECTIVE GUN LAW ENFORCEMENT

Subtitle A—Criminal Use of Firearms by Felons

SEC. 401. SHORT TITLE.

This subtitle may be referred to as the ''Criminal Use of Firearms by Felons (CUFF) Act''.

SEC. 402. FINDINGS.

Congress finds the following:

(1) Tragedies such as those occurring recently in the communities of Pearl, Mississippi, Paducah, Kentucky, Jonesboro, Arkansas, Springfield, Oregon, and Littleton, Colorado are terrible reminders of the vulnerability of innocent individuals to random and senseless acts of criminal violence.

(2) The United States Congress has responded to the problem of gun violence by passing numerous criminal statutes and by supporting the development of law enforcement programs designed both to punish the criminal misuse of weapons and also to deter individuals from undertaking illegal acts.

(3) In 1988, the Administration initiated an innovative program known as Project Achilles. The concept behind the initiative was that the illegal possession of firearms was the Achilles heel or the area of greatest vulnerability of criminals. By aggressively prosecuting criminals with guns in Federal court, the offenders were subject to stiffer penalties and expedited prosecutions. The Achilles program was particularly effective in removing the most violent criminals from our communities.

(4) In 1991, the Administration expanded its efforts to remove criminals with guns from our streets with Project Triggerlock. Triggerlock continued the ideas formulated in the Achilles program and committed the Department of Justice resources to the prosecution effort. Under the program, every United States Attorney was directed to form special teams of Federal, State, and local investigators to look for gang and drug cases that could be prosecuted as Federal weapon violations. Congress appropriated additional funds to allow a large number of new law enforcement officers and Federal prosecutors to target these gun and drug offenders. In 1992, approximately 7048 defendants were prosecuted under this initiative.

(5) Since 1993, the number of ''Project Triggerlock'' type gun prosecutions pursued by the Department of Justice has fallen to approximately 3807 prosecutions in 1998. This is a decline of over 40 percent in Federal prosecutions of criminals with guns.

(6) The threat of criminal prosecution in the Federal criminal justice system works to deter criminal behavior because the Federal system is known for speedier trials and longer prison sentences.

(7) The deterrent effect of Federal gun prosecutions has been demonstrated recently by successful programs, such as ''Project Exile'' in Richmond, Virginia, which resulted in a 22 percent decrease in violent crime since 1994.

(8) The Department of Justice's failure to prosecute the criminal use of guns under existing Federal law undermines the significant deterrent effect that these laws are meant to produce.

(9) The Department of Justice already possesses a vast array of Federal criminal statutes that, if used aggressively to prosecute wrongdoers, would significantly reduce both the threat of, and the incidence of, criminal gun violence.

(10) As an example, the Department of Justice has the statutory authority in section 922(q) of title 18, United States Code, to prosecute individuals who bring guns to school zones. Although the Administration stated that over 6,000 students were expelled last year for bringing guns to school, the Justice Department reports prosecuting only 8 cases under section 922(q) in 1998.

(11) The Department of Justice is also empowered under section 922(x) of title 18, United States Code, to prosecute adults who transfer handguns to juveniles. In 1998, the Department of Justice reports having prosecuted only 6 individuals under this provision.

(12) The Department of Justice's utilization of existing prosecutorial power is 1 of the most significant steps that can be taken to reduce the number of criminal acts involving guns, and represents a better response to the problem of criminal violence than the enactment of new, symbolic laws, which, if current Departmental trends hold, would likely be underutilized .

SEC. 403. CRIMINAL USE OF FIREARMS BY FELONS PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall establish in the jurisdictions specified in subsection (d) a program that meets the requirements of subsections (b) and (c). The program shall be known as the ''Criminal Use of Firearms by Felons (CUFF) Program''.

(b) PROGRAM ELEMENTS.—Each program established under subsection (a) shall, for the jurisdiction concerned—

(1) provide for coordination with State and local law enforcement officials in the identification of violations of Federal firearms laws;

(2) provide for the establishment of agreements with State and local law enforcement officials for the referral to the Bureau of Alcohol, Tobacco, and Firearms and the United States Attorney for prosecution of persons arrested for violations of section 922(a)(6), 922(g)(1), 922(g)(2), 922(g)(3), 922(j), 922(q), 922(k), or 924(c) of title 18, United States Code, or section 5861(d) or 5861(h) of the Internal Revenue Code of 1986, relating to firearms;

(3) require that the United States Attorney designate not less than 1 Assistant United States Attorney to prosecute violations of Federal firearms laws;

(4) provide for the hiring of agents for the Bureau of Alcohol, Tobacco, and Firearms to investigate violations of the provisions referred to in paragraph (2) and section 922(a)(5) of title 18, United States Code, relating to firearms; and

(5) ensure that each person referred to the United States Attorney under paragraph (2) be charged with a violation of the most serious Federal firearm offense consistent with the act committed.

(c) PUBLIC EDUCATION CAMPAIGN.—As part of the program for a jurisdiction, the United States Attorney shall carry out, in cooperation with local civic, community, law enforcement, and religious organizations, an extensive media and public outreach campaign focused in high-crime areas to—

(1) educate the public about the severity of penalties for violations of Federal firearms laws; and

(2) encourage law-abiding citizens to report the possession of illegal firearms to authorities.

(d) COVERED JURISDICTIONS.—The jurisdictions specified in this subsection are the following 25 jurisdictions:

(1) The 10 jurisdictions with a population equal to or greater than 100,000 persons that had the highest total number of violent crimes according to the FBI uniform crime report for 1998.

(2) The 15 jurisdictions with such a population, other than the jurisdictions covered by paragraph (1), with the highest per capita rate of violent crime according to the FBI uniform crime report for 1998.

SEC. 404. ANNUAL REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of Senate and House of Representatives a report containing the following information:

(1) The number of Assistant United States Attorneys hired under the program under this subtitle during the year preceding the year in which the report is submitted in order to prosecute violations of Federal firearms laws in Federal court.

(2) The number of individuals indicted for such violations during that year by reason of the program.

(3) The increase or decrease in the number of individuals indicted for such violations during that year by reason of the program when compared with the year preceding that year.

(4) The number of individuals held without bond in anticipation of prosecution by reason of the program.

(5) To the extent information is available, the average length of prison sentence of the individuals convicted of violations of Federal firearms laws by reason of the program.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program under 403 $50,000,000 for fiscal year 2000, of which—

(1) $40,000,000 shall be used for salaries and expenses of Assistant United States Attorneys and Bureau of Alcohol, Tobacco, and Firearms agents; and

(2) $10,000,000 shall be available for the public relations campaign required by 403(c) of that section.

(b) USE OF FUNDS.—

(1) The Assistant United States Attorneys hired using amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall prosecute violations of Federal firearms laws in accordance with section 403(b)(3).

(2) The Bureau of Alcohol, Tobacco, and Firearms agents hired using amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall, to the maximum extent practicable, concentrate their investigations on violations of Federal firearms laws in accordance with section 403(b)(4).

(3) It is the sense of Congress that amounts made available under this section for the public education campaign required by section 403(c) should, to the maximum extent practicable, be matched with State or local funds or private donations.

(c) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—In addition to amounts made available under subsection (a), there is authorized to be appropriated to the Administrative Office of the United States Courts such sums as may be necessary to carry out this subtitle.

Subtitle B—Apprehension and Treatment of Armed Violent Criminals

SEC. 411. APPREHENSION AND PROCEDURAL TREATMENT OF ARMED VIOLENT CRIMINALS.

(a) PRETRIAL DETENTION FOR POSSESSION OF FIREARMS OR EXPLOSIVES BY CONVICTED

FELONS.—Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by striking ''and'' at the end of subparagraph (C) and inserting ''or''; and

(3) by adding at the end the following:

''(D) an offense that is a violation of section 842(i) or 922(g) (relating to possession of explosives or firearms by convicted felons); and''.

(b) FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.—Section 924(a)(2) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting ''(A) Except as provided in subparagraph (B), any person who''; and

(2) by adding at the end the following:

''(B) Notwithstanding any other provision of law, the court shall not grant a probationary sentence to a person who has more than 1 previous conviction for a violent felony or a serious drug offense, committed under different circumstances.''.

Subtitle C—Youth Crime Gun Interdiction

SEC. 421. YOUTH CRIME GUN INTERDICTION INITIATIVE.

(a) IN GENERAL.—

(1) EXPANSION OF NUMBER OF CITIES.—The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the ''YCGII'') to 75 cities or counties by October 1, 2000, to 150 cities or counties by October 1, 2002, and to 250 cities or counties by October 1, 2003.

(2) SELECTION.—Cities and counties selected for participation in the YCGII shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials.

(b) IDENTIFICATION OF INDIVIDUALS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, utilizing the information provided by the YCGII, facilitate the identification and prosecution of individuals illegally trafficking firearms to prohibited individuals.

(2) SHARING OF INFORMATION.—The Secretary of the Treasury shall share information derived from the YCGII with State and local law enforcement agencies through online computer access, as soon as such capability is available.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII.

(2) USE OF GRANT FUNDS.—Grants made under this part shall be used to—

(A) hire or assign additional personnel for the gathering, submission and analysis of tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCGII;

(B) hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

Subtitle D—Gun Prosecution Data

SEC. 431. COLLECTION OF GUN PROSECUTION DATA.

(a) REPORT TO CONGRESS.—On February 1, 2000, and on February 1 of each year thereafter, the Attorney General shall submit to the Committees on the Judiciary and on Appropriations of the Senate and the House of Representatives a report of information gathered under this section during the fiscal year that ended on September 30 of the preceding year.

(b) SUBJECT OF ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall require each component of the Department of Justice, including each United States Attorney's Office, to furnish for the purposes of the report described in subsection (a), information relating to any case presented to the Department of Justice for review or prosecution, in which the objective facts of the case provide probable cause to believe that there has been a violation of section 922 of title 18, United States Code.

(c) ELEMENTS OF ANNUAL REPORT.—With respect to each case described in subsection (b), the report submitted under subsection (a) shall include information indicating—

(1) whether in any such case, a decision has been made not to charge an individual with a violation of section 922 of title 18, United States Code, or any other violation of Federal criminal law;

(2) in any case described in paragraph (1), the reason for such failure to seek or obtain a charge under section 922 of title 18, United States Code;

(3) whether in any case described in subsection (b), an indictment, information, or other charge has been brought against any person, or the matter is pending;

(4) whether, in the case of an indictment, information, or other charge described in paragraph (3), the charging document contains a count or counts alleging a violation of section 922 of title 18, United States Code;

(5) in any case described in paragraph (4) in which the charging document contains a count or counts alleging a violation of section 922 of title 18, United States Code, whether a plea agreement of any kind has been entered into with such charged individual;

(6) whether any plea agreement described in paragraph (5) required that the individual plead guilty, to enter a plea of nolo contendere, or otherwise caused a court to enter a conviction against that individual for a violation of section 922 of title 18, United States Code;

(7) in any case described in paragraph (6) in which the plea agreement did not require that the individual plead guilty, enter a plea of nolo contendere, or otherwise cause a court to enter a conviction against that individual for a violation of section 922 of title 18, United States Code, identification of the charges to which that individual did plead guilty, and the reason for the failure to seek or obtain a conviction under that section;

(8) in the case of an indictment, information, or other charge described in paragraph (3), in which the charging document contains a count or counts alleging a violation of section 922 of title 18, United States Code, the result of any trial of such charges (guilty, not guilty, mistrial); and

(9) in the case of an indictment, information, or other charge described in paragraph (3), in which the charging document did not contain a count or counts alleging a violation of section 922 of title 18, United States Code, the nature of the other charges brought and the result of any trial of such other charges as have been brought (guilty, not guilty, mistrial).

Subtitle E—Firearms Possession by Violent Juvenile Offenders

SEC. 441. PROHIBITION ON FIREARMS POSSESSION BY VIOLENT JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' after ''(20)'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting after subparagraph (A) the following:

''(B) For purposes of subsections (d) and (g) of section 922, the term 'act of violent juvenile delinquency' means an adjudication of delinquency in Federal or State court, based on a finding of the commission of an act by a person prior to his or her eighteenth birthday that, if committed by an adult, would be a serious or violent felony, as defined in section 3559(c)(2)(F)(i) had Federal jurisdiction existed and been exercised (except that section 3559(c)(3)(A) shall not apply to this subparagraph).''; and

(4) in the undesignated paragraph following subparagraph (B) (as added by paragraph (3) of this subsection), by striking ''What constitutes'' and all that follows through ''this chapter,'' and inserting the following:

''(C) What constitutes a conviction of such a crime or an adjudication of an act of violent juvenile delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of an act of violent juvenile delinquency that has been expunged or set aside, or for which a person has been pardoned or has had civil rights restored, by the jurisdiction in which the conviction or adjudication of an act of violent juvenile delinquency occurred shall not be considered to be a conviction or adjudication of an act of violent juvenile delinquency for purposes of this chapter,''.

(b) PROHIBITION.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) has committed an act of violent juvenile delinquency.''; and

(2) in subsection (g)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the comma at the end and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) who has committed an act of violent juvenile delinquency,''.

(c) EFFECTIVE DATE OF ADJUDICATION PROVISIONS.—The amendments made by this section shall only apply to an adjudication of an act of violent juvenile delinquency that occurs after the date that is 30 days after the date on which the Attorney General certifies to Congress and separately notifies Federal firearms licensees, through publication in the Federal Register by the Secretary of the Treasury, that the records of such adjudications are routinely available in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act.

Subtitle F—Juvenile Access to Certain Firearms

SEC. 451. PENALTIES FOR FIREARM VIOLATIONS INVOLVING JUVENILES.

(a) PENALTIES FOR FIREARM VIOLATIONS BY JUVENILES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking ''Whoever'' and inserting ''Except as provided in paragraph (6), whoever''; and

(2) by striking paragraph (6) and inserting the following:

''(6) TRANSFER TO OR POSSESSION BY A JUVENILE.—

''(A) DEFINITIONS OF VIOLENT FELONY.—In this paragraph—

''(i) the term 'juvenile' has the meaning given the term in section 922(x); and

''(ii) the term 'violent felony' has the meaning given the term in subsection (e)(2)(B).

''(B) POSSESSION BY A JUVENILE.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), a juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 5 years, or both.

''(ii) PROBATION.—Unless clause (iii) applies and unless a juvenile fails to comply with a condition of probation, the juvenile may be sentenced to probation on appropriate conditions if—

''(I) the offense with which the juvenile is charged is possession of a handgun, ammunition, or semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

''(iii) SCHOOL ZONES.—A juvenile shall be fined under this title, imprisoned not more than 20 years, or both, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, or semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) during the same course of conduct in violating section 922(x)(2), the juvenile violated section 922(q), with the intent to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, or semiautomatic assault weapon in the commission of a violent felony.

''(C) TRANSFER TO A JUVENILE.—A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not less than 1 year and not more than 5 years, or both; or

''(ii) if the person sold, delivered, or otherwise transferred a handgun, ammunition, or semiautomatic assault weapon to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, or semiautomatic assault weapon in the commission of a violent felony, shall be fined under this title and imprisoned not less than 10 and not more than 20 years.

''(D) CASES IN UNITED STATES DISTRICT COURT.—Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United States, and the juvenile is subject to the penalties under subparagraph (B)(iii), the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult.

''(E) NO RELEASE AT AGE 18.—No juvenile sentenced to a term of imprisonment shall be released from custody solely for the reason that the juvenile has reached the age of 18 years.''.

(b) UNLAWFUL WEAPONS TRANSFERS TO JUVENILES.—Section 922 of title 18, United States Code, is amended by striking subsection (x) and inserting the following:

''(x) JUVENILES.—

''(1) DEFINITION OF JUVENILE.—In this subsection, the term 'juvenile' means a person who is less than 18 years of age.

''(2) TRANSFER TO JUVENILES.—It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun; or

''(C) a semiautomatic assault weapon.

''(3) POSSESSION BY A JUVENILE.—It shall be unlawful for any person who is a juvenile to knowingly possess—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun; or

''(C) a semiautomatic assault weapon.

''(4) APPLICABILITY.—

''(A) IN GENERAL.—This subsection does not apply to—

''(i) if the conditions stated in subparagraph (B) are met, a temporary transfer of a handgun, ammunition, or semiautomatic assault weapon to a juvenile or to the possession or use of a handgun, ammunition, or semiautomatic assault weapon by a juvenile if the handgun, ammunition, or semiautomatic assault weapon is possessed and used by the juvenile—

''(I) in the course of employment;

''(II) in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch);

''(III) for target practice;

''(IV) for hunting; or

''(V) for a course of instruction in the safe and lawful use of a handgun;

''(ii) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun, ammunition, or semiautomatic assault weapon in the line of duty;

''(iii) a transfer by inheritance of title (but not possession) of handgun, ammunition, or semiautomatic assault weapon to a juvenile; or

''(iv) the possession of a handgun, ammunition, or semiautomatic assault weapon taken in lawful defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

''(B) TEMPORARY TRANSFERS.—Clause (i) shall apply if—

''(i) the juvenile's possession and use of a handgun, ammunition, or semiautomatic assault weapon under this paragraph are in accordance with State and local law; and

''(ii)(I)(aa) except when a parent or guardian of the juvenile is in the immediate and supervisory presence of the juvenile, the juvenile, at all times when a handgun, ammunition, or semiautomatic assault weapon is in the possession of the juvenile, has in the juvenile's possession the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition; and

''(bb) during transportation by the juvenile directly from the place of transfer to a place at which an activity described in item (aa) is to take place, the firearm is unloaded and in a locked container or case, and during the transportation by the juvenile of the firearm, directly from the place at which such an activity took place to the transferor, the firearm is unloaded and in a locked container or case; or

''(II) with respect to ranching or farming activities as described in subparagraph (A)(i)(II)—

''(aa) a juvenile possesses and uses a handgun, ammunition, or semiautomatic assault weapon with the prior written approval of the juvenile's parent or legal guardian;

''(bb) the approval is on file with an adult who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition; and

''(cc) the adult is directing the ranching or farming activities of the juvenile.

''(5) INNOCENT TRANSFEROR.—A handgun, ammunition, or semiautomatic assault weapon, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation under this subsection, shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when the handgun, ammunition, or semiautomatic assault weapon is no longer required by the Government for the purposes of investigation or prosecution.

''(6) ATTENDANCE BY PARENT OR LEGAL GUARDIAN AS CRIMINAL PROCEEDINGS.—In a prosecution of a violation of this subsection, the court—

''(A) shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings;

''(B) may use the contempt power to enforce subparagraph (A); and

''(C) may excuse attendance of a parent or legal guardian of a juvenile defendant for good cause.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

Subtitle G—General Firearm Provisions

SEC. 461. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IMPROVEMENTS.

(a) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—The Attorney General shall expedite—

(A) not later than 90 days after the date of enactment of this section, a study of the feasibility of developing—

''(i) a single fingerprint convicted offender database in the Federal criminal records system maintained by the Federal Bureau of Investigation; and

(ii) procedures under which a licensed firearm dealer may voluntarily transmit to the National Instant Check System a single digitalized fingerprint for prospective firearms transferees;

(B) the provision of assistance to States, under the Crime Identification Technology Act of 1998 (112 Stat. 1871), in gaining access to records in the National Instant Check System disclosing the disposition of State criminal cases; and

(C) development of a procedure for the collection of data identifying persons that are prohibited from possessing a firearm by section 922(g) of title 18, United States Code, including persons adjudicated as a mental defective, persons committed to a mental institution, and persons subject to a domestic violence restraining order.

(2) CONSIDERATIONS.—In developing procedures under paragraph (1), the Attorney General shall consider the privacy needs of individuals.

(b) COMPATIBILITY OF BALLISTICS INFORMATION SYSTEMS.—The Attorney General and the Secretary of the Treasury shall ensure the integration and interoperability of ballistics identification systems maintained by the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, and Firearms through the National Integrated Ballistics Information Network.

(c) FORENSIC LABORATORY INSPECTION.—The Attorney General shall provide financial assistance to the American Academy of Forensic Science Laboratory Accreditation Board to be used to facilitate forensic laboratory inspection activities.

(d) RELIEF FROM DISABILITY DATABASE.—Section 925(c) of title 18, United States Code, is amended—

(1) by striking ''(c) A person'' and inserting the following:

''(c) RELIEF FROM DISABILITIES.—

''(1) IN GENERAL.—A person''; and

(2) by adding at the end the following:

''(2) DATABASE.—The Secretary shall establish a database, accessible through the National Instant Check System, identifying persons who have been granted relief from disability under paragraph (1).''.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2000—

(1) to pay the costs of the Federal Bureau of Investigation in operating the National Instant Check System, $68,000,000;

(2) for payments to States that act as points of contact for access to the National Instant Check System, $40,000,000;

(3) to carry out subsection (a)(1), $40,000,000;

(4) to carry out subsection (a)(3), $25,000,000;

(5) to carry out subsection (b), $1,150,000; and

(6) to carry out subsection (c), $1,000,000.

(f) INCREASED AUTHORIZATION.—Section 102(e)(1) of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601(e)(1)) is amended by striking ''this section'' and all that follows and inserting ''this section—

''(A) $250,000,000 for fiscal year 1999;

''(B) $350,000,000 for each of fiscal years 2000 through 2003.''.

TITLE V—ENHANCED PENALTIES

SEC. 501. STRAW PURCHASES.

(a) IN GENERAL.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7)(A) Notwithstanding paragraph (2), whoever knowingly violates section 922(a)(6) for the purpose of selling, delivering, or otherwise transferring a firearm, knowing or having reasonable cause to know that another person will carry or otherwise possess or discharge or otherwise use the firearm in the commission of a violent felony, shall be—

''(i) fined under this title, imprisoned not more than 15 years, or both; or

''(ii) imprisoned not less than 10 and not more than 20 years and fined under this title, if the procurement is for a juvenile.

''(B) In this paragraph—

''(i) the term 'juvenile' has the meaning given the term in section 922(x); and

''(ii) the term 'violent felony' has the meaning given the term in subsection (e)(2)(B).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 502. STOLEN FIREARMS.

(a) IN GENERAL.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''(i), (j),''; and

(B) by adding at the end the following:

''(8) Whoever knowingly violates subsection (i) or (j) of section 922 shall be fined under this title, imprisoned not more than 15 years, or both.'';

(2) in subsection (i)(1), by striking by striking ''10 years, or both'' and inserting ''15 years, or both; and

(3) in subsection (l), by striking ''10 years, or both'' and inserting ''15 years, or both''.

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by subsection (a).

SEC. 503. INCREASE IN PENALTIES FOR CRIMES INVOLVING FIREARMS.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1)(A)—

(A) in clause (iii), by striking ''10 years.'' and inserting ''12 years; and''; and

(B) by adding at the end the following:

''(iv) if the firearm is used to injure another person, be sentenced to a term of imprisonment of not less than 15 years.''; and

(2) in subsection (h), by striking ''imprisoned not more than 10 years'' and inserting ''imprisoned not less than 5 years and not more than 10 years''.

SEC. 504. INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and

(2) in subsection (b), by striking ''one year'' and inserting ''5 years''.

SEC. 505. INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and

(2) in subsection (b), by striking ''three years'' each place that term appears and inserting ''5 years''.

Subtitle C—Internet Prohibitions

SECTION 430. SHORT TITLE.

This Act may be cited as the ''Internet Firearms and Explosives Advertising Act of 1999''.

SEC. 431. FINDINGS; PURPOSE.

Congress finds the following:

(a) Citizens have an individual right, under the Second Amendment to the United States Constitution, to Keep and Bear Arms. The Gun Control Act of 1968 and the Firearms Owners Protection Act of 1986 specifically state that it is not the intent of Congress to frustrate the free exercise of that right in enacting federal legislation. The free exercise of that right includes law abiding firearms owners buying, selling, trading, and collecting guns in accordance with federal, state, and local laws for whatever lawful use they deem desirable.

(b) The Internet is a powerful information medium, which has and continues to be an excellent tool to educate citizens on the training, education and safety programs available to use firearms safely and responsibly. It has, and should continue to develop, as a 21st century tool for ''e-commerce'' and marketing many products, including firearms and sporting goods. Many web sites related to these topics are sponsored in large part, by the sporting firearms and hunting community.

(c) It is the intent of Congress that this legislation be applied where the Internet is being exploited to violate the applicable explosives and firearms laws of the United States.

SEC. 432. PROHIBITIONS ON USES OF THE INTERNET.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 931. Criminal firearms and explosives solicitations

''(a)(1) IN GENERAL.—Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed or published, any notice of advertisement seeking or offering to receive, exchange, buy, sell, produce, distribute, or transfer—

''(A) a firearm knowing that such transaction, if carried out as noticed or advertised, would violate subsection (a), (d), (g) or (x) of section 922 of this chapter, or

''(B) explosive materials knowing that such transaction, if carried out as noticed or advertised, would violate subsection (a), (d) and (i) of section 842 of this title: shall be punished as provided under subsection (b).

''(2) The circumstance referred to in paragraph (1) is that—

''(A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by computer; or

''(B) such notice or advertisement is transported in interstate or foreign commerce by computer.

''(b) PENALTIES.—Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title or imprisoned not more than 1 year, and both, but if such person has one prior conviction under this section, or under the laws of any State relating to the same offense, such person shall be fined under this title and imprisoned for not more than 5 years, but if such person has 2 or more prior convictions under this section, or under the laws of any State relating to the same offense, such person shall be fined under this title and imprisoned not less than 10 years nor more than 20 years. Any organization that violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a juvenile, herein defined as an individual who has not yet attained the age of 18 years, shall be punished by death, or imprisoned for any term of years or for life.

''(c) DEFENSES.—It is an affirmative defense against any proceeding involving this section if the proponent proves by a preponderance of the evidence that:

''(1) the advertisement or notice came from—

''(A) a web site, notice or advertisement operated or created by a person licensed—

''(i) as a manufacturer, importer, or dealer under section 923 of this chapter; or

''(ii) under chapter 40 of this title, and

''(B) the site, advertisement or notice, advised the person at least once prior to the offering of the product, material or information to the person that sales or transfers of the product or information will be made in accord with federal, state and local law applicable to the buyer or transferee, and such notice includes, in the case of firearms or ammunition, additional information that firearms transfers will only be made through a licensee, and that firearms and ammunition transfers are prohibited to felons, fugitives, juveniles and other persons under the Gun Control Act of 1968 prohibited from receiving or possessing firearms or ammunitions; or

''(2) the advertisement or notice came from—

''(A) a web site, notice or advertisement is operated or created by a person not licensed as stated in paragraph (1); and

''(B) the site, advertisement or notice, advised the person at least once prior to the offering of the product, material or information to the person that the sales or transfers of the product or information—

''(i) will be made in accord with federal, state and local law applicable to the buyer or transferee, and such notice includes, in the case of firearms or ammunition, that firearms and ammunition transfers are prohibited to felons, fugitives, juveniles and other persons under the Gun Control Act of 1968 prohibited from receiving or possessing firearms or ammunition; and

''(ii) as a term or condition for posting or listing the firearm for sale or exchange on the web site for a prospective transferor, the web site, advertisement or notice requires that, in the event of any agreement to sell or exchange the firearm pursuant to that posting or listing, the firearm be transferred to that person for disposition through a federal

firearms licensee, where the Gun Control Act of 1968 requires the transfer to be made through a federal firearms licensee.''.

''(b) TECHNICAL AND CONFORMING ADMENDMENTS—The analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 930 the following:

''931. ''§931. Criminal firearms and explosives solicitation.''.

SEC. 433. EFFECTIVE DATE.—

The amendments made by Sections 430–432 shall take effect beginning on the date that is 180 days after of the enactment of this Act.

On page 65, after line 20, insert the following:

SEC. ___. APPLICATION OF SECTION 923 (j) AND (m).

Notwithstanding any other provision of this Act, section 923 of title 18, United States Code, as amended by this Act, shall be applied by amending in subsections (j) and (m) the following:

In subsection (j) amend—

(1) paragraph (2)(A) and (B) to read as follows:

''(A) IN GENERAL.—A temporary location referred to in paragraph (1) is a location for a gun show, or event in the State specified on the license, at which firearms, firearms accessories and related items may be bought, sold, traded, and displayed, in accordance with Federal, State, and local laws.

''(B) LOCATIONS OUT OF STATE.—If the location is not in the State specified on the license, a licensee may display any firearm, and take orders for a firearm or effectuate the transfer of a firearm, in accordance with this chapter, including paragraph (7) of this subsection.'';

''(C) QUALIFIED GUN SHOWS OR EVENTS.—A gun show or an event shall qualify as a temporary location if—

''(i) the gun show or event is one which is sponsored, for profit or not, by an individual, national, State, or local organization, association, or other entity to foster the collecting, competitive use, sporting use, or any other legal use of firearms; and

''(ii) the gun show or event has (a) 20 percent or more firearm exhibitors our of all exhibitors; or (b) 10 or more firearms exhibitors.

(2) paragraph (3)(C) to read as follows:

''(C) shall be retained at the premises specified on the license.''; and

(3) paragraph (7) to read as follows:

''(7) NO EFFECT ON OTHER RIGHTS.—Nothing in this subsection diminishes in any manner any right to display, sell, or otherwise dispose of firearms or ammunition that is in effect before the date of enactment of the Firearms Owners' Protection Act, including the right of a licensee to conduct firearms transfers and business away from their business premises with another licensee without regard to whether the location of the business is in the State specified on the license of either licensee.''.

In subsection (m), amend—

(1) paragraph (2)(E)(i) to read as follows:

''(i) IN GENERAL.—A person not licensed under this section who desires to transfer a firearm at a gun show in his State of residence to another person who is a resident of the same State, and not licensed under this section, shall only make such a transfer through a licensee who can conduct an instant background check at the gun show, or directly to the prospective transferee if an instant background check is first conducted by a special registrant at the gun show on the prospective transferee. For any instant background check conducted at a gun show, the time period stated in section 922(t)(1)(B)(ii) of this chapter shall be 24 hours in a calendar day since the licensee contacted the system. If the services of a special registrant are used to determine the firearms eligibility of the prospective transferee to possesses a firearm, the transferee shall provide the special registrant at the gun show, on a special and limited-purpose form that the Secretary shall prescribe for use by a special registrant—

''(I) the name, age, address, and other identifying information of the prospective transferee (or, in the case of a prospective transferee that is a corporation or other business entity, the identity and principal and local places of business of the prospective transferee); and

''(II) proof of verification of the identity of the prospective transferee as required by section 922(t)(1)(C).''; and

(2) paragraph (4) to read as follows:

''(4) IMMUNITY.—

''(A) DEFINITION.—In this paragraph:

''(i) IN GENERAL.—The term 'qualified civil liability action' means a civil action brought by any person against a person described in subparagraph (B) for damages resulting from the criminal or unlawful misuse of the firearm by the transferee or a third party.

''(ii) EXCLUSIONS.—The term 'qualified civil liability action' shall not include an action—

''(I) brought against a transferor convicted under section 924(h), or a comparable State felony law, by a person directly harmed by the transferee's criminal conduct, as defined in section 924(h); or

''(II) brought against a transferor for negligent entrustment or negligence per se.

''(B) IMMUNITY.—Notwithstanding any other provision of law, a person who is—

''(i) a special registrant who performs a background check in the manner prescribed in this subsection at a gun show;

''(ii) a licensee or special licensee who acquires a firearm at a gun show from a nonlicensee, for transfer to another nonlicensee in attendance at the gun show, for the purpose of effectuating a sale, trade, or transfer between the 2 nonlicensees, all in the manner prescribed for the acquisition and disposition of a firearm under this chapter; or

''(iii) a nonlicensee person disposing of a firearm who uses the services of a person described in clause (i) or (ii);

shall be entitled to immunity from civil liability action as described in subparagraphs (C) and (D).

''(C) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

''(D) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this subsection shall be dismissed immediately by the court.''.

BOND AMENDMENT NO. 345

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMISSION ON ACCOUNTABILITY OF THE MOTION PICTURE INDUSTRY.

(a) SHORT TITLE.—This section may be cited as the ''Motion Picture Industry Accountability Act''.

(b) PURPOSE.—The purpose of this section is to establish a commission to study the motion picture industry and make recommendations to Congress and the President to promote accountability in the motion picture industry in order to reduce juvenile access to violent, pornographic, or other harmful material in motion pictures.

(c) ESTABLISHMENT.—There is established a commission to be known as the ''Motion Picture Industry Accountability Commission'' (in this section referred to as the ''Commission'').

(d) COMPOSITION.—

(1) COMPOSITION.—The Commission shall be composed of 12 members appointed as follows:

(A) Four members shall be appointed by the President.

(B) Four members shall be appointed by the Speaker of the House of Representatives.

(C) Four members shall be appointed by the Majority Leader of the Senate.

(2) CHAIRPERSON.—The Chairperson of the Commission shall be jointly designated by the Speaker of the House of Representatives and the Majority Leader of the Senate from among the members of the Commission.

(3) QUALIFICATIONS.—At least one member of the Commission appointed by each of the President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall be the parent of a child under the age of 18 years.

(e) COMPREHENSIVE REVIEW.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive review of the motion picture industry with a focus on juvenile access to violent, pornographic, or other harmful materials in motion pictures.

(2) ASSESSMENT.—In conducting the review, the Commission shall assess the following:

(A) How the Federal Government and State and local governments, through their taxing power or otherwise, subsidize, facilitate, or otherwise reduce the cost to the motion picture industry of producing violent, pornographic, or other harmful materials, and any changes that might curtail such assistance.

(B) How the motion picture industry markets its products to children and how such marketing can be regulated.

(C) What standard of civil and criminal liability currently exist for the products of the motion picture industry and what standards would be sufficient to permit victims of such products to seek legal redress against the producers of such products in cases where the content of such products causes, exacerbates, or otherwise influences destructive behavior.

(D) Whether Federal regulation of the content of motion pictures is appropriate.

(E) If and how an excise tax levied on violent, pornographic, or other harmful motion picture materials might be structured in order—

(i) to discourage viewership of such materials; and

(ii) to finance measures aimed at limiting access to such materials.

(F) What other actions the Federal Government might take to reduce the quantity of and access to motion pictures containing violent, pornographic, or other harmful materials.

(f) REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the Majority Leader of the Senate a report on the review conducted under subsection (e).

(2) RECOMMENDATIONS.—The report may include recommendations of the Commission only if approved by a majority of the members of the Commission.

(g) POWERS.—The Commission may for the purpose of carrying out this section—

(1) conduct hearings, take testimony, issue subpoenas, and receive such evidence, as the Commission considers appropriate;

(2) secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out the duties of the Commission under this section;

(3) use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government; and

(4) receive from the Secretary of Commerce appropriate office space and such administrative and support services as the Commission may request.

(h) PROCEDURES.—The Commission shall meet on a regular basis or at the call of the Chairperson or a majority of the members of the Commission.

(i) PERSONNEL MATTERS.—The members of the Commission shall serve on the Commission without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, when engaged in the performance of the duties of the Commission.

(j) STAFF.—The Commission shall appoint a staff director and sufficient support staff, including clerical and professional staff, to carry out the duties of the Commission under this section. The total number of staff under this subsection may not exceed 10.

(k) DETAILED PERSONNEL.—At the request of the Chairperson of the Commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(l) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

(m) TERMINATION.—The Commission shall terminate 60 days after the date on which the Commission submits the reports required by subsection (f).

HELMS AMENDMENTS NOS. 346–347

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill, S. 254, supra; as follows:

AMENDMENT NO. 346

At the appropriate place, insert the following:

"SEC. . SAFE SCHOOLS.

''(a) AMENDMENT.—Section 14601(b) of part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921(b0) is amended by adding at the end a new paragraph (3a) as follows:

''(3a) BACKGROUND CHECKS.—Each State receiving federal funds under this Act shall have in effect a State law requiring local educational agencies to conduct, for each of their employees (regardless of when hired) and prospective employees, a nationwide background check for the purpose of determining whether the employee has been convicted of a crime that bears upon his fitness to have responsibility for the safety or well-being of children, to serve in the particular capacity in which he is (or is to be) employed, or otherwise to be employed at all thereby.''

''(b) COMPLIANCE DATE.—States shall have two years from the date of enactment of this Act to comply with the requirements established in the amendment made by subsection (a).''

AMENDMENT NO. 347

At the appropriate place, insert the following:

"SEC. . SAFE SCHOOLS.

''(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:

''(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.

''(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.

''(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definitions'' in the catchline, by replacing ''section'' in the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semi-colon, and by adding new subparagraphs (B) and (C) as follows:

''(B) the term ''illegal drug'' means a controlled substance, as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law; and

''(C) the term ''illegal drug paraphernalia'' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d0), except that the first sentence of that section shall be applied by inserting ''or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)'' before the period.''.

''(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs, illegal drug paraphernalia, or'' before ''weapons''.

''(5) REPEALER.—Section 14601 is amended by striking subsection (f).

''(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.

''(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting ''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or''.

''(b) COMPLIANCE DATE; REPORTING.—

''(1) States shall have two years from the date of enactment of this Act to comply with the requirements established in the amendments made by subsection (a).

''(2) Not later than three years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.

''(3) Not later than two years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.''

ASHCROFT AMENDMENT NO. 348

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill, S. 254, supra; as follows:

On page 228, line 11 strike ''and''.

On page 228, line 14 strike the period and insert ''; and''.

On page 228, between lines 14 and 15, insert the following:

''(4) PROSECUTION OF JUVENILES AS ADULTS FOR CERTAIN OFFENSES INVOLVING FIREARMS.—The State shall prosecute juveniles who are not less than 14 years of age as adults in criminal court, rather than in juvenile delinquency proceedings, if the juvenile used, carrier or possessed a firearm during the commission of conduct constituting—

''(A) murder;

''(B) robbery while armed with a dangerous or deadly weapon;

''(C) battery or assault while armed with a dangerous or deadly weapon;

''(D) forcible rape; or

''(E) any serious drug offense that, if committed by an adult subject to Federal jurisdiction, would be punishable under section 401(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)).''

ASHCROFT (AND OTHERS) AMENDMENT NO. 349

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. FRIST, Mr. HELMS, Mr. COVERDELL, and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

SEC.——1. SHORT TITLE.

This subtitle may be cited as the ''School Safety Act of 1999''.

SEC.——2. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

''(a) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii)(I), by inserting ''(other than a gun or firearm)'' after ''weapon'';

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following new section:

''(10) DISCIPLINE WITH REGARD TO GUNS OR FIREARMS.—

''(A) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO GUNS OR FIREARMS.—

''(i) Notwithstanding any other provision of this Act, school personnel may discipline (including expel or suspend) a child with a disability who carries or possesses a gun or firearm to or at a school, on school premises, or to or at a school function, under the jurisdiction of a State or a local educational agency, in the same manner in which such personnel may discipline a child without a disability.

''(ii) Nothing in clause (i) shall be construed to prevent a child with a disability who is disciplined pursuant to the authority provided under clause (i) from asserting a defense that the carrying or possession of the gun or firearm was unintentional or innocent.

''(B) FREE APPROPRIATE PUBLIC EDUCATION.—

''(i) CEASING TO PROVIDE EDUCATION.—Notwithstanding section 612(a)(1)(A), a child expelled or suspended under subparagraph (A) shall not be entitled to continued educational services, including a free appropriate public education, under this title, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child does not require a

child without a disability to receive educational services after being expelled or suspended.

''(ii) PROVIDING EDUCATION.—Notwithstanding clause (i), the local education agency responsible for providing educational services to a child with a disability who is expelled or suspended under subparagraph (A) may choose to continue to provide educational services to such child. If the local educational agency so choose to continue to provide the services—

''(I) nothing in this title shall require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

''(II) the location where the local educational agency provides the services shall be left to the discretion of the local educational agency.

''(C) RELATIONSHIP TO OTHER REQUIREMENTS.—

''(i) PLAN REQUIREMENTS.—No agency shall be considered to be in violation of section 612 or 613 because the agency has provided discipline, services, or assistance in accordance with this paragraph.

''(ii) PROCEDURE.—Actions taken pursuant to this paragraph shall not be subject to the provisions of this section, other than this paragraph.

''(D) FIREARMS.—The term 'firearm' has the meaning given the term under section 921 of title18, United States Code.''.

(b) CONFORMING AMENDMENT.—Section 615(f)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)(1)) is amended by striking ''Whenever'' and inserting the following: ''Expect as provided in section 615(k)(10), whenever''.

SEC.——03. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free School Act of 1994 (20 U.S.C. 8921) is amended to read as follows:

''(c) SPECIAL RULE.—Notwithstanding any other provision of this section, this section shall be subject to section 615(i)(1) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)(10)).''.

SEC.——04. APPLICATION.

The amendments made by sections ——01 through ——03 shall not apply to conduct occurring prior to the date of enactment of this title.

SCHUMER (AND OTHERS) AMENDMENT NO. 350

Mr. SCHUMER (for himself, Mr. LAUTENBERG, Mr. KOHL, Mrs. FEINSTEIN, Mr. TORRICELLI, and Mr. DURBIN) proposed an amendment to the bill, S. 254, supra; as follows:

On page 265, after line 20, insert the following:

SEC. . INTERNET GUN TRAFFICKING ACT OF 1999.

(a) SHORT TITLE.—This section may be cited as the ''Internet Gun Trafficking Act of 1999''.

(b) REGULATION OF INTERNET FIREARMS TRANSFERS.—

(1) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) REGULATION OF INTERNET FIREARMS TRANSFERS.—

''(1) IN GENERAL.—It shall be unlawful for any person to operate an Internet website, if a clear purpose of the website is to offer 10 or more firearms for sale or exchange at one time, or is to otherwise facilitate the sale or exchange of 10 or more firearms posted or listed on the website at one time, unless—

''(A) the person is licensed as a manufacturer, importer, or dealer under section 923;

''(B) the person notifies the Secretary of the Internet address of the website, and any other information concerning the website as the Secretary may require by regulation; and

''(C) if any firearm posted or listed for sale or exchange on the website is not from the business inventory or personal collection of that person—

''(i) the person, as a term or condition for posting or listing the firearm for sale or exchange on the website on behalf of a prospective transferor, requires that, in the event of any agreement to sell or exchange the firearm pursuant to that posting or listing, the firearm be transferred to that person for disposition in accordance with clause (iii);

''(ii) the person prohibits the posting or listing on the website of, and does not in any manner disseminate, any information (including any name, nickname, telephone number, address, or electronic mail address) that is reasonably likely to enable the prospective transferor and prospective transferee to contact one another directly prior to the shipment of the firearm to that person under clause (i), except that this clause does not include any information relating solely to the manufacturer, importer, model, caliber, gauge, physical attributes, operation, performance, or price of the firearm; and

''(iii) with respect to each firearm received from a prospective transferor under clause (i), the person—

''(I) enters such information about the firearm as the Secretary may require by regulation into a separate bound record;

''(II) in transferring the firearm to any transferee, complies with the requirements of this chapter as if the firearm were being transferred from the business inventory of that person; and

''(III) if the prospective transferor does not provide the person with a certified copy of a valid firearms license issued to the prospective transferor under this chapter, submits to the Secretary a report of the transfer or other disposition of the firearm on a form specified by the Secretary, which report shall not include the name of, or any other identifying information relating to, the transferor.

''(2) TRANSFERS BY PERSONS OTHER THAN LICENSEES.—It shall be unlawful for any person who is not licensed under section 923 to transfer a firearm pursuant to a posting or listing of the firearm for sale or exchange on an Internet website described in paragraph (1) to any person other than the operator of the website.

''(3) INTERACTIVE COMPUTER SERVICE.—Nothing in this section may be construed to provide any basis for liability against an interactive computer service which is not engaged in an activity a purpose of which is to—

''(A) originate an offer for sale of one or more firearms on an Internet website; or

''(B) provide a forum that is directed specifically at an audience of potential customers who wish to sell, exchange, or transfer firearms with or to others.''.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) Whoever willfully violates section 922(z)(2) shall be fined under this title, imprisoned not more than 2 years, or both.''.

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled ''Education Success—Business Success.'' The hearing will be held on Tuesday, May 25, 1999, beginning at 10 a.m. in room 428A of the Russell Senate Office Building.

The hearing will be broadcast live on the Internet from our homepage address: http://www.senate.gov/sbc

For further information, please contact David Bohley at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the full committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, May 13, 1999, in executive session, to mark up the FY 2000 Defense authorization bill.

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

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, May 13, 1999, in executive session, to mark up the FY 2000 Defense authorization bill.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 13, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 698, a bill to review the suitably and feasibility of recovering costs of high altitude rescues at Denali National Park and Preserve in Alaska, and for other purposes; S. 711, a bill to allow for the investment of joint Federal and State funds from the civil settlement of damages from the Exxon Valdez oil spill, and for other purposes; and S. 748, a bill to improve Native hiring and contracting by the Federal Government within the State of Alaska, and for other purposes.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing on the Clean Water Act Plan, Thursday, May 13, 10 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FINANCE

Mr. HATCH. Mr. president, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, May 13, 1999 beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 13, 1999 at 10 a.m. to hold a hearing.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the Nomination of Richard McGahey during the session of the Senate on Thursday, May 13, 1999, at 10 a.m.

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

SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on criminal Justice Oversight, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Thursday, May 13, 1999 at 2 p.m. to hold a hearing in room 226, Senate Dirksen Office Building, on: ''The Clinton Justice Department's Refusal to Enforce the Law on Voluntary Confessions.''

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Forests & Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 13, for purposes of conducting a hearing Subcommittee on Forests & Public Lands Management hearing which is scheduled to begin at 2:30 p.m. The purpose of this oversight hearing is to receive testimony on fire preparedness on public lands. Specifically, what actions the Bureau of Land Management and the Forest Service are taking to prepare for the fire season; whether the agencies are informing the public about these plans; and ongoing research related to wildlife and fire suppression activities.

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

NATIONAL POLICE WEEK

• Mr. GRAMS. Mr. President, I rise today to honor those police officers who devotedly and selflessly work to protect and serve the public on a daily basis. I also pay special tribute to those men and women who have given their lives in the line of duty.

According to the Federal Bureau of Investigation data, 138 law enforcement officers lost their lives while protecting our communities across America in 1998. Of this total, 61 law enforcement officers were slain in the line of duty. Our Capitol community was tragically affected last July when Capitol Police Officer Jacob Chestnut and Special Agent John Gibson were mortally wounded while they upheld their sworn duty to protect visitors, staff and Members of Congress.

All Americans should keep alive the memory of these two brave and heroic men, and recognize the contributions of the countless other law enforcement officers who have either been slain or disabled while performing their duties. For these reasons I am a proud cosponsor of S. Res. 22, which designates May 15, 1999, as ''National Peace Officers Memorial Day.''

Mr. President, during this week of poignant ceremonies, Minnesota remembers Corporal Timothy Bowe of the Minnesota State Patrol who was murdered while assisting the Chisago County Sheriff Department on June 7, 1997. Last year, Corporal Bowe's name was added to the National Law Enforcement Officers Memorial. Corporal Bowe was a devoted husband, father, trooper, and friend. More importantly, Corporal Timothy Bowe was a true Minnesota hero. This week, Corporal Bowe's name will be joined on the memorial by 155 other law enforcement officers who were killed in the line of duty.

Sadly, in our society today, unless we are personally affected by violence or disorder, we often do not realize the dedication of our law enforcement officers, and the sacrifices they make to keep our communities safe. ''National Police Week'' is an important time for all Americans to recognize the role law enforcement officers play in safeguarding the rights and freedoms we all enjoy daily and give thanks for their countless hours of service.

Mr. President, we owe a debt of gratitude not only to the slain officers who served their communities so courageously by preserving law and order, but also to their families, who have lost a spouse, parent or child. Our law enforcement officers are heroes and we must never forget their contributions and sacrifices—during ''National Police Week,'' they are well remembered.•

RETIREMENT OF TREASURY SECRETARY RUBIN

• Mr. BIDEN. Mr. President, I rise today to share with my colleagues a few thoughts on the announcement that Treasury Secretary Rubin will be leaving his job in July.

It is hard to believe how far we have come in the six and a half years of Bob Rubin's tenure at the Treasury Department. Our most fundamental ideas of how the world works—at least the world of economics and finance—have been transformed during his leadership of President Clinton's economic team.

In our domestic finances, Mr. President, we have gone from a generation of seemingly intractable federal deficits to a new era of budget surpluses. It turns out that it is no easier to make budget policy now than it was before—in fact, it is probably harder. But the federal government is paying its own way now, and the payoff in the private economy—strong growth, low and stable interest rates, international confidence in the dollar—are there for everyone to see.

As someone who came to the Senate over a quarter of a century ago, I can tell my colleagues that there has been no more fundamental change in the way we do business around here.

And virtually everyone agrees that Bob Rubin's influence was the deciding factor in this Administration's successful fight to restore balance and responsibility to our federal budget. If that were his only legacy, it would put him in the pantheon of our greatest Treasury Secretaries.

But Bob Rubin has left his mark on the international economy as well. The United States—restored to its historic role as the strongest and most influential economy in the world—was the indispensable leader during the financial crisis that shook international markets in the last two years. And it was Secretary Rubin's credibility that was on the line as international financial institutions like the IMF scrambled to meet the first financial crisis of the new global economy.

Because he knew what key financial markets needed to see and hear from policy makers—and because he knew the strengths and the weaknesses of those markets first hand—his guidance was the essential ingredient that contained the damage from that crisis.

Today, in the calm after the storm, there is still a lot of rebuilding to do—and too much troubling weakness in too many economies to say that the crisis is over. But it is not too early to say that the crisis was a direct challenge America's leadership in the world's economy, and Bob Rubin kept us on top.

I might add that among the many facets of that financial crisis, Secretary Rubin had to invest his considerable energy, skills, and reputation to get this Congress to provide the funds necessary for the IMF to do its job. If they gave medals in his line of work, Mr. President, he would have one for that campaign, too.

Robert Rubin was the recognized leader—with all of the heat that can come in that position—in two of the biggest economy stories of this decade: the battle against the deficit and the global financial crisis. His decisiveness, clarity of purpose, and calm persistence made a difference in this history of our time.

I noticed, Mr. President, that the financial markets genuflected yesterday at the news of Secretary Rubin's impending departure. They dipped for a while at the initial disappointment, but inevitably they recovered because his replacement is an equally formidable—and tested—veteran of those

same battles that have made Bob Rubin's reputation.

Larry Summers, as Deputy Treasury Secretary, has earned Bob Rubin's confidence as his envoy to key countries in critical negotiations in the global financial crisis and in many other important jobs. He inherits a healthy economy, sound federal finances, and a strong team at the Treasury Department. But if the past few years are any guide, Mr. President, he will not lack for challenges.

I noticed that he thanked his teachers today in accepting the new opportunity President Clinton has offered him. Surely he had no more valuable teacher than Bob Rubin. That should give us all confidence that the Treasury Department remains in good hands.●

HONORING GLORIA ''PAT'' HUTH

● Mr. ABRAHAM. Mr. President, I rise today to honor Mrs. Gloria ''Pat'' Huth upon her retirement which will be celebrated on May 18, 1999.

Gloria ''Pat'' Huth was born on St. Patrick's Day to Mary and Martin Halasz. Mr. and Mrs. Halasz immigrated to the United States from Hungary.

Pat Huth graduated from Bad Axe High School, and earned her Bachelor of Arts degree from Michigan State University. In 1962, she married her husband, Robert, Sr. She began teaching with the Van Dyke school system, taking time off from full-time teaching to raise her sons, Robert, Jr. and Jeff. Mrs. Huth always believed in the value of education and stressed that point to her students and her sons; her sons obtained Juris Doctor and Doctor of Medicine degrees, respectively.

After her boys began attending elementary school, Pat Huth returned to full-time teaching. In 1971, she began teaching at Neil E. Reid school in the L'Anse Creuse School District. In 1974, she was among eight teachers that left Neil E. Reid with their principal, Joseph Carkenord to open the new elementary school, Tenniswood, in Clinton Township, Michigan. Along the way, Pat obtained her Masters of Education Degree from Eastern Michigan University.

In 1979, she received an Educational Specialist Degree (EDS) from Oakland University. She was always continuing to attend school so that she could stay on top of trends and issues to help her students.

Mrs. Huth taught second grade for the L'Anse Creuse schools for 29 years and was a full-time teacher in Michigan for 33 years. Additionally, 8 years were spent as a substitute teacher for different school districts in Macomb County.

Among Pat's interests are serving in the Philanthropic Educational Organization (PEO). She has been a member of St. Louis Parish since 1973. Now Pat Huth considers among her hobbies enjoying three (and soon to be four) grandchildren and stressing the value of education for all those that are fortunate enough to have contact with her.

I want to express my congratulations to Pat Huth upon her retirement. Most importantly, I would like to thank her for her years of commitment to the education of children. Pat, you truly are an example for others to follow.

Mr. President, I yield the floor.●

A SALUTE TO LYTTLETON MACON YATES, SR.

● Mr. ROBB. Mr. President, I rise today to salute a member of our Senate family, and a fellow Virginian, Lyttleton Macon Yates, Sr.

Lyt Yates—of the Sergeant at Arms, Printing Graphics and Direct Mail Branch—will retire on July 25, 1999 after twenty-seven years of loyal service to the United States Senate. He started his career on May 15, 1972 as a Computer Operator with the Sergeant at Arms Computer Center, and has worked his way up the ladder to his current position as Supervisor. As a valuable member of the Computer Center team, he was instrumental in assisting with the creation of payroll forms, letterhead and other Senate forms still in use today.

Over the years, Lyt has enjoyed working with Senate staff—assisting with countless individual requests, solving problems, and seeing the job through to completion.

He is looking forward to retirement with his wife, Joanna, in Midland, Virginia. His future plans include, traveling, wood carving and spending time with his eight grandchildren.

On behalf of his Senate family, I thank Lyt Yates for nearly three decades of outstanding and dedicated service to the United States Senate—and I wish him well in the years ahead.●

BOSTON MILLS/BRANDYWINE SKI RESORT

● Mr. VOINOVICH. Mr. President, today I am pleased to recognize Boston Mills/Brandywine Ski Resort in Peninsula, OH. Boston Mills/Brandywine recently was awarded the Times Mirror Company's Silver Eagle Award for Environmental Excellence for their efforts in the area of energy conservation. In response to the local community's increasing energy demands during seasonal snowmaking operations, Boston Mills recently installed a $1.5 million advanced snowmaking system which monitors data from a nearby pumping station, weather stations, and snowmaking machines to provide for maximum snow production at maximum power efficiency. This effort has enabled the area to produce the same amount of snow in less time, and at a savings of 962,000 kilowatt hours of electricity, which represents 69.5 percent of the community's electricity consumption. In addition, by leasing new grooming vehicles which operate on 33 percent less fuel and reduce grooming time, the area was able to reduce diesel fuel consumption by 46.9 percent, or 9,404 gallons. I am proud to report on the positive impact that the Boston Mills/Brandywine Ski Resort has had on the local community in Peninsula and commend them for the example they have set in civic leadership on this front. I congratulate them on their award and believe the praise they have received for their efforts in environmental stewardship is well deserved.●

HONORING CALIFORNIA'S FALLEN LAW ENFORCEMENT OFFICERS

● Mrs. FEINSTEIN. Mr. President, I rise today to honor the memory of the heroic men and women of California law enforcement who have given their lives in the line of duty protecting the people of the Golden State.

This week, as part of National Police Week, the names of 35 peace officers from California are being added to the National Law Enforcement Officers Memorial here in Washington D.C. Seventeen of those officers lost their lives this past year.

We all know of the dangers faced on a daily basis by police officers, sheriff's deputies, and members of the highway patrol. Unfortunately, too many officers make the ultimate sacrifice in the course of doing their job: ensuring the safety and security of our homes, roads, and neighborhoods.

It is with the utmost respect for these fallen heroes and the loss suffered by their loved ones that I ask that their names be printed in the CONGRESSIONAL RECORD, along with the community they served. We owe these men and women a great deal. Please join me in honoring them.

The list follows.

Oscar A. Beaver—(8/6/1892) Tulare County Sheriff's Office.

John Jasper Bogard—(3/30/1895) Tehama County Sheriff's Department.

William A. Radford—(10/14/1897) Siskiyou County Sheriff's Department.

E.E. Dixon—(12/26/1898) Siskiyou County Sheriff's Department.

Lucius C. Smith—(10/10/1907) Fresno City Police Department.

William Lee Blake—(11/25/1911) Shasta County Sheriff's Department.

A.B. Chamness—(9/22/1917) Fresno County Sheriff's Department.

John W. Reives—(1/14/1921) Shasta County Marshals.

William Clarence Dodge—(10/2/1926) King City Police Department.

Joseph Clark—(8/30/1936) Siskiyou County Sheriff's Department.

Martin Clifford Lange—(8/30/1936) Siskiyou County Sheriff's Department.

Ross Clifford Cochran—(11/19/1951) Tulare County Sheriff's Office.

Harvey A. Varat—(10/20/1973) Ventura County Sheriff's Department.

Richard D. Schnurr—(11/26/1974) California Department of Parks & Recreation.

James Joseph Doyle—(3/23/1974) Ventura College Police Department.

Patricia M. Scully—(5/6/1976) California Department of Parks and Recreation.

Luella Kay Holloway—(1/3/1980) Coalinga Police Department.

George Kowatch III—(11/2/1987) California Department of Parks & Recreation.
Steven Gerald Gajda—(1/1/1998) Los Angeles Police Department.
Scott Matthew Greenly—(1/7/1998) California Highway Patrol.
James John Rapozo—(1/9/1998) Visalia Police Department.
Vilho O. Ahola—(2/1/1998) Petaluma Police Department.
Ricky Bill Stovall—(2/24/1998) California Highway Patrol.
Britt T. Irvine—(2/24/1998) California Highway Patrol.
Paul D. Korber—(3/15/1998) Ventura Port District.
James Leonard Speer—(4/10/1998) Cailpatria Police Department.
David John Chetcuti—(4/25/1998) Millbrae Police Department.
Christopher David Lydon—(6/5/1998) California Highway Patrol.
Claire Nicole Connelly—(7/12/1998) Riverside Police Department.
Filbert Henry Cuesta, Jr.—(8/9/1998) Los Angeles Police Department.
Lisa Dianne Whitney—(8/12/1998) Ventura County Sheriff's Department.
Brian Ernest Fenimore Brown— (11/29/1998) Los Angeles Police Department.
Sandra Lee Larson—(12/8/1998) Sacramento County Sheriff's Department.
Rick Charles Cromwell—(12/9/1998) Lodi Police Department.
John Paul Monego—(12/12/1998) Alameda County Sheriff's Office.●

HONORING OLIVER OCASEK

● Mr. DEWINE. Mr. President, I rise today to honor a great Ohioan and a good friend. On May 20, Oliver Ocasek will receive the YMCA of the USA's Volunteerism Award—in honor of his more than 50 years of service to youth organizations.

It was a great privilege for me to serve with Oliver Ocasek in the State Senate, and I can tell you from personal experience he was an extremely valuable legislator throughout his 28 years in the Senate.

He realized then, and realizes now, that one of the most important things we can do—as legislators, parents and citizens—is reach out to young people. That was a keystone of his Senate career, and indeed has been a central part of his whole life.

In addition to his work in the Senate, he has also been a distinguished professional educator, serving as teacher, principal, superintendent, college professor, and member of the State Board of Education.

Mr. President, I join all Ohioans in paying tribute to Oliver Ocasek on the occasion of this richly deserved award.●

PRIVATE FIRST CLASS WALTER WETZEL MEMORIAL

● Mr. ABRAHAM. Mr. President, I rise today to honor Private First Class Walter C. Wetzel, one of Macomb County's greatest war heroes, who will be honored Saturday, May 15, 1999. On that day, the lobby in the new Macomb County Administration Building will be dedicated as the Private First Class Walter Wetzel Memorial where a bronze bust of Private Wetzel will be unveiled.

ON April 3, 1945, Private Wetzel, a Roseville resident, was serving as a member of an Army anti-tank unit, when they came under attack by a German offensive. As Wetzel warned his fellow soldiers of the attack, two live grenades were thrown through the window of the farmhouse where his unit was positioned; Wetzel then shielded his men by covering the grenades with his body, sacrificing his life to save the lives of the others in his unit.

As the ultimate recognition for his bravery and honor, the military posthumously awarded Private First Class Wetzel the Medal of Honor.

The memorial and sculpture are well-deserved tributes for the heroism of private Wetzel who made the ultimate sacrifice to protect the sacred values our country is founded upon.

Private Wetzel's commitment to fight and sacrifice to protect the United States and the freedoms Americans cherish is to be commended. He deserves both respect and admiration by everyone for his dedication to our country.●

HONORING JOHN FLORENO

● Mr. ABRAHAM. Mr. President, I rise today to honor Mr. John Floreno who has been named the Italian American of the Year by the Italian Study Group of Troy. The annual recognition is presented to those who make significant contributions in promoting and maintaining the importance of the Italian culture.

John Floreno dedicated himself for over 20 years to the Italian American Cultural Society in Warren, Michigan, in many ways, including raising funds to build the cultural center, arranging for the purchase of the center's property, and providing for significant repair costs for the center. Over the years, John has been recognized through many distinguished awards for his dedication to the Italian heritage.

It was through John's leadership that the construction of the center went forward. The Center is a central location where the community can gather to teach and preserve the Italian culture for future generations.

I am proud to say that Michigan is home to one of the most vibrant Italian communities in the United States. They have brought countless contributions to the Great Lakes State.

Our Italian community in Michigan has played an important role in enhancing the Italian culture, identity and pride of Italian-Americans, by teaching the importance of family, church and local community.

I want to express my congratulations to John Floreno for his years of dedication in keeping those traditions alive.

Mr. President, I yield the floor.●

HONORING FRANCO IADEROSA

● Mr. ABRAHAM. Mr. President, I rise today to honor Mr. Franco Iaderosa who has been named the Italian American of the Year by the Italian Study Group of Troy. The annual recognition is presented to those who make significant contributions in promoting and maintaining the importance of the Italian culture.

Franco Iaderosa has dedicated himself to many years of service to the rich heritage of the Italian-American community in Michigan through his outstanding leadership as Education Director of the N.O.I. Foundation which promotes the Italian Language curriculum in both public and private Detroit schools.

It is through Franco's commitment to the education of our children that Italian history, culture and traditions can be preserved and enhanced in our communities.

I am proud to say that Michigan is home to one of the most vibrant Italian communities in the United States. They have brought countless contributions to the Great Lakes State.

Our Italian community in Michigan has played an important role in enhancing the Italian culture, identity and pride of Italian-Americans, by teaching the importance of family, church, and local community.

I want to express my congratulations to Franco Iaderosa for his years of dedication in keeping those traditions alive.

Mr. President, I yield the floor.●

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 95–521, appointments Patricia Mack Bryan, of Virginia, as Senate Legal Counsel, effective as of June 1, 1999, for a term of service to expire at the end of the 107th Congress.

APPOINTING PATRICIA MACK BRYAN AS SENATE LEGAL COUNSEL

Mr. CRAIG. I ask unanimous consent the Senate now proceed to the immediate consideration of S. Res. 102, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 102) appointing Patricia Mack Bryan as Senate Legal Counsel.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CRAIG. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 102) was agreed to, as follows:

Resolved, That the appointment of Patricia Mack Bryan, of Virginia, to be Senate Legal Counsel, made by the President pro tempore

of the Senate on May 13, 1999, shall become effective as of June 1, 1999, and the term of service of the appointee shall expire at the end of the 107th Congress.

ORDERS FOR FRIDAY, MAY 14, 1999

Mr. CRAIG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 14. I further ask consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the time for the two leaders be reserved for their use later in the day, and that the Senate immediately resume consideration of the juvenile justice bill, S. 254.

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

PROGRAM

Mr. CRAIG. For the information of all Senators, the Senate will convene on Friday at 9:30 a.m. By previous consent, the Senate will then resume consideration of the Hatch-Craig amendment, with a vote to take place at approximately 9:40 a.m., followed by a vote on or in relation to the Schumer Internet firearms amendment. Other amendments are expected to be offered, including the McConnell public lands amendment, and therefore Senators can expect the first two votes at approximately 9:40 a.m., with the possibility of further votes during tomorrow's session of the Senate in an effort to finish the bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CRAIG. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:09 p.m., adjourned until Friday, May 14, 1999, at 9:30 a.m.

NOMINATIONS

EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE MAY 13, 1999:

DEPARTMENT OF THE TREASURY

JEFFREY RUSH, JR., OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY, VICE DAVID C. WILLIAMS.

DEPARTMENT OF STATE

PRUDENCE BUSHNELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

DEPARTMENT OF DEFENSE

ARTHUR L. MONEY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE EMMETT PAIGE, JR., RESIGNED.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. FRANK LIBUTTI, 0000.