United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, FRIDAY, MAY 14, 1999 No. 70

Senate

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

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, give us the patience that frees us to work with joy and peace. We affirm John Adams' words: ''Patience, Patience, Patience! The first, and last, and the middle virtue of a politician.'' We agree, but we need Your spirit to develop patience within us. Many of us want everything yesterday. Some of us are distressed by people who are quick to speak and slow to change. Others of us chafe under the laborious process of progress. Still others are really impatient with themselves.

Today, remind us that this life is but a small part of eternity. Give us an acute sense of the shortness of time and the length of eternity. Reorder our priorities and help us to live with a relaxed trust in You. Since there is no panic in Heaven, replace our panic over little things with the peace of Your power to deal with the big things that truly matter. Today, guide the Senate to come to an agreement on legislation for gun control that is best for our Nation. Through our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. HATCH. Mr. President, this morning the Senate will resume consideration of the juvenile justice legislation. There will be two back-to-back votes at approximately 9:40 a.m. The first will be on or in relation to the Hatch-Craig amendment, with a second vote on or in relation to the Schumer Internet firearms amendment immediately following. Additional amendments are anticipated, and therefore further votes are expected throughout today's session of the Senate. The cooperation of Senators is appreciated as the bill's managers work to finish this important legislation.

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. Also, under the previous order, 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 and rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

Pending:

Hatch/Craig amendment No. 344, to provide for effective gun law enforcement, enhanced penalties, and facilitation of background checks at gun shows.

Schumer amendment No. 350, to amend title 18, United States Code, to regulate the transfer of firearms over the Internet.

AMENDMENT NO. 344

The PRESIDING OFFICER. Under the previous order, there will now be 5 minutes of debate on the Hatch-Craig amendment No. 344, the time to be equally divided in the usual form.

Who yields time?

Mr. HATCH. Mr. President, the Hatch-Craig amendment is an amendment that corrects a number of problems in this particular bill that people have complained about that we believe need to be corrected, but we also do a number of other things as well. We have more aggressive prosecution of violent minors who are going to continue to do violence unless we pass the accountability and the prevention efforts in this bill. It has enhanced penalties for the use of firearms, something that we need. It is probably the only thing that is going to make a real difference with regard to firearms. That is important. The amendment has increased maximum penalties for the use of firearms, and that is important as well. It has expanded protection for children.

For instance, we have the juvenile Brady bill within the underlying bill, but we are passing it again so everybody will know that all of this complaining by those who have tried to defeat this bill is just political posturing. The fact is we are going to prevent any juvenile who has used a gun in the commission of a crime from ever having a gun henceforth. That is the juvenile Brady bill.

Last, but not least, we are expanding the background checks. A couple of days ago Senator CRAIG tried to do a voluntary background check with incentives, which was a step forward in resolving this issue. However, the Democrats wanted a very bureaucratic, very Government-oriented bill to do these background checks. The Hatch-Craig amendment provides for mandatory background checks and provides for more background checks than the Democratic alternative. We have a more stringent amendment than what the Democrats came up with, and we have offered this amendment in order to try to resolve the animosities and the problems that have existed on this gun show issue.

Last, but not least, I may get a little uptight with people who try to make the whole juvenile justice issue an issue about guns. Guns may be a part of it, and there is no question they are, and we are doing the things that are right with regard to guns. However,

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

Printed on recycled paper.

anyone who tries to reduce all of these juvenile justice problems in our society to guns is not only exaggerating but they are misreading the American people. The people realize that juvenile justice encompasses a lot more than just gun issues.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Unfortunately, much of this has become about guns. As the distinguished chairman knows, one of the things in this amendment is a section that dismisses pending State and Federal lawsuits, overrides all the State legislatures, all the State courts, just dismisses them on behalf of gun sellers and manufacturers.

I yield 1 minute to the distinguished Senator from New York and the remaining time to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from Vermont.

This proposal is as riddled with loopholes as the previous Craig proposal. No. 1, you can buy guns at gun shows without any background check through the new provision of special licensees. No. 2, criminals can buy guns at pawnshops without any background check—a step backward. No. 3, there is still immunity in lawsuits. But most importantly, anyone who thinks that we close the gun show loophole with this amendment is mistaken, because special licensees neither have to make a background check nor file any reports.

Please do not think that we are closing the gun show loophole with this amendment. I urge my colleagues in strong terms to oppose it. We should pass the Lautenberg amendment. That does close the gun show loophole. You cannot have it both ways. You cannot say you are closing it and leave a huge, wide open loophole. This is a Swiss cheese amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I oppose the Hatch-Craig loophole amendment. I am calling it that deliberately. Unfortunately, this amendment goes exactly in the wrong direction. Instead of closing the gun show loophole, it creates several new loopholes that will help criminals get even more guns.

We look here on this chart at a licensed dealer: Background check? Voluntarily. Special license: They don't even have to ask whether or not there is any evidence that this individual shouldn't have any permit for a gun.

The first choice was my amendment to really close the gun show loopholes, and that is what the public wants. We see it all the time. We heard it all over TV, and last night on a show called ''Extra,'' they showed how penetrable the rules are in a gun show where a 15-year-old and 17-year-old were able to buy guns under the table. I hope they will respond here today to the American people, 87 percent of whom said close the gun show loopholes. I hope we will do that and have the courage to stand up to the NRA.

The PRESIDING OFFICER. All time has expired.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given an additional 2 minutes and also if the other side needs an additional 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. For both sides?

Mr. HATCH. Yes.

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

Mr. HATCH. Mr. President, that just plain is not true. The language does correct those loopholes he is talking about, but just to guarantee it, I send a modification to the desk that certainly clarifies and corrects those loopholes.

Mr. SCHUMER. Reserving the right to object.

Mr. HATCH. Do we want to get this done or don't we?

Mr. LEAHY. Let's let the Senate run this and not the gun lobbies run this Senate Chamber.

Mr. HATCH. This is not the gun lobby, this is Senator HATCH sending a modification to the desk.

Mr. SCHUMER. I object.

Mr. HATCH. You object to doing what is right here?

Mr. SCHUMER. I object until I have a chance to read it.

Mr. HATCH. You object to closing the so-called loophole?

Mr. SCHUMER. The Senator——

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. I withdraw it. It is amazing to me——

Mr. LAUTENBERG. We object.

Mr. LEAHY. No one has seen it.

Mr. SCHUMER. I ask unanimous consent——

The PRESIDING OFFICER. The Senator from Utah has the floor at this point. Does the Senator yield?

Mr. SCHUMER. I do not.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. There will be 2 minutes on the other side.

Mr. LEAHY. I ask unanimous consent that the Senator from Utah be given time to read what his modification is, and whatever time that takes, this side be given equal time. Does that help the chairman?

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

The Senator from Utah.

Mr. HATCH. Let me tell you, I am so tired of this unnecessary argument. I want a juvenile justice bill. I have insisted on making these changes so we can get rid of these political arguments made on the other side, and I am tired of it.

What we are trying to do this morning is make it absolutely clear—even though we think it is clear in the bill as it is—with this modification. I hate to say this, but I really believe there is an effort by some in this body to never have a juvenile justice bill. I am going to do everything in my power to get it.

Under current law, anyone who engages in the business of selling firearms at a gun show must have a license. The loophole of current law lets gunsmiths and other individuals go to gun shows as nonlicensed individuals to sell guns with no instant check. That is current law. We are trying to solve that. Others are trying to exploit this issue, and I think very unfairly so.

As long as the gunsmiths do not sell so many firearms as to be engaged in the business of firearms dealing, they are not classified as firearms dealers. Thus, they can sell a limited number of firearms at a gun show without a license. This is also a loophole in existing law.

The Craig amendment which the Senate adopted on Wednesday provided that the gunsmiths who wanted to engage in the business of selling firearms, but just at gun shows, could do so, but have to be licensed to do so—a step in the right direction. It was not enough, apparently, and so we have been willing to change that.

The Craig amendment provided for a special license that would last for only 3 days. By becoming, in effect, a temporary dealer, the gunsmith was subject to all the provisions of the Gun Control Act to which dealers are subject, including the recordkeeping requirements, the requirement to be subject to inspection by Federal officials, and the requirement to perform background checks—a step in the right direction.

While the Craig amendment exempted special registrants who only conducted background checks and did not engage in the business of selling firearms from the dealer recordkeeping requirements, it expressly provided that the special licensee would be subject to the recordkeeping requirements of the Gun Control Act.

The Hatch-Craig amendment, which we are going to vote on in a few minutes, which we offered yesterday, simply changed the voluntary background check for individual sellers at gun shows to a mandatory background check. It did not affect the special licensing requirements. Thus, after the Hatch-Craig amendment, an individual who desires to obtain a firearm at a gun show must submit to a background check whether he purchases the firearm from a regular dealer, a special licensee, or another individual.

It is my desire to ensure that any gun sale that takes place at any gun show has a background check. That is what we are doing here, and we are doing it because of the complaining on both sides of the aisle, and I have insisted on it.

My colleague, Senator CRAIG, and I now agree on this. I believe the current language clearly, clearly accomplishes

this, without this modification I have sent to the desk. However, if my colleagues want to make the language to the special licensee even more express, that is why I expressed a desire to work with them. I am glad to work with them. I sent a modification to the desk to make it absolutely superabundantly clear. Since we have the same goals here, there is no reason to play politics on this issue. Let's get the job done.

Last but not least, we have asked the Justice Department and others to cooperate with us and help to know what they want here. Not one word in 2 years, other than political crticism. The President bad-mouthed this all day yesterday for political purposes, and I am tired of that because I am one of those who is insisting on making these changes. I am one of those who wants to accommodate my colleagues on the other side. If they have any substantive problems, bring them to us, but their amendment certainly does not do as much as ours does. I cannot solve every problem here, but this I think we can solve.

The modification basically says:

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 subsection (m) the following: In subsection (m), amend paragraph 1 by adding the new subparagraph as follows: Subparagraph (f), except as provided in subparagraph (d) a special licensee shall—

Not may, shall—

be subject to all the provisions of this chapter applicable to dealers, including, but not limited to, the performance of an instant background check.

I do not think that is necessary, but my colleagues do, and I want to accommodate my colleagues on the other side. I cannot accommodate——

Mr. LAUTENBERG. Mr. President, what was the unanimous-consent agreement?

Mr. HATCH. Sufficient time to explain this amendment.

Mr. LEAHY. We will get equal time.

Mr. HATCH. They have equal time.

The PRESIDING OFFICER. The Senator from Utah has used 4 minutes.

Mr. HATCH. Right. Our colleagues have been complaining here for 2 days. We are doing what I think they and others on our side would like to have done. And the National Rifle Association has not had a thing to do with it. I don't care whether they accept it or don't accept it. These things are done by us. Frankly, to try to make them the terrible organization that some on the other side try to do bothers me. They represent millions of decent, law-abiding, honest sports people.

I think it is time to start talking about these things in earnest with clarity and with decency. I think, more important, this is not all about guns. Guns are a part of the juvenile justice bill, but it is not all about guns. There are so many other things this bill does that will help us in this society to resolve the problems of violent juveniles that it is a crying shame we have had to play around with this bill over the last number of days like we have. I have tried to move these amendments forward and will continue to do so, but there is only so much time this bill can be given.

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

Mr. HATCH. I will be happy to yield.

Mr. LEAHY. Let's stay somewhat within the unanimous consent agreement.

Mr. MCCAIN. Isn't it true that it has been brought to the attention of all that there is a loophole that needs to be closed and this is a good-faith effort to do that?

Mr. HATCH. This is a good-faith effort to accommodate our colleagues on the other side who I believe have raised legitimate objections. They have tried to make it look like our side is in frantic shape about doing it. I just want to get it done.

Mr. MCCAIN. Isn't it also true——

Mr. LEAHY. Regular order.

Mr. MCCAIN. I ask unanimous consent that I be allowed 3 minutes to question the Senator from Utah.

Mr. LEAHY addressed the Chair.

Mr. MCCAIN. Do you object or not object?

Mr. LEAHY. Mr. President, let the Senator from Arizona——

Mr. MCCAIN. I repeat my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, I will not object if, following the earlier unanimous consent agreement to accommodate the Senator from Utah——

Mr. HATCH. He did.

Mr. LEAHY. At which time the Senator from Arizona was not on the floor and does not realize that we have equal time over here.

Mr. HATCH. He did.

Mr. MCCAIN. I withdraw my unanimous consent.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me just end with this. I believe my colleagues are sincere on the other side. I know the distinguished ranking member on the Judiciary Committee has been working diligently with me to get this bill passed. I compliment him and I honor him for that.

I believe the distinguished Senator from New Jersey is doing his best to try to make sure that loopholes are closed. I appreciate that. I have tried to accommodate him. I did not like his amendment because I thought it was too bureaucratic and too heavyhanded. On the other hand, he was sincere in presenting it. If he had not presented it, we probably would not be here today trying to accommodate him.

With regard to my friend from New York, there are very few people in this body who understand this issue any better than he does. And I respect him.

But I am serving notice, I am getting tired of the spurious arguments that have been made by some against what we are trying to do. And I am a little impatient because I think they are trying to artificially paint this gun show amendment like a National Rifle Association amendment. I can tell you right now, I did not talk to the National Rifle Association about this amendment; and I had a lot to do with changing the previous voluntary background check to a mandatory background check for sales at gun shows. And to his credit, Senator CRAIG has cooperated every step of the way.

Now, this mandatory gun show check is to accommodate our colleagues. This is to solve this gun show problem. We cannot solve every problem in this bill, but we are certainly trying to solve as many as we can. And this is a very small part of this total juvenile justice bill that we need to pass. We will never get it passed unless we get some cooperation from both sides of the aisle. I am asking for that.

We have been debating this juvenile justice bill for 3 days. This is a bill that should have been passed in 1 day. Every one of us should have been very, very happy to get this bill passed. Most everybody on this floor knows that this bill is a very, very well-thought-out bill. It is bipartisan, and it is time for us to get it passed. But we have to quit playing political games around here. Let's start worrying about the young people in this society, the families and our society as a whole.

That is all I need to say about it. I apologize if I have offended any of my colleagues on the other side, but I am tired of having arguments made that are not constructive when I am trying to meet the needs of the very people who have made these arguments.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair at this point will——

Mr. HATCH. Could I yield——

Mr. CRAIG. Very briefly, as a cosponsor of the bill, half a minute?

Mr. HATCH. I ask unanimous consent that he be given a half a minute.

Mr. LEAHY. And that be added to the time over here.

Mr. CRAIG. Of course.

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

Mr. CRAIG. The Senator from New York has pointed out consistently through the bill where there might be corrections or where in some instances there were deletions that were not intended. Last night he expressed there was a loophole.

I pointed out in the law that we had placed this new category directly into the law to comply with all of the law which included background checks. They were apprehensive. We went back and reviewed it and confirmed with many attorneys exactly what we believe to be true.

But this morning, in good faith, we have offered this. You can accept it or reject it at your will. But it is very clear what we intend. I think the chairman of the Judiciary Committee has made that intention clear: Temporary

licensees, for the purpose of convenience and also security at gun shows, will do background checks.

Thank you.

The PRESIDING OFFICER. The Chair will now explain the parliamentary situation based on the unanimous consent.

Based on the previous unanimous consent, the Senator from Utah has 1 minute 5 seconds; the Senator from Vermont has 12 minutes 53 seconds. That is arrived at by the 2 minutes the Senator from Vermont had previously from a previous unanimous consent, plus the 10 minutes 53 seconds the Senator from Utah consumed in explaining his position.

So to restate, the Senator from Utah has 1 minute 5 seconds; the Senator from Vermont has 12 minutes 53 seconds.

Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I think the modification I have sent to the desk does close the loophole in a way that hopefully will please my colleagues on the other side. I hope they will grant unanimous consent to do that. If they do not grant unanimous consent, then I will try to do that by amendment later, which we will have to vote on, I suppose.

But all I am trying to do is to accommodate them. I sometimes wonder if unfair political advantage isn't what is being sought here, instead of a bill. Everybody ought to be happy to have this additional language. The Hatch-Craig amendment closes the gun show background check loophole. This additional language makes it even more express than the bill makes it express at this time.

I hope my colleagues will permit the unanimous consent request to modify the amendment. To the degree we can work on other problems that they are concerned about, we will be happy to try to do that during the course of the debate on this bill.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, first, I commend the distinguished Presiding Officer for his usual fairness, something I have expressed before. I say to my good friend from Utah that nobody would ever accuse you of being uptight. I don't know where you ever got that idea. The Senator from Utah and I have worked very closely on this and will continue to do so.

But on this particular amendment, I do have some grave concerns. When it was first brought up, I said on this floor that there were serious problems with it, as did the Senator from New York. The proponents basically told us we didn't know what we were talking about, and it was rammed through on basically a party-line vote.

The next day they came back and said: Oh, by the way, you were right. We're really sorry about that. We want to do it over again.

Well, in my religion we believe in redemption, and I assume that is at least partial redemption. But it shows what can happen if they could get away with it. It was going to go through, but it was discovered. The objections that the Senators from New York and New Jersey and I raised were heard, and so they came back.

Now, at the eleventh hour, the last minute, they come out with another amendment which still does not close loopholes and does nothing to stop what I have raised on this floor for several days now; and that is the question of doing away with State courts and Federal courts—basically a court-stripping bill.

The Senator from Utah is right when he says there should be bipartisan concern on juvenile justice. And I believe there is. But if he is worried about what is taking a lot of time—when we have all of these provisions, and when presented by Democrats they are all voted down on a party-line vote, and then the next day they are brought up in a Republican amendment and now they are OK—maybe we would do it a little bit quicker if we would vote on them irrespective of which side brought them up and be able to vote on them only once.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 10 minutes 15 seconds.

Mr. LEAHY. I yield 5 minutes to the distinguished Senator from New Jersey, and then 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from Vermont.

What we see here—and I apologize if we have exhausted the patience of the Senator from Utah, but we have been in this situation before where patience runs out. I heard the Senator from Utah, who is one of the most concerned people about children and family that I know. But he said: This isn't about guns; it is not all guns. I agree. It is about life. It is about saving people's lives. But we do not focus on that. The argument against the Lautenberg amendment, as originally presented, was: It is bureaucratic and we ought to do more law enforcement.

If we are going to do more law enforcement, I assume that means bigger government, I assume that means spending more money for the Bureau of Alcohol, Tobacco and Firearms personnel. Unfortunately, what we see is this persistent backpedaling, trying to make it up. Aha, the public caught us. They caught us with a mistake, with another error that protects those who want to avoid having background checks, so we had better fix it.

They worked like the devil to keep people from voting for the original Lautenberg amendment, which said: Close all the loopholes in the gun shows that permit people to buy guns without background checks.

I refer, just for 1 more minute, to the poll which says 87 percent of the people in the country say that all people who buy guns at the gun shows should have background checks.

Sixty percent of Americans blame the tragedy in Littleton in significant measure on the availability of guns. That is what we are talking about.

As mistakes were made in the presentation on the other side, nevertheless, before I leave the subject, six Republicans voted on the Lautenberg amendment positively, but now we see the errors creep in.

First, the statement was made that only 2 percent of the guns bought at gun shows were bought without background checks. Then there was a realization. The distinguished Senator from Idaho said, no, he was wrong. It was 40 percent. It is close—2 percent, 40 percent. How many guns is that? It is a lot when there are 4,000 gun shows a year.

Then we had another presentation yesterday that said we are closing the loopholes. Well, we have attempted to close one of the loopholes, but every time they get caught with an error or a decision not to close another loophole, they come back again, because it gets exposed on television. It gets exposed in the newspapers.

Last night, there was a program on ABC called ''Extra,'' and they showed a film, a camera secreted in a hidden spot, of a 15-year-old girl and a 17-year-old boy buying guns. He said, I am 17; she said, I am 15. They were able to buy those guns.

Why can't we shut it down once and for all?

I have a letter here. The Senator from Utah said there was no response from the administration. It is addressed to Senator LOTT. It was sent by Secretary Rubin and Attorney General Reno. It says:

> This amendment would seriously impede the effectiveness of the national instant criminal background check system. It would reduce from 3 business days to just 24 hours the period of time that law enforcement has to ensure that firearms sold at gun shows are not being sold to felons and other prohibited persons.

There is flaw after flaw, and the Senator from Utah said that is why we are here; we are fixing them.

We will never fix it that way. Anyone who knows Senate procedure knows that you fix the flaws in the committee or you fix the flaws in a private discussion on the floor. You don't suddenly throw up an amendment and say, I ask unanimous consent to modify my amendment. If you are caught with your hand in the cookie jar, then, by goodness, step back and say, OK, let's find out what we did wrong. Let's find out if we can agree on closing all the loopholes.

This may be an exhausting procedure, but it is more exhausting for

those people who are threatened by the casual presence of guns all over. We don't need to add to that quantity by not requiring background checks. We close one loophole, but there are others. There is the pawnshop loophole. There is the one that says all records have to be destroyed after 24 hours. What kind of a database do we have that we can refer to?

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. LAUTENBERG. Mr. President, I hope we will defeat this and have a chance to reconsider this proposition.

The PRESIDING OFFICER. The Senator from New York is recognized for the balance of the time.

Mr. SCHUMER. I thank the Chair and thank the Senators from Vermont and New Jersey for their consideration and leadership on this issue.

Let me say, again, even with the new Hatch-Craig amendment, which I understand the Senator from Utah has offered in the best of faith, there are three and possibly four major problems.

No. 1, it does not close the pawnshop loophole. Felons will flock to pawnshops and get guns. Why are we taking a step backward less than a month after Littleton? Why are we telling criminals around the country, you can go to a pawnshop, get a gun, no questions asked? How can this body vote for that given what just happened in Littleton? What is the justification? What is the reason to allow pawn dealers to give guns to criminals, no questions asked? There is absolutely none.

All of America is scratching its head and saying, what is going on in this Chamber? Some say it is not the gun lobby. Well, I would like to know what it is that is making us do the most irrational, ridiculous things that make it easier for criminals to get guns after what we have seen happen.

No. 2, this modification puts a stranglehold on the Brady law. It sets a 24-hour time limit for gun show sale background checks, only 24 hours. Do you know what the FBI says they need? They say they need 3 days. That is what Federal licensed dealers get. When the FBI says give us 3 days, they get it. But not at a gun show. So if they can't find the records within 24 hours, the gun will go right to a criminal. What kind of loophole is that? Why do we need it? Again, if it is not the gun lobby that is pushing us to do this, then who is it?

Finally—this is not even about the modification that was mentioned—the bill undermines the law by weakening prohibitions on interstate sales. Dealers would now be able to go to gun shows outside their States and sell firearms directly to residents of other States, even though they may not know the firearms law of that State. Why is that? Why are we allowing gun dealers who have been previously limited to their own State on the grounds that they know the laws of the State, that they know the people of the State, to go across the Nation to sell their guns? If it is not the gun lobby, my colleagues, then what is it?

So even with the modification that the Senator from Utah has so graciously offered—and I will get to that in a minute—you have pawnshops being able to sell guns to criminals with impunity. You have no kinds of checks when the FBI says it might be a criminal, give us the time, the 72 hours. And you allow gun dealers to go from one end of the country to the other and sell out of the State for the first time.

Then, finally, on the gun show loophole, if you really wanted to fix this, you would pass the bill we had before us 2 days ago, the bill that was sponsored by the Senator from New Jersey, cosponsored by me.

Let me say this: 2 days ago I brought up on the floor to the Senator from Idaho that there were mistakes in the bill. The next morning they said, yes, there were. They were corrected; some of them, not all. Last night, I went quietly over to the Senator from Utah in the hallway and said that you have a major loophole in this called ''special licensees.'' If I or the Senator from New Jersey or the Senator from Vermont were trying to obfuscate, we would have just laid in wait, not brought that up to you and not looked at the correction.

I say this: It is only fair to give us some time to look at the language here, because twice what we were told was in the bill was not in the bill. I think something is going on here. We are trying to act as if we are being tough on gun control but then put so many loopholes in the bill that we can say to our friends on the other side, hey, see, we really didn't mean it. It is sort of a Dr. Jekyll and Mr. Hyde.

I am also told, in all fairness, by the Senator from Utah—and I don't know, because the language hasn't been analyzed—

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

Mr. CAMPBELL. Mr. President, each year half a million guns are stolen and thousands of violent crimes are committed with stolen guns. Furthermore, approximately half of the juvenile gun related crimes in this country involve stolen guns.

To address this problem, I am pleased the amendment pending before the Senate to S. 254, includes provisions to increase the maximum prison sentence for existing stolen gun laws. This provision is based on S. 728, the Stolen Gun Penalty Enhancement Act of 1999, which I introduced on March 25, 1999.

The extent of this problem was recently underscored by several news reports and studies. Reports indicate that almost half a million guns are stolen each year. Each year, the Federal Bureau of Investigations alone receives an average of over 274,000 official reports of stolen guns. A large number of stolen guns also go unreported. Bureau of Alcohol, Tobacco and Firearms studies note that convicted felons often choose to steal firearms as a way to avoid mandatory background checks.

In my home State of Colorado, the Colorado Bureau of Investigation receives over 500 reports of stolen guns each month. As of this March, the Bureau had a total of 36,000 guns on its unrecovered stolen firearms list, with about one-third of them being handguns.

As I mentioned earlier, the stolen gun problem is especially widespread and alarming among young people. A Justice Department study of juvenile inmates shows that over 50 percent of them had stolen a gun.

Clearly, with half a million guns being stolen each year, those criminals and juveniles stealing guns must not be very deterred by the current penalties. A provision within the bill before us today would address this problem by increasing prison sentences for violating current stolen firearms law provisions from a maximum of 10 years to a maximum of 15 years imprisonment.

Specifically, under current federal law, it is illegal to steal a firearm from any person including licensed firearm collectors, dealers, importers, and manufacturers. It is also illegal to knowingly transport, ship, receive, possess, conceal, store, sell, or otherwise dispose of a stolen firearm or stolen ammunition. Current sentencing guidelines cap the penalty for violating these stolen gun laws at a maximum of 10 years imprisonment. My provision calls for increasing the maximum prison sentence from 10 years to 15 years, and directs the United States Sentencing Commission to revise the Federal sentencing guidelines with respect to these firearms offenses.

While I am a strong supporter of the rights of law abiding gun owners, I also firmly believe we need tougher penalties for criminals who steal guns or use stolen guns to commit crimes. This stolen gun penalty enhancement provision will send a clear signal to criminals that stealing or using stolen guns is something we take very seriously.

I urge my colleagues to join me in supporting this provision.

Thank you Mr. President. I yield the floor.

Mr. HATCH. Mr. President, let us see if I can bring some order to this. We did say last night we were going to try to come up with language that would address Senators' concerns.

I hesitate to say this, but the distinguished Senator from New York had the language before I did. It was only a matter of minutes, but he did. It is only a one-paragraph thing. But rather than continue the heated debate, I will ask my colleague, the distinguished Senator from Vermont, if he will work with me. Let us see if we can work out this language so that we can solve this, so that your side is happy with it. I am personally happy with the Hatch-Craig amendment. But to the extent we can do that, we will do that.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the Senator from Utah and I have had a chance to discuss this during the debate. I think this is the wise way, to go ahead and vote on the amendment before us without the modification. The Senator from Utah and I will work during the morning. We are stuck here like everybody else this weekend so let us work on this. It has come in at such a late time and this is such a technical issue.

The PRESIDING OFFICER. All time has expired.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the amendment.

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 amendment of the Senator from Utah.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

Mr. REID. I announce that the Senator Louisiana (Mr. BREAUX), the Senator from Hawaii (Mr. INOUYE), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. DODD) is attending a funeral.

I further announce that, if present and voting the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mr. MOYNIHAN) would each vote ''no.''

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

The result was announced—yeas 48, nays 47, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—48

Abraham	Domenici	Mack
Allard	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Bunning	Gregg	Roth
Burns	Hagel	Santorum
Byrd	Hatch	Sessions
Campbell	Helms	Shelby
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Jeffords	Specter
Craig	Kyl	Stevens
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich

NAYS—47

Akaka	Enzi	Leahy
Baucus	Feingold	Levin
Bayh	Feinstein	Lieberman
Biden	Fitzgerald	Lincoln
Bingaman	Graham	Mikulski
Boxer	Harkin	Murray
Bryan	Hollings	Reed
Chafee	Johnson	Reid
Cleland	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dorgan	Kohl	Schumer
Durbin	Landrieu	Smith (NH)
Edwards	Lautenberg	
Thomas	Torricelli	Wellstone
Thompson	Warner	Wyden

NOT VOTING—5

Breaux	Inhofe	Moynihan
Dodd	Inouye	

The amendment (No. 344) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 350

The PRESIDING OFFICER. Under the previous order, there is now 5 minutes debate on the Schumer amendment, to be equally divided in the usual form. Who yields time?

Mr. LEAHY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Will Senators please clear the aisle and take their conversations off the floor.

The Senator from New York.

Mr. SCHUMER. Mr. President, this amendment is a very simple one. It requires Internet web sites which offer at least 10 guns for sale to be federally licensed firearm dealers—no more, no less. It closes the loophole which has allowed unlicensed, and only unlicensed, gun brokers to set up web sites offering thousands of guns for sale.

Right now, if you punch into the web you will see legitimate gun dealers who will continue just as they have been, and you will see lots of unlicensed gun dealers.

Mr. CRAIG. Mr. President, the Senate is not in order. The Senator from New York deserves to be heard on this issue, as will I.

The PRESIDING OFFICER. The Senate is not in order.

Mr. CRAIG. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Again, this bill has no effect on chat rooms, on newspaper want ads, or on licensed dealers in any way. It does not restrict advertising or the sale of guns on the Internet. It is a very simple and modest measure which says that unlicensed dealers cannot—cannot—sell guns on the Internet. If they wish to become a dealer, which is relatively easy, then they will be able to.

The entire nature of the black market in guns will make a quantum leap if we do not deal with this problem. The Internet has already become for some, and will become for many, the method of choice by which children, criminals, and the mentally incompetent get guns. Presently the unlicensed dealers sell their guns completely on the honor system. Let me quote one, GunSource.com:

> Because user authentication on the Internet is difficult, we cannot confirm that each user is who they claim to be.

That is how a 17-year-old Alabama boy got a semiautomatic last month.

The Weapons Rack:

> It is the sole responsibility of the seller and buyer to conform to regulations.

My colleague from Idaho said last night there are laws on the books. You can't enforce them on the Internet unless you have a dealer, because if somebody says on the Internet that he is 22 and gets a gun mailed to him and he is really 14, the post office is not going to open every piece of mail that might have a gun. We wouldn't want them to.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHUMER. I ask unanimous consent for 30 seconds to finish my point.

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

Mr. SCHUMER. Just this morning we did not close the gun show loophole. Maybe we will, but we have not. Let us not say the same about the Internet loophole. We can easily close it by simply requiring everyone who sells to be a licensed dealer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, Senators who just voted for the immediate past amendment have voted to clarify and limit advertising on the Internet, both for guns and explosive materials. Remember, the Internet is an advertising medium. Guns do not materialize through the screen of the computer if you order them. In fact, if you order a gun on the Internet, here is what American Guns says:

> Please note, a buyer must first call the seller of the gun, confirm the price available, arrange for a Federal-firearms-licensed dealer in your State to receive shipment. Your FFL dealer must send a copy of their license to the seller.

The Senator from New York mentioned the 17-year-old Alabama boy. If that happened—and I am not saying it did not happen; he has the news story—three laws were broken. Three laws were broken. The teenager attempting to buy the gun broke a law. The person who trafficked the gun, transported it, broke a law—you cannot transport a gun through the mail service, through a common carrier. There has to be contact in these relationships or laws are broken.

I must also tell you, although I am not a constitutional attorney, he walks all over commercial speech. This is advertising. We have corrected those kinds of things in our bill to make sure we keep the Internet clean, but we went one step further, we went after the explosive materials and the kinds of devices that were used in Littleton. I think all of us want that corrected. That is what you voted for. Let's not trample on the marketing that goes on, advertising on the Internet. Let's keep this bill and the Internet clean and protect those kinds of rights.

I yield my time.

Mr. HATCH. Mr. President, is all time yielded back?

The PRESIDING OFFICER. Thirty seconds remain.

Who yields time? The Senator from Utah.

Mr. HATCH. Mr. President, I do hope this amendment will be tabled. I intend

to move to table it. I know my colleague is very sincere about it, but I am concerned about decent, law-abiding people and having these onerous burdens placed upon them.

Mr. President, I move to table. 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 agreeing to the motion to table amendment No. 350.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE), the Senator from Utah (Mr. BENNETT), and the Senator from Florida (Mr. MACK) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from Hawaii (Mr. INOUYE), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. DODD) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mr. MOYNIHAN) would each vote ''no.''

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—50

Abraham	Enzi	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bayh	Gramm	Roberts
Bingaman	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Landrieu	Thompson
Domenici	Lincoln	Thurmond
Edwards	Lott	

NAYS—43

Akaka	Fitzgerald	Mikulski
Baucus	Graham	Murray
Biden	Harkin	Reed
Boxer	Hollings	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Torricelli
Daschle	Lautenberg	Voinovich
DeWine	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Feingold	Lugar	
Feinstein	McCain	

NOT VOTING—7

Bennett	Inhofe	Moynihan
Breaux	Inouye	
Dodd	Mack	

The motion was agreed to.

Mr. CRAIG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BROWNBACK). The distinguished majority leader.

Mr. LOTT. Mr. President, for the information of all Senators—and I see there are a few still interested in what the schedule may be; a few have decided they will worry about it next week—I will propound a unanimous consent agreement now that would allow for a list of amendments to be locked in and passage time of this vital piece of legislation.

I know that Senator HATCH and Senator LEAHY, Senator BIDEN, and Senator SESSIONS have spent a lot of time trying to craft this legislation, and there are some good features in here. I am sure there are a lot of Senators who have agreed or disagreed with certain parts of it, but there are a lot of good things that have been included. If this agreement can be entered into, then this vote that would be coming up would be the last vote until Tuesday morning. If the agreement cannot be reached, then we have no other alternative but to keep going forward today and have votes to try to dispense with this legislation.

I think it is important that we get the list locked in and find a way to bring it to a reasonable conclusion, with Senators being able to offer amendments and have debate during the day today and on Monday, and then we would have votes on Tuesday and Tuesday night.

It is very hard for the leadership to try to honor all Senators' requests. First of all, all Senators knew that we would be having votes today, and yet a lot of them have complained about it and have now left. It is very hard to get amendments accommodated and voted on when Senators say: I do not want to vote Thursday night. Or when we have Senators that say: I have to be gone Friday. Or when we have Senators say: I have amendments I want to offer, but I don't want to do it Thursday night, Monday or Friday. I want to do it Tuesday afternoon when it is convenient for me, even though it may inconvenience 99 other Senators.

I am asking Senators, please, be reasonable. I know on both sides there has been an effort to narrow down the list and get a way that we could have votes on key amendments and bring it to a conclusion. But it is very hard when you have that kind of attitude with Senators saying: I don't want to do it on Thursday night or I don't want to do it on Friday or I don't want to do it on Monday. I would like to do it at my pleasure, Wednesday afternoon.

I hope we can at least lock in amendments where they won't continue to grow. We have had a lot of good debate and a lot of good amendments.

I now ask consent the following amendments be the only remaining first-degree amendments in order, with relevant second-degree amendments in order only after a vote on or in relation to the amendment and the amendments limited to time agreements where noted, all to be equally divided in the usual form.

I further ask that all first-degree amendments be offered and debated on Friday and Monday's session of the Senate, with votes stacked to occur in the order offered beginning at 9:45 a.m. on Tuesday, with 5 minutes for debate equally divided prior to each vote.

I further ask that following the disposition of the listed first-degree amendments, the bill be advanced to third reading and passage to occur, all without any intervening action or debate.

I do have a list of amendments and I need to, I believe, read and submit them. I will just send it to the desk.

I believe Senators REID and DASCHLE have a list of amendments on their side they would like—are you going to submit those to the desk now?

Mr. DASCHLE. Mr. President, if the majority leader has propounded a unanimous consent request, reserving the right to object, let me just respond first by sympathizing with his lament about scheduling votes. It is extraordinarily difficult, and both of us are confronted daily with requests for certain prerequisites with regard to votes that make it increasingly difficult for us to schedule legislative debate. There are people who are objecting to votes now even on Friday mornings. I remember Senator Mitchell once lamenting to me personally that the only time he could absolutely schedule a vote without any criticism was Wednesday afternoon. I think there is a lot of truth to that. Now I know fully what he meant. And that is before 7:00.

We have been on this bill for 3 days. We have had 15 amendments offered, and there have been good debates. There have been time limits associated, as I understand it, with each one of the amendments. There have been 14 rollcall votes. Our side alone began with a list of 89 amendments, and I do not in any way diminish the importance of any one of those amendments. I think that they are all worthy amendments. Not one of them was dilatory, not one of them was irrelevant to this bill. The problem, however, is that with the extraordinary work of Senator REID and Senator DORGAN, we have now been able to persuade our colleagues to reduce that list. Many of them have waited patiently with the expectation that if they waited patiently, they would get their turn. In many cases, they have waited now 3 or 4 days to be able to offer their amendment.

Now what we are telling them is that we want you to offer them today or Monday, even though we have spent 3 days and we have only been able to get through 15 amendments. We have been able to get our list down to around 30 amendments, as I understand it. So it would be very difficult, without further cooperation on both sides, to accommodate the unanimous consent request that the majority leader has understandably propounded.

So we will have to object to his request. We would be more than willing to enter into an agreement that would require a complete listing of all the amendments to be offered with time limits. We will offer amendments today and Monday, filling the day today, and then on Monday, in an effort to move this legislation along, and then stack votes on Tuesday, as the majority leader has requested.

What we can't agree to, given where we are right now, is any time certain for final passage—recognizing the majority leader's desire to work through a number of other bills yet next week. At least right now, that is not something that we can agree to. I hope, at the very least, as the majority leader suggested, we can submit the list, work on that list, and we can even tighten up the time limits. I think that is all doable.

So I have to object to the request as it was propounded.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I will have another suggestion on what we might be able to do in a moment. I want to remind Senators that next week we have the Y2K liability issue that we need to have concluded. The House has voted on that. The clock is running. This is not an issue we can leave unclarified any longer, because we are fast approaching the time when this liability question has to be known and dealt with in one way or the other because we are fast approaching the turn of the clock into the next millennium. We also have, after a lot of difficulty, the supplemental appropriations bill, which we have waiting in the wings. We need to bring that up. We also have the bankruptcy bill that is scheduled for next week—a bill that has overwhelming bipartisan support on both sides. That bill is beginning now to be squeezed out of the picture because of other bills.

I want to complete this bill. Two years of effort has been put into juvenile justice, and we need to have some decision made in that area. We have had amendments, and more will be offered, on violence in the schools and how we deal with it, and violence in the movies, and the gun issue. So we need to try to find a way to conclude it.

I will then propound another UC, the same as the earlier one, with votes occurring on Tuesday morning, stacked. Those amendments that had been debated on Friday and Monday, beginning at 9:45, with 5 minutes of debate; and instead of asking that following disposition of the listed first-degree amendments the bill be advanced to third reading and passage occur all without any intervening action or debate, I will modify that to say we will go to third reading and final passage at 5 o'clock on Tuesday. That way, we would have the debate on amendments the rest of today, on Monday, votes on Tuesday morning, more amendments and debate with time limits, and final passage to occur no later than 5 o'clock on Tuesday afternoon.

Then we would be prepared to have a vote on the Y2K liability issue and go to the supplemental on Thursday, hopefully completing it. Although the supplemental can't be completed probably in just a couple of hours; it will take a little longer. Then we would go to bankruptcy after that. I will make that request. The Senator suggested that we go ahead and use the bulk of Tuesday. I think that is fair, and I hope we can get this agreed to.

Remember, I made a commitment to call up this bill so we could have this debate, and I made a commitment to bring it up on last Tuesday, I guess. Actually, we started on Monday. We agreed we would work to try to complete it on Thursday. That effort has been made by Senator DASCHLE, along with Senator REID, and I appreciate that. We haven't been able to achieve that. So we will have other amendments and debate on Friday, Monday, votes on Tuesday morning, more debate, amendments and votes Tuesday afternoon, but finish it up Tuesday. That will have been a full week. That will have been 7 days we will have spent on it. I believe that we will have been able to craft, hopefully, a good bill, and we have all been able to make our case and get to a conclusion. I make that request.

Mr. DASCHLE. Mr. President, reserving the right to object, first of all, I failed to mention my admiration for our two managers and the excellent job they have done in getting us to this point. This has not been easy. They have worked diligently on both sides to bring us to this point. I want to reiterate my gratitude for the effort they have made to get us here.

In the 103rd Congress, we spent 11 days on a bill of this kind. It was a very important piece of legislation—I guess it was 12 days. So it is difficult to bring up a bill of this complexity and controversy without having the opportunity to spend some time on it. As the majority leader noted, he has brought this up, as he promised he would, open to amendment. I have indicated that if we were to do that, I would work as hard as I could to ensure that we stayed on the bill and worked diligently to ensure that it is completed in a reasonable time. My hope was that we could do it this week. I think we will get it done in a reasonable time early next week.

I am unable to agree to that time limit just because, again, we don't know what the circumstances will be Tuesday. But I will promise this: We will continue to make the effort we have made over the last few hours to lock in time limits on all of the amendments and to make sure there is no quorum call, or any other intervening time that would be dilatory. We want to back these up, one after the other. So we will agree to a list and time limits, but I will have to object to a time certain for final passage.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I yield to the chairman.

Mr. HATCH. Mr. President, I have listened carefully to the minority leader, and I appreciate his usual courtesy. But just stop and think about this. There has been all this time on this bill. If we were to vote on it today, it would pass overwhelmingly. It would make a tremendous amount of difference to this country at a time when that tremendous amount of difference needs to be made.

We all know how this game works around here. If we don't put a finality to it—and our leader has tried to do that—in this very tight time-constrained situation, with Y2K and all the other bills that have to come up, defense bills, the supplemental appropriations bills, and other types of appropriations bills, we will wind up spending another 4 or 5 days, or maybe even 2 weeks, on this bill. I know the majority leader does not have that much time and neither do we on this side.

If we wind up without a juvenile justice bill this year after we have come this far, I think it would be catastrophic for this Nation. The next time we have another situation like the Columbine massacre, I wonder what kind of excuse we are going to use at that time if we didn't do the very best we could.

I hope my colleagues on the other side will think this through. We are seeing a situation that could bring this bill down because we don't have the time to play politics with it. To have everybody bring up their amendments—we could go on for years with amendments on juvenile justice. We have done that for 2 years now. I know the distinguished ranking member of the Judiciary Committee has worked closely with me to get this to a conclusion.

I think this is a pretty fair offer. I understand the minority leader may not be able to get his people together on this at this particular time. But let me tell you, I can't blame our majority leader if he has to pull this down and get the other bills done under these circumstances. I am very concerned.

Mr. LOTT. Mr. President, in view of the objection, I will get the amendments locked in.

I ask unanimous consent, then, that the following amendments be the only first-degree amendments in order, with relevant second-degree amendments in order, only after a vote on or in relation to the amendment and the amendments limited to time agreements, where noted, all to be equally divided in the usual form.

I have sent to the desk my list of amendments.

The list is as follows:

JUVENILE JUSTICE AMENDMENTS

B. Smith—relevant.
B. Smith—relevant.
B. Smith—judges/felons

B. Smith—gun lawsuits
Stevens—parenting; 20 minutes.
Stevens—brain dev.
Stevens—relevant.
Helms—relevant.
Helms—relevant.
Ashcroft—IDEA
Chafee—trigger lock.
Chafee—prevention.
Chafee—site and sound separation.
Chafee—title 1 of the bill.
Specter—prevention.
Bond—film industry.
Hatch/Feinstein—gangs.
Frist—victims rights
Santorum—Aimee's law; 20 minutes.
Craig—Fed Grants, gun safety.
Craig—self defense prevention.
B. Smith—2nd amdment right protection act.
McConnell—fed prop/violent movies; 30 minutes.
Ashcroft—try juvenile as adults; 20 mintues.
Inhofe—prohibit violent video games.
Gregg—ID for NC 17 movies.
Gregg—faith based intervention.
McCain/Lieberman—National YV Comm.
Abraham—locker searches; 20 minutes.
Sessions—disclaimer.
Allard—memorials school property; 30 minutes.
Lott—4 relevant.
Hatch—2 relevant.
Gramm—relevant.
Gramm—Family law.
Sessions—Hotline.

Akaka—gun registry.
Biden—Cops.
Bingaman—School security.
Boxer—After school programs.
Boxer—No guns until 18 years old.
Byrd—Sale of alcohol to minors.
Byrd—Relevant.
Daschle—Relevant.
Daschle—Relevant.
Daschle—Relevant.
Dodd—Truancy.
Dodd—Conflict resolution.
Dorgan—Son of Sam laws.
Durbin—Child access prevention.
Durbin—Waiting period.
Feinstein—Gun industry package.
Feinstein—Separation (w/Chafee).
Feinstein—Gangs (combined w/4 and 5 as 1 amdt)
Feinstein—body armor.
Feinstein—Bomb-making.
Harkin—School counseling.
Harkin—IDEA.
Kennedy—Labor.
Kerrey (NE)—Gun shows.
Kerrey (NE)—State advisory committees.
Kerry (MA)—Early childhood development demo project.
Kohl—Child safety locks.
Kohl—Prevention block grants.
Lautenberg—Juvenile mentoring program.
Lautenberg—Gun shows.
Leahy—Relevant—Managers amendment.
Leahy—Relevant.
Leahy—Relevant.
Leahy—Relevant.
Leahy—Relevant.
Levin—Semi automatic.
Lieberman—National youth violence commission.
Moynihan—black powder.
Moynihan—Explosives.
Reid—Relevant.
Schumer—Prohibition sales handguns, semiauto/large capacity.
Torricelli—Gun kingpin penalty act.
Torricelli—Explosives.
Wellstone—Mental health treatment.
Wellstone—Mental health treatment.
Wellstone—Access to legal representation.
Wellstone—Disproportionate minority requirement.
Wellstone—Welfare tracking.
Wellstone—Integration mental health into ESEA programs.
Wellstone—SEED money states for mental health providers school.

Mr. LOTT. Mr. President, do we have Senator DASCHLE's list of amendments?

Mr. DASCHLE. Yes. We submitted it.

Mr. ASHCROFT. Reserving the right to object, is there a list of amendments?

Mr. LOTT. Yes. Senator ASHCROFT's amendment is on the list.

Mr. ASHCROFT. I have no objection.

Mr. WELLSTONE. Reserving the right to object, I want to make sure I know what is on the list.

The PRESIDING OFFICER. Is there objection to the request by the majority leader?

Without objection, it is so ordered.

Mr. LOTT. Thank you, very much, Mr. President. At least we have locked in the amendments where they will not continue to multiply. But I don't view this as a positive development. It is unfortunate. If Senators are waiting to see if there are any now, there will not be any further rollcall votes today. The next rollcall vote will occur probably at 9:30 Tuesday morning. But we will need to make sure, and we will make the Democratic leader aware of the exact time and the vote. I presume that vote will be on Y2K.

I yield to Senator LEAHY.

Mr. LEAHY. Mr. President, I think the distinguished majority leader is saying it is not a positive development. Of course it is. We have cut back very substantially on the number of amendments. On this side, we cut out two-thirds of our amendments. We have worked very closely. I have not had a single Senator on the Democratic side who failed to agree to a time agreement every time the distinguished majority managing Senator wanted it. They have agreed, in fact, to each and every single one. In fact, we have had Senators who brought up amendments who took less time to debate the amendments than some of the rollcalls have taken while we have waited to see who had to leave.

Mr. LOTT. If I could respond, just to show you what I am talking about, at least this stops them from multiplying. But this is a pathetic accomplishment. There are 100 Senators, and we have about 75 amendments left. Please, let's get serious. Every Senator doesn't have to offer an amendment. We can make our case about what we think is positive juvenile justice and what is causing the violence in our country and the violence in our schools. I think it is a societal and a cultural problem. I don't think it is as a result of guns in this country. It is why these things are happening, not what and who.

This is very minimal. It is a very, very disappointing accomplishment. We will have to evaluate now how to proceed.

Mr. LEAHY. Mr. President, if the Senator could respond on that, he said there are 100 Senators, and they don't all have to put them in.

In 1994 we had the crime bill. It was on the floor for 12 days—over 3 weeks. There were 99 amendments. Maybe there was one Senator who did not have one. I mention that only because of what the Senator from Mississippi said. But there were 99 amendments, a great bulk of them coming from the other side. And in no way did the then Democrat majority seek to cut them down. It took 12 days—over 3 weeks. The predecessor to this is S. 10. The Judiciary Committee, under the distinguished leadership of the Senator from Utah, met in the summertime for over 6 weeks to work on 55 amendments.

Mr. LOTT. If I might respond.

Mr. LEAHY. We can clip through these things.

Mr. LOTT. If we have to spend a month on a bill, or 6 weeks on a bill, how many bills are we going to be able to take up that are important to our country? The defense authorization bill is one that we have to take up next week. It is extraordinarily important, because here we are with our troops engaged in combat at this very moment. We have to get that work done.

It is a very interesting crossfire you get into when we are saying, wait a minute, we have to have 99 amendments, we have to have 6 weeks, or 11 days, on this piece of legislation.

Mr. LEAHY. I am not suggesting that.

Mr. LOTT. Then the argument is, why aren't we doing more bills? You can't have it both ways.

Give it a reasonable time, give it full debate, have reasonable amendments, and then vote.

I, frankly, feel used and put upon. I thought we were going to have a good debate, have amendments, and complete this by Thursday night. I understood there was good effort being made. We said, OK, we will be in on Friday, debate all day on Friday, and debate all day on Monday, with votes Tuesday, and all day Tuesday. There has to be an end to this. There has to be some reasonableness.

But look, we made our point, and now that we have the amendments locked in, hopefully the managers and others can find a way to figure out how to end this. When they do, give me a call.

Mr. SESSIONS. Mr. President, will the majority leader yield?

Mr. LOTT. I would be glad to yield.

Mr. SESSIONS. I just want to say to the majority leader how much I appreciate his leadership, and that of Senator HATCH. One reason we ought not to have so many amendments is that Senator HATCH, in managing this bill, has worked to accomplish and accommodate as many amendments as there could possibly be. I am just concerned that we don't have a final time agreement. I think that reflects and suggests there are some in this body who do not want a bill passed. I think it would not be helpful. We need to pass

this legislation. And we have accommodated greatly those who have differing views. I think it is a good bill, and it will be a tragedy if we do not complete it. I know you have to have at some point a time limit or we cannot continue with it. I hope the Members of the other party will agree to a time limit.

Thank you.

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

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. LOTT. Yes.

Mr. WELLSTONE. Mr. President, first of all, as the majority leader knows, there are some of us who have waited patiently. We have amendments that are right on point with this legislation. We are concerned about things like disproportionate minority confinement, some of the sort of sentencing that has to do with race, some of what is very weak in this bill in addressing that. My colleague from Alabama says it would be a tragedy if this bill didn't pass. Some of us think it would be a tragedy—let me finish if I could.

Mr. LOTT. I want to make it clear that I didn't yield the floor but I would be glad to yield to the Senator for his comments.

Mr. WELLSTONE. Thank you.

Some of us think it would be a tragedy if this bill passed in its present form without an opportunity to try to make this a much better bill. I gave one example. I can talk about the amendments that deal with juvenile justice and mental health. There has been very little focus on that. I think there has to be a full-scale debate and discussion about what it means when so many kids of color are disproportionately incarcerated. What does that mean in America? And what kind of legislation is this that does not allow States to do the kind of investigation they need to do, or that really doesn't give the States the encouragement to do that kind of investigation so we can understand it better?

There are a lot of key issues here that are directly relevant to this piece of legislation. Nobody is talking about 6 weeks. Nobody is talking about 1 month. But in all due respect, you brought the bill out. It is called the juvenile justice legislation.

I would like to have an opportunity to vote on this on the justice part. There are a lot of serious human rights abuses in some of these facilities. I have visited some of these facilities in this country, some of which are snake pits. I would like to make sure that these kids, even if incarcerated, are treated in such a way that it is correctional.

Don't tell me that the kinds of amendments I have in mind aren't on point. I think we would be willing to move forward on this legislation. I want the majority leader to know that it is not a question of 6 weeks, it is just a question of some of us refusing to essentially be squeezed and jammed, to be told: All right, now we don't focus on a lot of the substance of this legislation.

We have amendments. We are ready to debate these amendments. I will bet that if we even went another day, Tuesday, and we could offer amendments Tuesday as well when people are here and then we finish as soon as possible, that we would move forward—if I could just finish.

Mr. LOTT. Just one point.

Mr. WELLSTONE. If I could finish my statement; I have been patiently waiting here.

Let me just be crystal clear that when I hear colleagues from Utah and Alabama, both of my friends, say it is a great piece of legislation, it would be a tragedy if it didn't pass right now, that they have presupposed what is in doubt about a good piece of legislation. Aren't there places where it could be corrected? Aren't there things we could do better?

I give one example: the amendment I introduced with Senator KENNEDY which deals with the whole problem of disproportionate minority confinement. We need time to do that.

Mr. LOTT. If the Senator would, perhaps I could go ahead and do my work, and he could continue after that.

Mr. WELLSTONE. I said what I needed to say.

Mr. LOTT. The Senator from Minnesota suggested that if they could offer amendments on Tuesday and get votes, that would be positive and we could complete this bill. As a matter of fact, that is what I suggested and it was objected to.

Mr. WELLSTONE. What I thought I heard was no debate, and that all debate would be over.

Mr. LOTT. No. What I suggested was we have Senators—I realize it is hard for Senators to work on Fridays and Mondays. It is a real inconvenience. But what I suggested was the amendments be offered on Monday, on Friday, and debated, that amendments be offered all day Monday—the Senator could surely get his amendment offered on Monday, and I think it is one that ought to be offered and debated—have the debate, and then on Tuesday we would vote on all those amendments that had been offered up to that point, and have votes. Then we would go on to other amendments with time limits agreed to during Tuesday afternoon, and then have those voted on, and final passage by Tuesday afternoon.

That was objected to.

The problem is, Senators don't want to offer their amendments on Mondays or Fridays or Tuesday afternoons. It really makes me question whether they are serious about getting to a conclusion.

Mr. WELLSTONE. If I could respond to the majority leader, I have amendments that are on point. I am more than ready, willing and able to debate these amendments, but I believe what Senator DASCHLE was saying, and this was the point I was trying to make, in all due respect, the substance of this legislation, the juvenile justice legislation, you can't artificially say by the end of Tuesday that is it; surely, Senators don't have anymore amendments that deal with this topic; surely, we don't have anymore time to spend on this.

We are talking about kids. We are talking about how to prevent kids from getting into trouble. We are talking about the best kind of corrections for kids that get into trouble. We are talking about a lot of issues here.

I think Senator DASCHLE was saying you just can't simply say if it is not done by Tuesday, it is all over, period.

AMENDMENT NO. 351

(Purpose: To allow the erecting of an appropriate and constitutional permanent memorial on the campus of any public school to honor students and teachers who have been murdered at the school and to allow students, faculty and administrative staff of a public school to hold an appropriate and constitutional memorial service on their campus to honor students and teachers who have been murdered at their school)

Mr. LOTT. Mr. President, I send an amendment to the desk, No. 351. I am pleased to join Senator ALLARD from Colorado in offering this amendment.

It would allow the erecting of an appropriate and constitutional permanent memorial on the campus of any public school to honor students and teachers who have been murdered at the school and allow students, faculty, and administrative staff of the public school to hold an appropriate service on their campus to honor these students and teachers.

I am horrified to find, and I think the American people would be horrified to find, that there are those in this country who object to having appropriate memorial services on the school campuses for teachers and students who are murdered. This should clearly be included in this legislation.

I am pleased to join Senator ALLARD in that amendment.

The PRESIDING OFFICER (Mr. GREGG). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. ALLARD, for himself and Mr. LOTT, proposes an amendment numbered 351.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . CONSTITUTIONALITY OF MEMORIAL SERVICES AND MEMORIALS AT PUBLIC SCHOOLS.

(a) FINDINGS.—The Congress of the United States finds that the saying of a prayer, the reading of a scripture, or the performance of religious music as part of a memorial service that is held on the campus of a public school in order to honor the memory of any person slain on that campus does not violate the First Amendment to the Constitution of the United States, and that the design and construction of any memorial that is placed on

the campus of a public school in order to honor the memory of any person slain on that campus a part of which includes religious symbols, motifs, or sayings does not violate the First Amendment to the Constitution of the United States.

(b) LAWSUITS.—In any lawsuit claiming that the type of memorial or memorial service described in subsection (a) violates the Constitution of the United States—

(1) each party shall pay its own attorney's fees and costs, notwithstanding any other provision of law, and

(2) the Attorney General of the United States is authorized to provide legal assistance to the school district or other governmental entity that is defending the legality of such memorial service.

Mr. ALLARD. Mr. President, first of all, I thank the majority leader for giving me an opportunity to participate more fully in this legislative process and for his profound concern for the people of Colorado. The majority leader has been especially sensitive to this tragedy as it affected the students, parents, teachers, administrators and the support staff at Columbine High School in Littleton, CO. I appreciate his willingness, along with the chairman of the Judiciary Committee, to work with me on possible solutions in the youth violence bill. There will be proposals to try and prevent future tragedies of this nature in our Nation's schools. There will be those who will try and take advantage of this tragedy for their own personal gain. Sadly, in some cases, some people have already sought to gain from this horror.

There will be those who will want to completely ignore the problem believing that it will go away on its own. There will be those who share the views of many editorial writers in Colorado that this is a very complicated issue and that no simple solutions are going to be forth coming. These writers echo my views that only a comprehensive examination of all the contributing factors will yield smart, effective policy.

The natural reaction is to seek simple solutions by laying blame. Was it inadequate laws? Inadequate enforcement? Do we blame parents, teachers, students themselves, administrators, politicians, organizations, the entertainment industry, churches, or the whole of society? Do we blame the Constitution of the United States?

We need to put all this finger pointing aside and realize that we didn't come to this point overnight, that no one-thing is culpable, and that finding sensible solutions will take some time. Now is the time to concentrate and focus on what can be done about the emerging violence we are seeing in our schools. This is the time for us to look for responsible solutions. Now is the time to try and come up with common sense solutions that will make schools more safe.

The Constitution of the United States is one of civilization's greatest documents. It has served magnificently as the basic governor of this nation, the world's greatest nation, as it has developed and thrived for over 200 years. The Constitution continues to serve us well and will serve us well as we go through dramatic change in the future.

It is the bedrock and the foundation that moves us through national crises while preserving individual freedom. It empowers and checks the government in thoughtful, humble, and timeless language. I would like to take this opportunity to briefly examine the Bill of Rights in the context of today's world and in light of the recent shootings in our schools.

During the most recent violent school crisis in Colorado and previously in Oregon, Arkansas, Kentucky, and Mississippi, we are suffered the sense of loss, pain, anger, and frustration from each event. We collectively witnessed the anguish of students, teachers, parents, administrators, and law enforcement through an intense and at time intrusive news media invasion. The wide and dramatic coverage of these events often inspires copycat crimes. But we do not throw out the first amendment.

We have seen what happens in societies where there is no freedom of the press. We have witnessed the danger of censorship and government control of the media most recently in Iraq and Yugoslavia; ruthless dictators shut off the free flow of information to strengthen their grip on people who don't enjoy the benefits of a free press! Yes, some who report the news can be insensitive, irritating and down-right rude, but the alternative is far worse. Most news reporting is responsible.

It seems as though we re flooded in today's world with acts of violence from guns, knives, and bombs. Anger wells-up inside us as we read and witness such senseless acts of violence, especially in our schools which are supposed to be safe havens for learning. There are many responsible, law-abiding Americans who own and use firearms today.

We have witnessed many cases where ruthless dictators have moved early in their reign to disarm their soon-to-be victims. Yes, of the 270 million people in this country there are a few who are a menace to society with the guns that they own, but we cannot forget the many responsible gun owners in the United States. Guns have sporting uses, but they also save lives. Let us not forget that guns have been used to protect people, and they will continue to do so in the future.

The third amendment to the Constitution talks about the excesses of the military in terms of the home. It recognizes the right of the citizen to have his own home and to have it as his sanctuary free from any soldier claiming a greater right than the citizen. In times of civil crisis we occasionally see the military used to ensure safety.

Most soldiers are dedicated and trustworthy servants of this country and it is only on the rare occasion that one is not. Throughout these crises in our schools we have seen a highly charged and emotional police force move to secure the area and conduct an investigation. People are calling for quick action, looking for people to blame, and being critical of every move. The fourth amendment protects students, teachers, administrators, and parents from unfounded accusations and unwarranted seizures. It protects them from the crafty criminal who may want to shift the focus and action to an innocent party. One does not have to look far to see that people in parts of Central America, Iraq, and Yugoslavia do not have this right. During these times of crisis in our schools, people in and around these institutions are protected by due process of law.

They cannot be deprived of their life, liberty, and property without due process of law; nor shall private property be taken for public use without just compensation. Some Americans want to disregard these provisions in a time of crisis. There are those who demand immediate resolution regardless of cost, but here we see the grandeur of the fifth amendment as it protects people from whims and the heat of a crisis.

In any time of urgent need or catastrophe, the innocent may fall victim to false accusations. This is particularly obvious when elected officials are trying to show the electorate that they can produce results. We have seen the innocent accused and then exonerated by the justice system in cases of violence in our schools, and for this we owe the sixth amendment to our Constitution.

During these troubling times in our schools there are claims of injury placed against those who have had a public responsibility. The vast majority of our public servants are good decent Americans who work to serve other people. There are a few, for one reason or another, who fail to carry out their responsibilities. The method for redress in these sad circumstances is provided in the seventh amendment.

In responding to the horrific events in our schools the justice system is required to balance bail and punishment with the crime committed. The eighth amendment provides for this process to be fair and judicious.

And what of rights not clearly enumerated in the Constitution? The ninth amendment expressly states that as sweeping and dedicated to liberty as the document is, it cannot provide for all freedoms. The ninth amendment allows for the protection of rights not clearly defined by the Constitution indicating a wisdom that we embrace as we approach any crisis.

The 10th amendment prevents the Federal Government in times of crisis from ignoring the role of the States. Our forefathers feared most of all not the military but a national police force. The individual states were given the basic responsibilities of law enforcement, and in times of school crisis we have witnessed the effectiveness of this provision. We have also witnessed

through our history many nations terrorized by a national police force. In these cases isn't an armed citizenry capable of defending itself the preferred but not perfect solution?

My purpose for reviewing these vital amendments to our Constitution, this grand Bill of Rights, is to illustrate that in times of crisis, these rights are the layers of a foundation of liberty on which we live. This bedrock is the sacred strength of our nation. It is the bedrock that supports our churches, our homes, our businesses, and our schools. A natural tendency in times of crisis is to drive wedges into this bedrock in search of a solution. It is my hope that we conduct this debate upon the bedrock, and not within it.

I hope during this debate we keep in mind that we do not have the power to eliminate all violence in all schools. We must strive to restore a safe environment for learning within the bounds of individual freedom. A few must not be allowed to destroy that which the American people have prospered and come to appreciate over several centuries. Common sense and sensitivity must prevail.

In that light I believe there are things we can do to address school violence. There are no simple solutions and it will not happen overnight but I believe we can begin to move down that road by improving the safety in our schools. Even though schools will be our focus, the problems we face go far beyond the walls of any school, any community, any state, or for that matter any country. The laws we pass will have far reaching effects on numerous aspects of our society. I look forward to proceeding through this legislative agenda in a thoughtful manner, mindful of our sacred responsibility to the bedrock of our nation—the Constitution and the Bill of Rights.

I was recently given the honor and privilege of chairing a task force on Youth Violence. This task force, composed of twelve Senators, has thoughtfully deliberated over the problem of youth violence for the past two weeks. Our efforts are, in part, a response to the recent tragedies seen in our nation's schools. We support S. 254, the Juvenile Justice bill, and the efforts of Chairman HATCH and his committee who have labored for the past several years to draft careful reforms that will positively impact our juvenile justice system. In addition, we have come to a consensus on several themes which affect juvenile crime, education and our culture. This package of legislative proposals applies reasonable reforms which we hope will enhance the work of Senator HATCH and his committee.

The consensus of themes our task force will be working toward this week are:

Stengthening prevention and enforcement assistance to State and local government. This is the first step in a plan which infuses funds to State and local authorities to combat juvenile crime. The Federal government will assist states best by providing flexible block grants. Our plan includes juvenile crime grants; improving our management of juvenile crime records; targeted prevention funding; a plan for graduated sanctions which begin early—when the first signs of delinquent or antisocial behavior appear, and alternative education opportunities for at-risk or problem juveniles.

Another point is pushing back the influence of cultural violence by empowering parents and encouraging the public to be socially responsible. Our second step is to help our culture do more to limit the exposure of America's children to harmful and violent entertainment. Following the recent tragedy in my state, it seems clear that our culture's fascination with violence played some role in the thoughts and motivations of the cruel perpetrators of the crimes in Littleton. This includes enacting an entertainment industry code of conduct that allows for further development and enforcement of rating systems to limit exposure to children of material that the industry itself has deemed inappropriate for children. We include a plan to investigate the marketing practices of the entertainment industry where children are concerned. This plan also includes empowering Internet service providers to offer screening and filtering software that is designed to empower parents to limit access to material unsuitable for children. Our package also includes a plan to prohibit the posting of bomb making instructions on the Internet.

Last, I am offering two amendments which liberate students and faculty to hold memorial services or to construct a memorial on school property in the aftermath of a tragedy.

I will conclude my statement today with remarks on these amendments. The final theme of our package reinforces the theme that it is time to get tough on violent juveniles and firearms used by criminals. The Republican plan makes it more difficult for a juvenile to gain access to a firearm and insures that violent juveniles—teenagers who commit violent crimes—will be held accountable for their actions. We do this by ensuring the prosecution of those who abuse existing firearms laws. This means directing the Department of Justice to make firearms prosecutions a priority—something they have not been so far. We address gun show safety and firearms background checks, juvenile firearms possession, and penalties for firearms offenses across the board. We increase the penalty for theft of a firearm and we increase the mandatory minimum sentences for those who corrupt youth by selling them or encouraging them to sell drugs.

We also address safe and secure schools. Republicans want all children to receive a quality education. This experience should be a safe one. We propose numerous options for schools to use federal funds for better teacher training regarding violent students and school security. We provide for mandatory school discipline records disclosure for transferring students; we allow for all schools the opportunity to institute address code or school uniform policy; and we free up teachers and school administrators to adequately discipline students while at the same time giving them limited liability protection. Our bill establishes a national center to boost school security efforts and creates a national award for children with character.

In proposing this package, we do not pretend to believe our legislative actions will erase the harm already inflicted on too many Americans. Nor do we believe these laws will guard against all future threats of youth violence. But I do believe that the Congress has an opportunity today to strengthen and enhance our existing laws to empower families and communities to take action against this cultural virus seen in our youth.

Our responsibility is to apply reason and temperance to the decisions we make this week, holding close the dearly held principles of life and liberty which are expressed in our Bill of Rights. I am hopeful that the Senate will work together to accomplish this objective.

I would like to say a few words regarding my proposed amendments that will be before the Senate the first part of this next week. In the aftermath of the Littleton tragedy, I propose these amendments which will allow Congress to go on record with respect to the constitutionality of a permanent memorial or a memorial service that contains religious speech. Of course, the Allard amendments do not put Congress on record with respect to the kind of memorial that would be appropriate—that decision is for local schools and communities. The Allard amendments do, however, declare that a fitting memorial may contain religious speech without violating the Constitution.

As you approach Arlington National Cemetery, signs are posted which say:

> Welcome to Arlington National Cemetery, Our Nation's Most Sacred Shrine. Please Conduct Yourselves with Dignity and Respect at All Times. Please Remember these are Hallowed Grounds.

Similarly, Congress appropriates the funds to pay for chaplains who conduct memorial services not only at Arlington Cemetery but wherever they are needed to serve our departed men and women of the Armed Forces and their families. We recognize that paying for chaplains to conduct memorial services is not an establishment of religion by the Government, but a dignified and proper Government function. The Supreme Court has noted that the chaplaincies of the various branches of the service are constitutional. Likewise, no one could seriously contend that the signs identifying Arlington Cemetery as a sacred shrine and hallowed ground are establishments of religion.

So today I am offering an amendment which states that it is fitting and

proper for a school to hold a memorial service when a student or teacher is killed on school grounds. And it is fitting and proper to include religious references, songs, and readings in such a service. Memorial services help the grieving process of students and faculty, bring a school together in the face of tragedy, and meet a need deeply felt by so many to see their friend given recognition in a dignified and solemn manner. My amendment allows students and faculty of a public school to hold a memorial service that includes prayer, reading of scripture, or the performance of religious music at a memorial service that is held on the campus of a public school in order to honor the memory of any person slain on that campus.

As a part of my proposed amendment there is a section that allows for the construction of a memorial that includes religious symbols or reference to God on school property. In either case, if a lawsuit is brought forth, parties are required to pay their own fees and costs and the Attorney General is authorized to provide legal assistance to defenders.

This is not the equivalent of a daily school prayer. A memorial service is a very specific response to an unusual circumstance, a circumstance I hope we will not have to revisit again. The amendments specifically mention that religious songs may be sung at such memorials without violating the Constitution. The two federal appeals courts that have taken up this issue both have ruled that school choirs may sing religious music. And the Fifth Circuit Court of Appeals held that it was constitutional for a public high school choir to have ''The Lord Bless You and Keep You'' as its signature song.

In the same way, erecting a memorial that contained religious references, such as a quote from scripture, or a religious symbol from the deceased's religious tradition, would not violate the establishment clause of the Constitution.

In any community visited by such a tragedy, a person who views such a memorial with religious symbols or references that were important to the deceased would certainly not see some sort of covert attempt to establish an official religion. Rather, they would see a fitting and proper memorial to a departed friend.

I urge my colleagues to support my modest proposal. This legislation does two things. It requires that if a school holds memorial services or puts up a memorial in response to a killing on school grounds, and the school is sued, then all parties will bear their own costs and attorneys fees. A school that has experienced a tragedy of this kind should not have to worry about someone bringing a suit and winning thousands and thousands of dollars in attorney fee awards just because the school decides to hold a memorial service or put up a memorial. Second, this legislation permits—but does not require—the Attorney General to aid a school in defending against these suits.

This is one small thing we can do to help our schools respond in a humane, compassionate, and constitutional way to the violence that has become far too common in our schools. If the people of Colorado believe that religious speech is necessary to memorialize the heroism and tragedy at Columbine High School, then let them express themselves with the most profound and durable expressions of the human heart. Let us adopt this amendment today, hoping an occasion for its use may never happen again.

I yield the floor.

Y2K ACT—MOTION TO PROCEED

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 96 regarding the Y2K liability legislation.

Mr. REID. Mr. President, I object.

Mr. LOTT. Mr. President, I regret the objection has been heard from our Democratic friends. This is an important issue all over America. The clock is running.

CLOTURE MOTION

I move to proceed to S. 96, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 34, S. 96, the Y2K legislation.:

Trent Lott, John McCain, Jesse Helms, Rod Grams, Connie Mack, John H. Chafee, R. F. Bennett, Larry E. Craig, Craig Thomas, Pete Domenici, Richard G. Lugar, Sam Brownback, Ben Nighthorse Campbell, Pat Roberts, Chuck Hagel, and Spencer Abraham.

Mr. LOTT. For the information of all Senators, this cloture vote will occur on Tuesday, May 18.

I ask consent the vote occur at 9:45 a.m. on Tuesday, and the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Will the Chair explain to the Senator what the parliamentary status is in the Senate today?

The PRESIDING OFFICER. The question before the Senate is a motion to proceed to S. 96, the Y2K legislation.

Mr. REID. I ask unanimous consent that we be allowed to offer amendments to S. 254, the bill we have been working on all week.

The PRESIDING OFFICER. Is there objection?

Mr. ALLARD. Mr. President, I object.

The PRESIDING OFFICER. An objection is heard.

Mr. REID. Mr. President, I really think that is unfortunate. We have worked all week trying to resolve this issue. I have worked personally with Senator DORGAN trying to whittle down these amendments. I have worked many hours these last couple of days.

We have now on our side and on the majority side worked to bring down the amendments to a fairly good number. For the life of me, I cannot understand why we cannot proceed working all day today offering amendments. We have people who are waiting to offer amendments. I have an amendment I will be happy to offer.

We have Senators who will talk into the night offering amendments. There is no effort on behalf of the minority to delay this matter. We have worked very hard to even get time limits on our amendments. We can complete this legislation very quickly. I have had the opportunity to look through some of the amendments the majority has locked in under a previous unanimous consent agreement. We can work today, all day Monday, and then Tuesday there would not be much left to do.

It is tremendously unfortunate that we are unable to proceed on this. I will tell you why, for a couple of reasons.

When I came home last night—I worked late on the emergency supplemental. I got home around 9:30 or 10 o'clock last night and looked through my mail. I was surprised to get a letter from a longtime friend.

As some of my friends know, I was born and raised in Searchlight, NV, a very small town. There are not a lot of people from Searchlight. But I received a letter from someone who was raised in Searchlight just like me, someone older than I am but someone I have known literally all my life.

I can remember when I was a 13-year-old boy. I moved from Searchlight to Henderson, NV, where there was a high school and I was living with an aunt.

Early one morning, we were all awakened because one of my uncles from Searchlight came to give us the very bad news that his stepdaughter had been shot while working at one of the hotels in Las Vegas by this crazed man who shot her for no reason. He did not know her. She was very, very attractive, and this man who should not have had a pistol shot her.

Much of what is in the letter is personal in nature—and not that this isn't personal in nature—but the other relates to my family. But, let me read the last paragraph. She closed this letter with:

Hope you can feel free to support all legislation knocking down the strong gun lobby. I would like to personally shoot the crotch out of Moses, also known as Charlton Heston. I have 46 years of anger built up on this issue.

She is a paraplegic.

I know it can be political suicide to go up against them, but they are rotten to the core

and selfish in their interests. While I have the best of friends and have managed to live (have not really had a life) I dare them to follow me in my wheelchair tracks.

She closes by saying:

Stay well, sweet boy [talking to me].

This legislation we are attempting to resolve needs to be resolved. People may disagree with my friend from Searchlight now living in Las Vegas, Jean McColl, who has spent 46 years in a wheelchair as a result of being shot by somebody that shouldn't have had a gun. But that is what we are debating in this Chamber.

We should have the opportunity to offer amendments. There is no reason in the world that we should not be able to offer the amendments. We have 30-plus amendments on this side. By Tuesday I bet we could get rid of 25 of them, leaving on Tuesday just a handful of amendments to work on.

I also not only indicate what was written by my friend, Jeannie McColl, a beautiful, wonderful woman, who shortly after she was injured by this crazed man, was divorced and has raised this little boy by herself; in addition to the letter from Jeannie, I received another letter from a man who was complaining about something he felt was somewhat improper. He lives in Reno.

Dear Senator REID:

I am writing in regards to the enclosed National Rifle Association membership that was mailed to my 13 year-old daughter. I am not a gun advocate and have never voiced an opinion and I certainly believe in our constitution and the right to bear arms but I am rather astonished that the membership application is addressed to my 13 year-old daughter.

As we strive in our community to ensure that our schools are safe for our children, one of the biggest fears that parents have is a gun at school. We have been able to turn her particular school around from a very violent and non-academic oriented institution to one that we are all very proud and where the students are doing extremely well.

I am absolutely amazed that the National Rifle Association would have the audacity to mail membership applications to children. At some point, I believe this must be part of our government regulations. Will my youngest 11-year-old daughter be contacted next with another outrageous suggestion that is only supporting violence?

It is signed: ''David L. Brody, Registered Voter''—that is how he lists his signature—Reno, NV.

Mr. President, Jeannie McColl, David Brody—we need to move forward with this legislation.

I see the majority leader. I certainly want to yield the floor to the majority leader.

Mr. Leader, what I have said here is that we have some amendments. We have people standing by to offer amendments. We really would like to do that. One of the Senators on the majority side objected to the offering of amendments.

I will be very brief. As I said, we want to work our way through these, as I indicated before the leader got here. We have 30-plus amendments. I think we could get rid of 20 of these amendments by Tuesday morning if we had the opportunity to offer these amendments today and Monday.

Mr. LOTT. Mr. President, if I could respond.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. LOTT. First of all, Senator HATCH and Senator LEAHY, the managers of the bill, are not on the floor at this time. I assume they are still in the area. And I have a call in to Senator HATCH so he will come back. And we can discuss how we might proceed and see what amendments we are talking about. Because you can certainly understand, it is hard to have the debate go forward without the managers knowing what amendments we are talking about, and that they are sort of in an order.

I understand the Kohl amendment, for instance, was next in order, and maybe even pretty much has been worked out. But I need to make sure that that is the case. And then, secondly, there may still be somebody opposed to it and have indicated they want to be able to be heard on the other side. So we have to make sure that Senators both for and against bills are protected in their desire to speak on an amendment. And that is basically it.

Senator KOHL is here. If there is no particular problem, then maybe we could go to that one and have him present it and make his statement. If there is a Senator opposed to it, he or she could come over. If not, we could go on. But there is a need to make sure that everybody knows what is happening. And both sides are aware that they should come to the floor and express themselves if they desire to.

The problem is, it is 12:15; it is Friday afternoon. As you know, it is very hard to work down this list of amendments when—once Senators realize basically the votes are over, they have commitments, and they are gone. But I will talk with Senator HATCH as soon as we get in touch with him and see if there is any problem with going forward with Senator KOHL. Then, of course, we need to go back and see if there is another amendment on this side. We will work through that. But we have to make sure everybody is notified we are going to be trying to do it.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized

Mr. DASCHLE. Mr. President, let me commend the distinguished assistant Democratic leader for his efforts, again, and for comments he has just made. I am puzzled. I thought we were going to proceed today with additional amendments. We have submitted our list with that intention. We had indicated we were prepared to work this afternoon; we are prepared to work on Monday. But not having our managers here, it makes it difficult.

Senator LEAHY is here. And Senator LEAHY has indicated a willingness to come back and work through these amendments. You know, this points up the very problem our colleagues have raised with us when we talk to them about having the need to offer amendments on Fridays and Mondays.

If the Republican manager leaves, it is awfully hard for us to offer these amendments. We want to make the most of Friday and Monday. The only way we are going to do that is to have the Republican manager here so we can accommodate those Senators who want to cooperate. It is hard to ask for their cooperation if we do not have somebody on the other side to cooperate with.

So I am troubled by that and I hope we can make the most of this afternoon and make the most of Monday. I must say, Mr. President, I am also surprised at the motion to file cloture on the motion to proceed. That is tantamount to pulling this bill. That is what it means. If we get the motion to proceed we are on the Y2K bill. And I thought the majority leader said he wanted to finish this bill on Tuesday.

Mr. LOTT. Would the Senator yield?

Mr. DASCHLE. I would be happy to yield.

Mr. LOTT. On that particular point, I do not know what the vote would be on the cloture on the motion to proceed on Y2K. I suspect it may pass, maybe even pass unanimously. At that point we are on that unless we can get an agreement to come back to the juvenile justice bill, which I assume we could do, but with the understanding we get something worked out as to how we proceed.

I have been signaling all week that we wanted to go back to Y2K especially, and we need to get started early since we had to file a cloture motion on even the motion to proceed. But you know, if we can get a solid, overwhelming vote on that, rather than spending 30 hours on it, hopefully something could be worked out on that as to how we would proceed to that, maybe right after the juvenile justice bill, and that we could get agreement to come back to juvenile justice at that point.

It is just that I had to get that ball rolling. And I assume and I hope maybe that is just one vote in what could be a series of votes. But hopefully we will get something worked out on that. But I wanted to make sure that—I am certainly amenable to trying to work out an agreement to go back to juvenile justice after we have that vote Tuesday morning.

Mr. DASCHLE. I appreciate that clarification and assurance from the majority leader. As he knows, of course, that takes unanimous consent. There may be people who oppose going back to the juvenile justice bill, and so then we are, under regular order, on the Y2K bill. So a vote for cloture on the motion to proceed would be a vote to table, to put back on the calendar the juvenile justice bill.

I have indicated to the majority leader that we would be prepared, based upon the negotiations that have been going on all week, to maybe work some arrangement out with regard to the Y2K bill. We hadn't had any discussion about this. The motion was filed, and so there was no communication at all on that matter—this, ironically, at the same time we were trying to work with the majority leader to try to accommodate his need to move this juvenile justice bill along.

Surprises are never welcomed, and this was a surprise that was disappointing. Nonetheless, we will work through that. We will work to accommodate whatever other legislative schedule there may be this next week.

I will say this: At this point I am very concerned about voting on the motion to proceed under these circumstances. I think we could finish this bill and then perhaps go on to the Y2K bill. I might even be prepared to move to the motion to proceed and support it myself if we can get this juvenile justice bill done. But to put it back on the calendar and then ask unanimous consent to take it back off the calendar, if we vote for cloture on the motion to proceed—and that is what we would have to do—is a matter that is disturbing.

We have a circumstance here that is confusing, to say the least. The majority leader, for good reason, admonished all of us to make the most of Friday, to make the most of Monday, on the juvenile justice bill. Then he files cloture, effectively taking the bill off the calendar and denying the right to offer amendments and to work through these amendments on Friday and Monday. I am hopeful that we can make the most. Let us work on these bills today. Let us work on them Monday. Let us see if we can't work through the rest of the amendments before we divert our attention to other amendments and other bills.

This isn't a very orderly process we find ourselves in right now, unfortunately, because of some of these decisions. I am hopeful that we can figure out a way to accommodate the needs of the schedule but also accommodate the needs of Senators who are very hopeful to have their day in court and their opportunity to offer amendments on the juvenile justice bill.

I yield the floor.

Mr. REID. Before the Senator yields the floor, may I ask a question of the leader?

Mr. DASCHLE. I would be happy to entertain a question from the distinguished Democratic assistant leader.

Mr. REID. The Y2K legislation that has been talked about here today, is it not a fact that there has been significant progress made trying to arrive at a resolution of that issue?

Mr. DASCHLE. There has. Many people on both sides of the aisle have been involved in very intense and, I would say, productive negotiations this week. I am encouraged by the reports I have been receiving throughout the week on their discussions. I am hopeful that——

Mr. LOTT. Are you referring to the Y2K issue?

Mr. DASCHLE. Yes.

Mr. LOTT. I wasn't sure what you were talking about.

Mr. DASCHLE. The Senator is certainly correct.

Mr. LOTT. I wonder if the Senator would yield. Is there a possibility we could work out some agreement where we wouldn't have to have the vote on the motion to proceed? It is pretty hard to explain to people, when you are facing the threat of a filibuster even to take up a bill. So I wonder if we could maybe get some agreement to skip over that and then go on, if we had to have a cloture vote on the bill itself. I hope you will think about that or talk to the people who are involved to see if that would be a possibility. That would perhaps then vitiate the necessity of having to get this started next Tuesday in order to get it completed within a week's time. If we could get around that vote, that would help.

Mr. DASCHLE. I would be happy to consult with our colleagues and report back to the majority leader.

I yield the floor, Mr. President.

Mr. HATCH. Mr. President, may I ask the parliamentary situation?

The PRESIDING OFFICER. The distinguished Senator is informed that we are on a motion to proceed on S. 96, the Y2K bill.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator KOHL be permitted to present the Hatch-Kohl trigger lock amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I can't hear.

Mr. HATCH. I am asking that Senator KOHL be able to present the Hatch-Kohl trigger lock amendment, and we will proceed. We will have that, followed by the Hatch-Feinstein amendment on gangs.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The distinguished Senator from Wisconsin is recognized.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 352

(Purpose: To amend chapter 44 of title 18, United States Code, to require the provision of a secure gun storage or safety device in connection with the transfer of a handgun)

Mr. KOHL. Mr. President, we have good news. We seem to have reached a bipartisan consensus on child safety locks, one which will result, we believe, in a lock being sold with every handgun. So I rise now, with my colleague, Senator HATCH, to offer the Safe Handgun Storage and Child Handgun Safety Act of 1999.

This measure is closely modeled on the Child Safety Lock Act which I introduced earlier this year, with Senators CHAFEE, FEINSTEIN, DURBIN, and BOXER. Senator CHAFEE is also a cosponsor of this amendment.

Briefly, our amendment will bring the entire industry up to the level of those responsible manufacturers who have already started including child safety locks with their handguns. It is a commonsense idea, not an extreme one, that will reduce gun-related accidents, suicides, and homicides by young people.

Don't take my word for it. Ask your own constituents. According to a recent Newsweek poll, 85 percent of the American people support this proposal.

Our amendment is simple, effective, and straightforward. While we want people to use child safety locks, our amendment doesn't mandate it. Instead, our measure simply requires that whenever a handgun is sold, a child safety device must also be sold.

These devices vary in form, and effective ones are available for less than $10. We have added a new section that gives limited liability to gun owners, but only if they store their handguns properly. This actually creates an incentive for more people to use safety locks.

Let me tell you briefly why this amendment is so much needed. Nearly 2,000 young people are killed each year in firearm accidents and suicides. This is not only wrong, it is unacceptable. While our proposal is certainly not a panacea, it will help prevent many of these tragedies.

Mr. President, safety locks will also reduce violent crime. Juveniles commit nearly 7,000 crimes each year with guns taken from their own homes. That doesn't include incidents like last year's school shooting in Jonesboro, AR, which involved guns taken from the home of one child's grandfather because most of the father's guns actually were locked up.

A few extremists on both sides may not agree, but this is clearly a step forward. It will help make children safer. It will help make mothers and fathers feel more secure leaving their children at a neighbor's home. Senator CRAIG, who worked with me in 1994 to author the ban on juvenile possession of handguns, deserves much credit today. When passed, this law will be a huge victory for our children and a victory for bipartisanship as well. I hope my colleagues can all support this bill.

At this point, Mr. President, I send the Kohl-Hatch-Chafee amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. HATCH and Mr. CHAFEE, proposes an amendment numbered 352.

The amendment is as follows:

At the appropriate place in the bill, in Title—, General Provisions, insert the following new sections:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Hand Gun Storage & Child Handgun Safety Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(a) To promote the safe storage and use of handguns by consumers.

(b) To prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun, unless it is under one the circumstances provided for in the Youth Handgun Safety Act.

(c) To avoid hindering industry from supplying law abiding citizens firearms for all lawful purposes, including hunting, self-defense, collecting and competitive or recreational shooting.

SEC. 3. FIREARMS SAFETY.

(a) UNLAWFUL ACTS.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under the provisions of this chapter, unless the transferee is provided with a secure gun storage or safety device, as described in section 921(a)(35) of this chapter, for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the—

''(A)(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

''(B) transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

''(C) transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

''(D) transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e): *Provided,* That the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.''.

''(3) LIABILITY FOR USE.—(A) Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a civil liability action as described in this paragraph.

''(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any federal or State court. The term 'qualified civil liability action' means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, where—

''(i) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

''(ii) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device.

''A 'qualified civil liability action' shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(b) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

''(i) suspend for up to six months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this Act shall be construed to—

(A) create a cause of action against any federal firearms licensee or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this Act shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce paragraphs (1) and (2) of section 922(z), or to give effect to paragraph (3) of section 922(z).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

SEC. 4. 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. HATCH. Mr. President, I am prepared to accept the amendment. I am a cosponsor of it as well.

Mr. KOHL. We want a roll call vote.

Mr. HATCH. Can we put this over for a vote until next Tuesday?

Mr. KOHL. Mr. President, 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.

Mr. HATCH. Mr. President, I ask unanimous consent that the vote be postponed until the time set in an agreement of the two leaders.

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

Mr. KOHL. I thank the Chair.

Mr. HATCH. Mr. President, our understanding is that the next amendment will be the Hatch-Feinstein amendment.

Mr. REID. May I ask the manager of the bill a question?

Mr. HATCH. Yes.

Mr. REID. We have people who are ready to come and offer amendments. Could you give an indication as to how long your presentation will take?

Mr. HATCH. I think very little time. I feel badly that Senator FEINSTEIN is not here. She may want to say a few words right before the amendment comes up for a vote. We will offer some time there.

Mr. REID. What is ''very little time'' in Senate hours?

Mr. HATCH. I think I can explain the Feinstein amendment in probably less than 10 minutes.

Mr. REID. We want to make sure we have somebody ready when that is finished.

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.

AMENDMENT NO. 353

(Purpose: To combat gang violence and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of myself and Senator FEINSTEIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for himself and Mrs. FEINSTEIN, proposes an amendment numbered 353.

Mr. HATCH. Mr. President, I ask unanimous consent 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, I understand we will have time to debate this more at a future time.

This amendment, which I am pleased to offer with the Senator from California, Senator FEINSTEIN, is a much refined version of legislation we offered last Congress to address the serious and troubling issue of interstate and juvenile gangs. I want to commend Senator FEINSTEIN for her hard work and dedication on this issue.

Our amendment includes improvement to the current federal gangs statute, to cover conduct such as alien smuggling, money laundering, and high-value burglary, to the predicate offenses under the penalty enhancement for engaging in gang-related crimes, and enhances penalties for such crimes.

It criminalizes recruiting persons into a gang, with tough penalties, including a four year mandatory minimum if the person recruited is a minor.

It amends the Travel Act, 18 U.S.C. 1952, to include typical gang offenses in its predicate acts.

It includes the James Guelff Body Armor Act, which provides penalty enhancements for the use of body armor in the commission of a federal crime. This provision also prohibits the purchase, possession or use of body armor by anyone convicted of a violent felony, but provides an affirmative defense for bona fide business uses, and enhances the availability of body armor and other bullet-proof technology to law enforcement.

It includes penalties for teaching, even over the Internet, how to make or use a bomb, with the knowledge or intent that the information will be used to commit a federal crime.

Finally, our amendment enhances penalties under the Animal Enterprise Terrorism Act, 18 U.S.C. 43, to address the growing problem of attacks on businesses and research facilities, as well as establishes a clearinghouse to track such offenses. These crimes are increasingly being committed by some juvenile gangs, particularly in my state of Utah.

Gangs are an increasingly serious and interstate problem, affecting our crime rates and our youth. A 1997 survey of eighth graders in 11 cities found in 1997 that 9 percent were currently gang members, and that 17 percent said they had belonged to a gang at some point in their lives. These gangs and their members are responsible for as many as 68 percent of all violent crimes in some cities.

My home state of Utah continues to have a serious gang problem. In 1997, there were over 7,000 gang offenses reported to the police in Utah. Although we have seen some improvement from the unprecedented high levels of gang crime a couple of years ago, gang membership in the Salt Lake area has increased 209 percent since 1992. There are now about 4,500 gang members in the Salt Lake City area. Seven hundred and seventy of these, or 17 percent, are juveniles.

During 1998, there were at least 99 drive-by shootings in the Salt Lake City area. Also, drug offenses, liquor offenses, and sexual assaults were all up significantly over the same period in 1997. And in the first 2 months of 1999, there were 14 drive-by shootings in the Salt Lake City area.

An emerging gang in Utah is the Straight Edge. These are juveniles who embrace a strict code of no sex, drugs, alcohol, or tobacco, and usually no meat or animal products. Normally, of course, these are traits most parents would applaud. But these juveniles take these fine habits to a dangerous extreme, frequently violently attacking those who do not share their purist outlook.

There are 204 documented Straight Edgers in Salt Lake City, with an average age of 19 years old. Like most gangs, they adopt distinctive clothing and tattoos to identify themselves. Although not all Straight Edgers engage in criminal activities, many have become very violent prone. They have engaged in coordinated attacks on college fraternities, and a murder outside the Federal Building in downtown Salt Lake City last Halloween night was Straight Edge related. This crime, in which a 15-year-old youth named ''Bernardo Repreza'' occurred during a gang-related fight against the Straight-Edgers. Three Straight Edge gang members, have been charged with the murder.

Straight Edgers are also being recruited into, and more frequently linked to, the radical animal rights movement. For instance, in 1996, Jacob Kenison, then 16 and a Straight Edger, became so obsessed with animal rights that he set fire to a leather store and released thousands of animals from two Salt Lake County mink farms. In 1997, Kenison was charged in federal court for buying an assault rifle without disclosing he had been charged in state court. In December 1998, Kenison, now 20 years old, was sentenced to 9 months in jail for the mink release. The juveniles who committed the firebombing of a Murray breeders' co-op may have been Straight Edge, and have been linked to the Animal Liberation Front, a loose network of animal rights activists which advocates terrorist-like tactics.

And these gangs are learning some of their tactics on the Internet, which is why our amendment includes a provision making illegal to teach another how to make or use an explosive device intending or knowing that the instructions will be used to commit a federal crime, has passed the Senate on at least three separate occasions. It is time for Congress to pass it and make the law.

Sites with detailed instructions on how to make a wide variety of destructive devices have proliferated on the Internet. As many of my colleagues know, these sites were a prominent part of the recent tragedy in Littleton, Colorado.

Let me give my colleagues an example of one of these sites. The self-styled Animal Liberation Front has been linked to numerous bombings and arsons across the country, including several in my home State of Utah. Posted on their Internet site is the cyber-publication, The Final Nail #2. It is a detailed guide to terrorist activities. This chart shows just one example of the instructions to be found here—in this case, instructions to build an electronically timed incendiary igniter—the timer for a time bomb.

And how do the publishers intend that this information will be used? The suggestion is clear from threats and warnings in the guide. One page in the site shows a picture of an industry spokeswoman, warning her to ''take our advice while you still have some time: quit your job and cash in your frequent flier points for a permanent vacation.'' Now, on this chart, which comes from The Final Nail #2, we have redacted the spokeswoman's address and phone number to protect her privacy. The publishers weren't so considerate. And this is just the beginning. This same document has a 59 page list of targets, complete with names and addresses from nearly every U.S. State and Canadian province.

Let there be no mistake—the publishers know what they're doing. For instance, the instructions on how to make milk jug firebombs comes with this caution: ''Arson is a big time felony so wear gloves and old clothes you can throw away throughout the entire process and be very careful not to leave a single shred of evidence.''

It is unfortunate that people feel the need to disseminate information and instructions on bombmaking and explosives. Now perhaps we can't stop people from putting out that information. But if they are doing so with the intent that the information be used to commit a violent federal crime—or if they know that the information will be used for that purpose, then this amendment will serve to hold such persons accountable.

Unfortunately, kids today have unfettered access to a universe of harmful material. By merely clicking a mouse, kids can access pornography, violent video games, and even instructions for making bombs with ingredients that can be found in any household. Why someone feels the need to put such harmful material on the Internet is beyond me—there certainly is no legitimate need for our kids to know how to make a bomb. But if that person crosses the line to advocate the use of that knowledge for violent criminal purposes, or gives it our knowing it will be used for such purposes, then the law needs to cover that conduct.

Mr. President, the Hatch-Feinstein Federal Gang Violence Act incorporated in this amendment is a modest but important in stemming the spread of gangs and violence across the country and among our juveniles. I urge my colleagues to support it.

Mrs. FEINSTEIN. Mr. President, I am very pleased to rise today in support of the Hatch-Feinstein amendment, a comprehensive package which contains no less than three different bills which I have introduced, which all seek to stem the steady tide of criminal violence in this country.

Specifically, it includes the following bills which I have introduced:

The Federal Gang Violence Act, a comprehensive package of measures which were recommended by law enforcement to increase their ability to combat the increasingly-violent criminal gangs which are spreading across the country. Senator HATCH and I introduced this legislation in the past two congresses, and some of its provisions have already been included in the

bill before us today, as Title II of the bill.

The James Guelff Body Armor Act of 1999, which is designed to increase police and public safety by taking body armor out of the hands of criminals and putting it in the hands of police. I introduced this earlier this year as S. 783, and it has been co-sponsored by Senators SESSIONS, BOXER, REID, BRYAN, and KERRY. We also have incorporated S. 726, the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1999, which was introduced by Senators CAMPBELL and TORRICELLI.

Anti-bombmaking legislation, which is designed to do everything possible under the Constitution to take information about how to make a bomb off the Internet by criminalizing the distribution of such information for a criminal purpose. I have introduced it in the past as an amendment to other bills, with the support of Senator BIDEN, and introduced it earlier this year as part of S. 606, with Senators NICKLES, HATCH, and MACK.

This amendment also includes provisions drafted by Senator HATCH to address animal enterprise terrorism, which he introduced earlier this year as part of his omnibus crime bill, S. 899.

I want to express my great thanks to the distinguished chairman of the Judiciary Committee for working with me to put this package together, which is obviously of the highest priority to me.

Let me now describe what it does, in more detail:

GANGS

Gangs are no longer a local problem involving small groups of wayward youths. Rather, gang violence has truly become a problem of national scope.

The U.S. Justice Department issued a report which details the dramatic scope of this problem: there are over 23,000 youth gangs, in all 50 states; it will come as no surprise to you to learn that California is the number one gang state, with almost 5,000 gangs, and more than three times as many gang members as the next-most gang-plagued state; and overall, there are almost 665,000 gang members in the country, more than a ten-fold increase since 1975. [Source: U.S. Department of Justice, 1995 National Youth Gang Survey, released in August, 1997.]

In Los Angeles alone, nearly 7,300 of its citizens were murdered in the last 16 years from gang warfare, more people than have been killed in all the terrorist fighting in northern Ireland.

Today's gangs are organized and sophisticated traveling crime syndicates—much like the Mafia. They spread out and franchise across the country, many from California.

The Los Angeles-based 18th Street gang now deals directly with the Mexican and Colombian drug cartels, and has expanded its operations to Oregon, Utah, El Salvador, Honduras, and Mexico.

Local police and the FBI have traced factions of the Bloods and Crips to more than 119 cities in the West and Midwest with more than 60,000 members.

The Gangster Disciples, according to local authorities, is a Chicago-based 30,000 member multi-million dollar gang operation spanning 35 states, which traffics in narcotics and weapons, with income estimated at $300,000 daily.

A 1995 study of gang members by the National Gang Crime Research Center found: three-quarters of the gangs exist in multiple geographic areas; half of the gang members belonged to gangs which did not arise locally, but arose with contact from a gang from outside the area; and 61 percent indicated their gang was an official branch of a larger national gang.

Sgt. Jerry Flowers with the gang crime unit in Oklahoma City captured the migration instinct of these gangs when he said: ''the gang leaders realized that the same ounce of crack cocaine they sold for $300 in Los Angeles was worth nearly $2,000 in Oklahoma City.''

Gangs also steer at-risk youth into crime. A recently released study by the National Institute of Justice went about answering the question: ''Are gangs really responsible for increases in crime or are youths who grow up in very difficult circumstances but do not join gangs committing just as many crimes?'' To answer this, the Institute scientifically compared gang members with demographically similar at-risk youth in four cities.

The results were very revealing, and I think it's important to share these with the Senate:

> The research revealed that criminal behavior committed by gang members is extensive and significantly exceeds that committed by comparably at-risk but nongang youth.
>
> * * * * *
>
> Youths who join gangs tend to begin as 'wannabes' at about age 13, join about 6 months later, and get arrested within 6 months after joining the gang. By age 14 they already have an arrest record.
>
> * * * * *
>
> An important positive correlation exists between when these individuals joined gangs and when their arrest histories accelerated.
>
> * * * * *
>
> [D]ata indicate that gang involvement significantly increases one's chances of being arrested, incarcerated, seriously injured, or killed.
>
> * * * * *
>
> [G]ang members are far more likely to commit certain crimes, such as auto theft; theft; assaulting rivals; carrying concealed weapons in school; using, selling, and stealing drugs; intimidating or assaulting victims and witnesses; and participating in drive-by shootings and homicides than nongang youths.
>
> * * * * *
>
> Gang members . . . are better connected to nonlocal sources than nongang drug traffickers.
>
> * * * * *
>
> [N]early 75 percent of gang members acknowledged that nearly all of their fellow gang members own guns. Even more alarming, 90 percent of gang interviewees reported that gang members favor powerful, lethal weapons over small caliber handguns.

Finally, the study noted, ''By all accounts, the number of youth gangs and their members continues to grow.''

To help stem this tide, my staff met for months with prosecutors, law enforcement officers, and community leaders to search for solutions to the problem of gang violence.

The Federal Gang Violence Act makes the federal government a more active partner in the war against violent and deadly organized gangs. Provisions which are already in the bill include:

Making it a federal crime to recruit someone to join a criminal gang, subject to a one year mandatory minimum if an adult is recruited, and a four year mandatory minimum if a minor is recruited.

One of the most insidious tactics of today's gangs is the way they target children to do their dirty work, and indoctrinate them into a life of crime.

For example, the 18th street gang which I described earlier, according to the Los Angeles Times, ''resembles a kind of children's army,'' with recruiters who scout middle schools for 11- to 13-year-old children to join the gang. The gang's real leaders, however, are middle-aged veteranos, long-time gang members who direct its criminal activities from the background.

The establishment of a High Intensity Interstate Gang Activity Area program.

Efforts to combat gang violence have been hampered by jurisdictional boundaries. The Los Angeles Times has opined that,

> To date, that sort of 'in it for the long haul' anti-gang effort has not occurred among law enforcement authorities here. Local police agencies fail to share information and are unwilling to commit resources outside their boundaries; this is always a problem in multi-jurisdictional Southern California. Federal law enforcement agencies have come in, but only for limited times. Meanwhile, the outlaw force gets nothing more than a bloody nose.
>
> The growth, greed and brutality of the 18th Street gang demand a coordinated local, state and federal response, one prepared to continue for months and even years if necessary.

To remedy this situation, I crafted a program modeled after the popular High Intensity Drug Trafficking Area, or HIDTA, program. The HIIGAA program:

Adds $100 million per year for prosecutors and prevention programs, targeted to areas that are particularly involved in interstate criminal gang activity, for: Joint federal-state-local law enforcement task forces, ''for the coordinated investigation, disruption, apprehension, and prosecution of criminal activities of gangs and gang members'' in the areas; and community-based gang prevention programs in the areas.

These areas are designated by the Attorney General, who in so doing must

consider: The extent to which gangs from the area are involved in interstate or international criminal activity; the extent to which the area is affected by the criminal activity of gang members who are located in or have relocated from other states or foreign countries; and the extent to which the area is affected by the criminal activity of gangs that originated in other states or foreign countries (e.g., by migration of Crips and Bloods).

I believe that this program could be tremendously helpful to the L.A. area in particular, as it is the leading source of interstate gang activity in the country, and could help bring together Los Angeles, Riverside, San Bernardino and other counties with the state and federal governments, in a coordinated, focused effort, balanced between enforcement and prevention, to beat back the gangs.

The amendment Senator HATCH and I are offering today would increase the emphasis upon prevention in this program by boosting that share from 25 to 40 percent, consistent with the committee's action last Congress. The recent NIJ study which I mentioned earlier concluded: ''It is also important to address the brief window of opportunity for intervention that occurs in the year between the ''wannabe'' stage and the age at first arrest. It is vital that intervention programs that target gang members and successfully divert them from the gang are funded, developed, evaluated, improved, and sustained.'' This program, and the change we propose today, will help to do that.

This amendment also would add the following anti-gang provisions to the bill:

1. Increases sentences for gang members who commit federal crimes to further the gang's activities, by directing the Sentencing Commission to make an appropriate increase under the Sentencing Guidelines.

2. Makes is easier to prove criminal gang activity, by:

Reducing the number of members prosecutors have to prove are in a gang from five to three;

Changing the definition of a criminal gang from a group ''that has as one of its primary purposes the commission of'' certain criminal offenses to a group ''that has as one of its primary activities the commission of'' certain criminal offenses;

Adding the following federal offenses to the list of gang crimes: extortion, gambling, obstruction of justice (includes jury tampering and witness intimidation), money laundering, alien smuggling, an attempt or solicitation to commit any of these offenses, or federal violent felonies or drug crimes, which are already included in the current law), and gang recruitment;

Adding asset forfeiture

3. Amends the Travel Act, which passed in 1961 to address Mafia-type crime, to deal with modern gangs, by adding gang crimes such as: assault with a deadly weapon, drive-by shootings, and witness intimidation to its provisions. It also increases penalties under the Act, and helps prosecutors by adding a conspiracy provision to the Act.

4. Adds serious juvenile drug offenses to the Armed Career Criminal Act, which provides for a 15 year mandatory minimum sentence if a felon with three prior convictions for violent felonies or serious drug offenses is caught with a firearm.

5. Further targets gangsters who exploit children by adding a three-year mandatory minimum sentence to the existing law against knowingly transferring a firearm for use in a violent crime or drug trafficking crime, where the gun is transferred to a minor.

6. Provision addressing clone pagers, which Sen. DEWINE has worked on, which would make it easier to investigate gang members by allowing law enforcement to obtain pagers which are clones of those possessed by gang members, under the lower standard which applies to pen registers, rather than the more difficult wiretap standard, which currently applies.

I want to note that we did not include the provision of last year's bill which was criticized for federalizing much gang crime.

Altogether, this anti-gang package gives federal law enforcement a set of powerful new tools with which to team up with state and local law enforcement and crack down on criminal gangs.

BODY ARMOR

The next piece of this comprehensive amendment is the James Guelff Body Armor Act of 1999, which is designed to increase police and public safety by taking body armor out of the hands of criminals and putting it in the hands of police. As I mentioned previously, I introduced this earlier this year as S. 783, and it has been cosponsored by Senators SESSIONS, BOXER, REID, BRYAN, and KERRY.

Currently, Federal law does not limit access to body armor for individuals with even the grimmest history of criminal violence. However, it is unquestionable that criminals with violent intentions are more dangerous when they are wearing body armor.

Many will recall the violent and horrific shootout in North Hollywood, California, just 2 years ago. In that incident, two suspects wearing body armor and armed to the teeth, terrorized a community. Police officers on the scene had to borrow rifles from a nearby gunshop to counteract the firepower and protective equipment of these suspects.

Another tragic incident involved San Francisco Police Officer James Guelff. On November 13, 1994, Officer Guelff responded to a distress call. Upon reaching the crime scene, he was fired upon by a heavily armed suspect who was shielded by a kevlar vest and bulletproof helmet. Officer Guelff died in the ensuing gun-fight.

Lee Guelff, James Guelff's brother, recently wrote a letter to me about the need to revise the laws relating to body armor. He wrote:

> It's bad enough when officers have to face gunmen in possession of superior firepower . . . But to have to confront suspects shielded by equal or better defensive protection as well goes beyond the bounds of acceptable risk for officers and citizens alike. No officer should have to face the same set of deadly circumstances again.

I couldn't agree with Lee more. Our laws need to recognize that body armor in the possession of a criminal is an offensive weapon. Our police officers on the streets are adequately supplied with body armor, and that hardened-criminals are deterred from using body armor.

This body armor amendment has three key provisions. First, it increases the penalties criminals receive if they commit a crime wearing body armor. Specifically, a violation will lead to an increase of two levels under the Federal sentencing guidelines.

Second, it makes it unlawful for violent felons to purchase, use, or possess body armor. Third, this bill enables Federal law enforcement agencies to directly donate surplus body armor to local police.

I will address each of these three provisions.

First, criminals who wear body armor during the commission of a crime should face enhanced penalties because they pose an enhanced threat to police and civilians alike. Assailants shielded by body armor can shoot at the police and civilians with less fear than individuals not so well protected.

In the North Hollywood shoot-out, for example, the gunmen were able to hold dozens of officers at bay because of their body armor. This provision will deter the criminal use of body armor, and thus deter the escalation of violence in our communities.

Second, this amendment would make it a crime for individuals with a violent criminal record to wear body armor. It is unconscionable that criminals can obtain and wear body armor without restriction when so many of our police lack comparable protection.

The bill recognizes that there may be exceptional circumstances where an individual with a brutal history legitimately needs body armor to protect himself or herself. Therefore, it provides an affirmative defense for individuals who require body armor for lawful job-related activities.

Another crucial part of this body armor amendment is that it speeds up the procedures by which Federal agencies can donate surplus body armor to local police.

Far too many of our local police officers do not have access to bullet-proof vests. The United States Department of Justice estimates that 25 percent of State, local, and tribal law enforcement officers, approximately 150,000 officers, are not issued body armor.

Getting our officers more body armor will save lives. According to the Federal Bureau of Investigation, greater

than 30 percent of the 1,182 officers willed by guns in the line of duty since 1980 could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest.

Last year, Congress made some inroads into this shortage of body armor by enacting the ''Bulletproof Vest Partnership Grant Act of 1998.'' This act established a $25 million annual fund to help local and State police purchase body armor. This amendment will further boost the body armor resources of local and State police departments.

These body armor amendments have the support of over 500,000 law enforcement personnel nationwide. The Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs' Association, the National Troopers Coalition, the International Association of Police Chiefs, the Federal Law Enforcement Officers Association (FLEOA), the Police Executive Research Forum, the International Brother of Police Officers, the Major City Chiefs, and the National Association of Black Law Enforcement Executives, have all endorsed the legislation.

An additional piece of this body armor package is S. 726, the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1999 introduced by Senator CAMPBELL and cosponsored by Senator TORRICELLI.

Senator CAMPBELL's proposals are dedicated to the memory of Dale Claxton, a Colorado police officer who was fatally shot through the windshield of his police car. These proposals include:

Authorizing continued funding for the Bulletproof Vest Partnership Grant Act program at $25 million per year;

Second, creating a $40 million matching grant program to help State and local jurisdictions and Indian tribes purchase bullet resistant glass, armored panels for patrol cars, hand-held bullet resistant shield and other life saving bullet resistant equipment;

Third, authorizing a $25 million matching grant program for the purchase of video cameras for use in law enforcement vehicles; and

Finally, the amendment directs the National Institute of Justice to promote bullet-resistant technologies.

I am pleased that we were able to include these measures in our amendment as well. They strengthen the amendment's purpose to protect police and the public.

BOMBMAKING

Let me turn now to the bombmaking piece of this package.

According to authorities, the killers in Littleton learned how to make their 30-plus bombs form bombmaking instructions posted on the Internet.

Hundreds and hundreds of Web sites contain instructions on how to build bombs, such as this Terrorists' Handbook, which my staff downloaded from the Internet a week after the tragedy. This bombmaking manual contains detailed, step-by-step instructions for building devices such as pipe bombs, lightbulb bombs, and letter bombs, which have no legitimate, lawful purpose. It also tells the reader how to break into college labs to obtain useful chemicals, how to pick locks, and even contains a checklist for raids on laboratories.

INTERNET BOMBMAKING INCIDENTS CONTINUING AFTER LITTLETON

Unfortunately, in the short time since the tragedy in Littleton, Colorado, there has been a steady stream of incidents of youths using the Internet to build bombs and threaten their use at school:

Police arrested five students at McKinley Junior High School in Brooklyn for possessing a bomb-making manual, a day after the eighth-graders were caught allegedly plotting to set off a bomb at graduation. The arrested students, all 13, were charged with second-degree conspiracy after allegedly bringing bomb-making information found on the Internet to class, police and school officials said.

Salt Lake City School District has received about 10 reports of threats to kill or blow up schools, said Nancy Woodward, district director of student and family services. Many of the students making such threats have a history of violent threats and have written about such violence in notebooks or downloaded Internet information. [4/28/99 Deseret News]

Three Cobb County, Georgia boys arrested for possession of a pipe bomb on school property learned how to make the explosive by browsing the Internet, according to testimony at a court hearing.

One week after the high school killings in Colorado, authorities across Texas are reporting a spate of incidents that involve violent threats by students and crude efforts to manufacture bombs.

In Port Aransas, Texas, a 15-year-old boy who allegedly downloaded from the Internet information on bomb making and killing faced criminal charges after the was turned in to police by his father. The boy had threatened teachers and classmates.

At least seven teen-agers are being held in Wimberley and Wichita Falls alone, all of them on suspicion of making explosives, some of which officials say were to be used to attack a school.

A judge ordered four Wimberley, Texas junior high school students to remain in a juvenile detention center, accused of planning an attack on their own school. Sheriff's deputies questioned the four eighth-graders over the weekend and searched their homes, turning up gunpowder, crudely built explosives and instructions on making bombs on computer disks and downloanded from the Internet.

More than 50 threats of bombings and other acts of violence against schools have been reported across Pennsylvania over the last four days, which state officials attributed partly to last week's bombing in Littleton, Colo.

Elsewhere on the Web, the Columbine tragedy has triggered a kind of electronic turf warfare, as individuals snap up site addresses containing words reflecting the tragedy, such as the killers' names or the name of their clique, the Trench Coat Mafia. At least one such site, filled with images of guns and bomb-making instructions, was offered for sale to the highest bidder on eBay, an online auction. ''When we became aware of it, we took it down immediately,'' an eBay spokesman said. ''It is totally inappropriate.''

And just 28 miles away from where we stand today, three students at Glen Burnie High School, in Maryland, were arrested for issuing bomb threats and possessing bomb-making components. One of those arrested had told another student, ''You're on my hit list.'' A police search of the boys' homes found match heads, suitcases, wires, chemicals, and printouts from the Internet showing how to put it all together to make bombs. Graffiti at the school read, ''if you think Littleton was bad, wait until you see what happens here.''

DESCRIPTION OF THE LEGISLATION

I have been trying to do as much as I can under the First Amendment to get rid of this sort of filth for four years now. This amendment:

Makes it a federal crime to teach or distribute information on how to make a bomb or other weapon of mass destruction if the teacher: Intends that the information be used to commit a federal violent crime or knows that the recipient of the information intends to use it to commit a federal violent crime; and sets a maximum sentence of 20 years.

This legislation has been endorsed by both the explosives industry (Institute for Makers of Explosives) and the Anti-Defamation League.

HITORY OF THE AMENDMENT

The substance of this amendment has passed the Senate or the Judiciary Committee in each of the past four years, without a single vote in opposition: in 1995, as an amendment to the anti-terrorism bill, by unanimous consent; in 1996, as an amendment to the Department of Defense authorization bill, again by unanimous consent; in 1997, again as an amendment to the Department of Defense authorization bill, this time by a vote of 94–0; and last year, in the Judiciary Committee, as an amendment to a private relief bill for Kerr-McGee Corporation, by unanimous consent.

Unfortunately, despite the unanimous support of the Senate, the House has killed the amendment in conference each time it has passed the Senate: On the terrorism bill, it was replaced by a directive to the Attorney General to study and report to Congress on six different issues related to the amendment; on the FY 97 Defense bill, it was eliminated because the Attorney General's study was then ongoing, and she had not yet issued her report; on the FY 98 Defense bill, it was

eliminated because it falls within the jurisdiction of the Judiciary Committees, and the House objected to its not taking this usual course.

JUSTICE DEPARTMENT SUPPORT

I mentioned the Justice Department report earlier; that report found that the amendment was justified on each of the six factors the Department was asked to consider, and recommended that Congress finally pass this legislation:

Factor: ''(1) the extent to which there is available to the public material in any medium (including print, electronic or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction.''

DOJ Report: ''It is readily apparent from our cursory examination that anyone interested in manufacturing a bomb, dangerous weapon or weapon of mass destruction can easily obtain detailed instructions for fabricating and using such a device.''

Factor: ''(2) the extent to which information gained from such materials has been used in incidents of domestic or international terrorism.''

DOJ Report: ''Recent law enforcement experience demonstrates that persons who attempt or plan acts of terrorism often possess literature that describes the construction of explosive devices and other weapons of mass destruction (including biological weapons).''

''[R]eported federal cases involving murder, bombing, arson, and related crimes, reflect the use of bombmaking manuals by defendants and the frequent seizure of such texts during the criminal investigation of such activities.''

''Finally, information furnished by the Bureau of Alcohol, Tobacco and Firearms reveals that such literature is frequently used by individuals bent upon making bombs for criminal purposes.''

The report connected ''mayhem manuals'' to numerous terrorist and criminal actions, including: The World Trade Center bombing; the Omega 7 group, who conducted terrorist bombings in the New York area; an individual attempting to bring enough ricin—one of the most toxic substances known—into the U.S. to kill over 32,000 people; and the ''Patriots Council'' began developing ricin to attack federal or local law enforcement officials.

Factor: ''(3) the likelihood that such information may be used in future incidents of terrorism.''

DOJ Report: ''both the FBI and ATF expect that because the availability of such information is becoming increasingly widespread, such bombmaking instructions will continue to play a significant role in aiding those intent upon committing future acts of terrorism and violence.''

Factor: ''(4) the application of Federal laws in effect on the date of enactment of this Act to such material.''

DOJ Report: while there are several existing federal laws which could be applied to bombmaking instructions in some circumstances, ''current federal law does not specifically address certain classes of cases.''

Factor: ''(5) the need and utility, if any, for additional laws relating to such material.''

DOJ Report: ''the Department of Justice agrees with [Senators FEINSTEIN and BIDEN] that it would be appropriate and beneficial to adopt further legislation to address this problem directly, in a manner that does not impermissibly restrict the wholly legitimate publication and teaching of such information, or otherwise violate the First Amendment.''

Factor: ''(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.''

DOJ Report: ''where such a purpose [to aid or cause a criminal result] is proved beyond a reasonable doubt, as it would have to be in a criminal case, the First Amendment should be no bar to culpability.''

''we think these First Amendment concerns can be overcome, and that such a facilitation prohibition could be constitutional, if drafted narrowly.''

I ask that the Justice Department's report be incorporated by reference as part of the RECORD.

The Justice Department proposed a slight re-draft of the original version of the Feinstein amendment. It is this redraft which we have included in this amendment with one further modification, removing state crimes from its scope, made at the request of Representative MCCOLLUM.

CONCLUSION

This is a powerful set of amendments, which I am convinced can do a great deal to reduce criminal violence in America. I urge my colleagues to join me in supporting this.

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. BYRD. 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. BYRD. Mr. President, is the bill open for my amendment now?

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

The PRESIDING OFFICER. The pending legislation is the Hatch-Feinstein amendment.

Mr. BYRD. I ask unanimous consent that measure be temporarily laid aside so I may offer an amendment.

Mr. HATCH. Will the Senator yield?

Mr. BYRD. Gladly.

Mr. HATCH. I am trying to work out the details to see if we can proceed with the Senator's amendment. If the Senator will give me a little bit more time, I will see if we can get that worked out.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. REID. Will the Senator yield?

Mr. BYRD. I am told I could offer the amendment. I am glad to yield, however.

Mr. REID. Mr. President, we want to do something on this bill. I have been asked personally by the majority leader and the minority leader to move this legislation along. I have pled with Members from the minority to narrow the amendment. We have done that. There are time limits on most every one.

We have spent 2 hours today trying to offer amendments. We want to offer amendments. We are being told we can't offer gun amendments, so we bring in the second most senior Member of the Senate to offer an amendment dealing with alcohol, and we are told we can't offer that.

What can we offer? I say to my friend from Utah, what can we offer? We want to move this thing along. I have been here since early this morning trying to move this bill along, and whatever we do we can't do it. You can't have it both ways. We can't be accused of trying to slow down the legislation and when we want to offer amendments we can't offer anything.

Mr. HATCH. Will the Senator yield?

Mr. BYRD. I would be glad to yield.

Mr. HATCH. We understand that most Senators have left. We also understand some of these amendments are controversial and they need debate on both sides. We also understand that some of us have to protect ourselves on both sides or protect our Senators.

We are moving ahead. I just put in a very important amendment for Senator FEINSTEIN and myself. We are submitting our statements for the RECORD today rather than taking the time of the Senate. We are moving ahead in a regular forum. We can move with some amendments today and some we can't. We do want to move ahead and we will certainly try to do so and accommodate Members. When it comes to protecting Members of the Senate, we have to do that. It is just a common courtesy that has been used in this body ever since I have been here for 23 years. I don't want to see that courtesy not extended at this time.

What I am hoping is that we can proceed with the Byrd amendment, which happens to be the bill that I filed on alcohol sales over the Internet. We know that the Senators from the States who are in opposition are not here today. We will try to work out an arrangement where this amendment can be filed and reserve time, an equivalent amount of time, for those who may be in opposition.

We have asked for just a few minutes for one of our distinguished Senators who has a direct interest in this to be able to read the amendment. It is not a long amendment. If we could just get a few more minutes of time.

As I now understand, the amendment is OK. Let's go ahead.

May I propose a unanimous consent request?

Mr. BYRD. Mr. President, may I speak for 1 minute?

This amendment has been printed in the RECORD. It is at the desk. So I have conformed with the request to get our amendments in. It was in yesterday's CONGRESSIONAL RECORD.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mr. BYRD. It catches no one by surprise.

I yield to the Senator.

Mr. HATCH. Nobody is accusing anybody of surprise. The Senator has every right to call up his amendment and we are glad he is.

I ask unanimous consent whatever time the Senator takes on this amendment today, that those in opposition be permitted to take when they return on Monday.

Mr. REID. Reserving the right to object.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada is recognized under his reservation.

Mr. BYRD. Do I still have the floor?

The PRESIDING OFFICER. The Senator from West Virginia continues to have the floor.

Mr. BYRD. I yield to the Senator from Nevada.

Mr. REID. Reserving the right to object, I say to my friend from Utah, of course people in opposition to this amendment can come and talk until the leader pulls the bill.

I don't understand why we can't move forward with amendments. If somebody wants to make an objection to the amendment in the form of a speech, they can come anytime they want. That is how we do business around here. When an amendment is offered, you don't have to have on the floor somebody on the other side to oppose it.

We are being accused of slowing down this bill. We are doing everything we can to move the bill along. I hope everyone understands who is slowing down this bill. It is not us.

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I wonder how this works. Does this mean if we have other amendments on either side that come up, just because somebody is not there to respond to it, does that mean this will now become the procedure to be followed? We will let the proponent speak, and then on Monday the opponents speak?

I ask that because we have to do something to move this on. It is frustrating to the Senator from Vermont, who has canceled all other plans today to be here into the evening, if necessary, to move forward on this bill, in keeping with what the majority leader said he wants done, if he suddenly finds he will be picking and choosing whether anybody can bring up an amendment or not.

If Senators are serious about the amendments, they can come here and offer them. It is more of a question to the distinguished Senator from Utah: Is this going to be the practice, if another Senator brings up an amendment and there is not somebody on the other side, will that Senator bring it up and speak about it, and the other Senator comes back and responds on Monday?

Mr. HATCH. Mr. President, I will try to protect Senators on our side who may not be here. I presume the distinguished Senator from Vermont will do the same for Senators on this side when we know they are in opposition or opposing a particular amendment.

I amend my unanimous consent request to request that, immediately following Senator BYRD's presentation of his amendment, Senators FRIST and ASHCROFT be permitted to call up their amendment.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, before I agree, I would like——

Mr. BYRD. May I say to the Chair, I am recognized.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. If the distinguished Senator from California wishes to say something, I would be glad to yield for a statement.

Mrs. FEINSTEIN. I thank the Senator. I wish to oppose your amendment and so I wish to see that there is an opportunity for me to do so.

Mr. BYRD. Mr. President, the Senator from California will certainly have an opportunity to oppose my amendment. Anybody else will certainly have an opportunity to do that.

Mr. HATCH. May I have a ruling on my unanimous consent request to get this order?

Mr. BYRD. Would the Senator remind repeating his request?

Mr. HATCH. I ask unanimous consent that there be given time to debate by opponents on Monday, if they are unable to be here at this time, to amendments that are called up today, and we give them the time to debate the equivalent used today—in the case of Senator FEINSTEIN, she is here so she can reply regarding Senator BYRD's amendment—but that Senator BYRD's amendment proceed, and immediately following the Byrd amendment, that Senators FRIST and ASHCROFT be permitted to call up their amendment, hopefully speaking for only 5 minutes.

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

The Senator from West Virginia.

Mr. BYRD. Mr. President I wasn't here when the consent order was entered. But do I understand that no amendment in the second degree can be offered today?

The PRESIDING OFFICER (Mr. HAGEL). No second-degree amendment can be offered and voted on until there has been a vote on or in relationship to the amendment.

Mr. BYRD. Mr. President, I do not seek any vote on my amendment today, but I have entered it earlier and I want to speak to it and officially call it up today. And it will be up on Monday for further debate and for amendment by other amendments.

AMENDMENT NO. 339

(Purpose: To provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor)

The PRESIDING OFFICER. The clerk will report the Senator's amendment.

Mr. BYRD. Mr. President, I want the clerk to report it in full.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. KOHL, proposes an amendment numbered 339:

At the appropriate place, insert the following:

SEC. ___. TWENTY-FIRST AMENDMENT ENFORCEMENT.

(a) SHIPMENT OF INTOXICATING LIQUOR INTO STATE IN VIOLATION OF STATE LAW.—The Act entitled ''An Act divesting intoxicating liquors of their interstate character in certain cases'', approved March 1, 1913 (commonly known as the ''Webb-Kenyon Act'') (27 U.S.C. 122) is amended by adding at the end the following:

''SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.

''(a) DEFINITIONS.—In this section—

''(1) the term 'attorney general' means the attorney general or other chief law enforcement officer of a State, or the designee thereof;

''(2) the term 'intoxicating liquor' means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

''(3) the term 'person' means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

''(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

''(b) ACTION BY STATE ATTORNEY GENERAL.—If the attorney general of a State has reasonable cause to believe that a person is engaged in, is about to engage in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction or other order) against the person, as the attorney general determines to be necessary to—

''(1) restrain the person from engaging, or continuing to engage, in the violation; and

''(2) enforce compliance with the State law.

''(c) FEDERAL JURISDICTION.—

''(1) IN GENERAL.—The district courts of the United States shall have jurisdiction over any action brought under this section.

''(2) VENUE.—An action under this section may be brought only in accordance with section 1391 of title 28, United States Code.

''(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS.—

''(1) IN GENERAL.—In any action brought under this section, upon a proper showing by the attorney general of the State, the court shall issue a preliminary or permanent injunction or other order without requiring the posting of a bond.

''(2) NOTICE.—No preliminary or permanent injunction or other order may be issued under paragraph (1) without notice to the adverse party.

''(3) FORM AND SCOPE OF ORDER.—Any preliminary or permanent injunction or other order entered in an action brought under this section shall—

''(A) set forth the reasons for the issuance of the order;

''(B) be specific in terms;

''(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts to be restrained; and

''(D) be binding only upon—

''(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

''(ii) persons in active cooperation or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

''(e) CONSOLIDATION OF HEARING WITH TRIAL ON MERITS.—

''(1) IN GENERAL.—Before or after the commencement of a hearing on an application for a preliminary or permanent injunction or other order under this section, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application.

''(2) ADMISSIBILITY OF EVIDENCE.—If the court does not order the consolidation of a trial on the merits with a hearing on an application described in paragraph (1), any evidence received upon an application for a preliminary or permanent injunction or other order that would be admissible at the trial on the merits shall become part of the record of the trial and shall not be required to be received again at the trial.

''(f) NO RIGHT TO TRIAL BY JURY.—An action brought under this section shall be tried before the court.

''(g) ADDITIONAL REMEDIES.—

''(1) IN GENERAL.—A remedy under this section is in addition to any other remedies provided by law.

''(2) STATE COURT PROCEEDINGS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.''.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have not asked for any action on this amendment, but I did want to have it read for the information of the Senate, and I want to speak on it briefly, after which I shall return to my office.

Mr. President, over the past few days, many of my colleagues have come to this Chamber and, with heartfelt passion, offered proposals aimed at addressing the scourge of juvenile crime and violence. We have seen efforts to reduce the pervasiveness of violence and indecency on television and in the movies. We have seen efforts to provide the tools parents need in order to make the Internet a safe and educational environment for their children. We have observed proposals to increase criminal penalties for those who would seek to subvert our youth by introducing them to gangs or the drug culture; and we have had attempts to limit children's access to guns.

Each of these has been, I believe, an honest effort toward seeking a much-needed solution to this national problem. And yet, despite these proposals, I am deeply concerned that we have overlooked an important element of this crisis—the problem of teen alcohol use—the problem of teen, t-e-e-n, alcohol use—more appropriately, perhaps, alcohol abuse.

I have long been concerned about underage drinking.

As a matter of fact, I am not an advocate of drinking at any age, but I recognize that not everybody seeks to pattern their own viewpoints and lives after my viewpoints. But especially—especially—I speak with reference to underage drinking.

It takes an immense toll on our children and our society. The younger a child starts drinking, the more likely that child is to run into bad, bad trouble down the road. Research has shown, for example, that children who begin drinking before age 15 are four times more likely to develop alcohol dependence than those who abstain from such activity until the legal drinking age of 21. We also know that too many kids are drinking.

If one kid is drinking, that is too many. I am not saying that with reference to this legislation. Obviously, if one is drinking, that is one too many. But for the purposes of this statement, let it stand as I say. We also know that too many kids are drinking.

During the last month, approximately 34 percent of high school seniors, 22 percent of tenth graders, and 8 percent of eighth graders, have been drunk.

That is hard to imagine. I started school in a two-room schoolhouse. I have said that many times, but I like to repeat it because there are still some of us here who remember those times. When I was later in high school, that would not have been tolerated. The parents would not have tolerated it. The community would not have tolerated it. The school principal, the teachers would not have tolerated it.

Let me read that again.

During the last month, approximately 34 percent of high school seniors—now that is a third of high school seniors—22 percent of the tenth graders; in other words, one-fifth of the tenth graders, and 8 percent of the eighth graders—think of that, 8 percent of the eighth graders—have been drunk!

What is going on here? Drunk. How can that happen if there is a parent who observes the responsibilities of a parent? How can a drunk child avoid the observation of the parent?

Yes, I said drunk! And, in the most tragic of statistics, we know that, in 1996, 5,233 young people ages 15 to 20 died in alcohol-related traffic accidents—5,233 lives cut short for what? Mr. President, 5,233 young people ages 15 to 20 died, and that means for a long, long time—died in alcohol-related traffic accidents. These statistics should be a cause for great concern not just among Senators, but for everyone throughout this Nation. Everybody. The churches ought to be up in arms about it. Legislators ought to be up in arms about it. The administration ought to put forth a crusade, not just a word here and there, tippy-toeing around. There ought to be a real crusade like the crusade that has been effectively carried on against smoking. Why not have a national crusade against drinking and especially concerning young people in school? Something is wrong.

Mr. President, we should also be concerned that, with direct-to-consumer sale of alcohol, children can now get beer, wine, or liquor sent directly to their homes by ordering from catalogues or over the Internet.

What a shame. Again, I have to point my finger at the parents. What a shame. Children can now get beer, wine or liquor sent directly to their homes by ordering from catalogs or over the Internet.

Unfortunately, these direct-to-consumer sales work to undermine the extremely important controls currently in place in many of our States.

Consequently, I am offering this amendment, on behalf of myself and Senator KOHL, in an effort to give States the opportunity to close that loophole and go after those who sell alcohol illegally to children. The Webb-Kenyon Act, a Federal statute dating back to the early part of this century, makes clear that States have the authority to control the shipment of alcohol into the State. Unfortunately, recent court decisions have maintained that the statute provides no enforcement mechanism. In the 1997 case of Florida Department of Business Regulation v. Zachy's Wine and Liquor, for example, the State of Florida was prohibited from enjoining four out-of-State direct shippers on the grounds that neither the 21st amendment to the Constitution, nor the Webb-Kenyon Act, gave the State a Federal right of action for failure to comply with State liquor laws. Thus, as a result of this and other court decisions, the ability of States to vigorously enforce their prerogatives under the 21st amendment and the Webb-Kenyon Act against out-of-State defendants is extremely limited at the very time when illegal alcohol shipments are burgeoning.

This amendment would remedy this problem by stating unequivocally—no ands, ifs, or buts; unequivocally—that States have the right to seek an injunction in Federal court to prevent the illegal, interstate sale of alcohol in violation of State law.

I am not saying you cannot sell it. I am simply saying that we should obey State laws by not selling alcohol to children—or expect to pay the consequences.

This amendment is based on legislation originally introduced earlier this year by the distinguished Senator from Utah, Mr. HATCH. The distinguished Senator from Utah has been at the forefront of this issue, and I thank him for his leadership on this important matter. In addition, Senator KOHL is a

cosponsor of my amendment and I sincerely thank him as well for his steadfast support.

Beyond my colleagues here in the Senate, though, this legislation has garnered diverse support. Organizations favoring this amendment include the American Academy of Pediatrics, the International Association of Chiefs of Police, the Wine and Spirits Wholesalers of America, the National Beer Wholesalers Association, the National Licensed Beverage Association and the National Alcohol Beverage Control Association.

Mr. President, let me be clear about what my amendment does. It simply clarifies that States may use the Federal courts to obtain an injunction to prevent the illegal shipment of alcohol. It does not overturn or interfere with any existing State law or regulation. It would have no impact on those companies that are selling alcohol products in accordance with State laws. It would not impede legal access to the marketplace. In fact, there are distributors who have offered to sell the products of any wine manufacturer, no matter how small that company might be. My amendment would have no impact on those who are using the Internet to sell alcohol products legally.

In sum, companies would remain free to utilize any marketing or sales process currently permitted under State law. That is why companies that legally sell alcohol over the Internet, such as Geerlings and Wade, have endorsed this legislation. The legislation would only impede those who use the Internet or other marketing techniques to avoid compliance with State alcohol laws.

Mr. President, as the Senate addresses the pernicious problem of youth crime and violence, I urge my colleagues to join me in addressing this important facet. We should not—indeed, we cannot—turn a blind eye to those who would, and do, violate State laws governing the sale of alcoholic beverages. The laws regulating alcoholic beverages are in place because such products can be—can be—a dangerous product. It should not be shipped to minors. It should not be shipped into States in violation of those States' laws. Congress should act now and ensure that the laws regulating the interstate shipment of alcohol are not rendered meaningless.

Mr. President, that completes my statement.

I yield the floor.

Mr. HATCH. Mr. President, if nothing else can be said about this issue, it is absolutely imperative that states have the means to prevent unlawful access to alcohol by our children.

If a 13-year-old is capable of ordering beer and having it delivered by merely ''borrowing'' a credit card and making a few clicks with her mouse, there is something wrong with the level of control that is being exercised over these sales and something must be done to address the problem.

I am a strong supporter of electronic commerce. But the sale of alcohol cannot be equated with the sale of a sweater or shirt. We need to foster growth in electronic commerce, but we also need to make sure that alcohol control laws are respected.

The growth of many of our nation's wineries is tied to their ability to achieve name recognition and generate sales nationwide—tasks the Internet is uniquely suited to accomplish. I do not want to preclude them from using the Internet; I want to ensure that they use it responsibly and in accordance with state laws.

If there is a problem with the system, we need to fix the system, not break the laws.

The 21st amendment gives states the right to regulate the importation of alcohol into their states. However, efforts to enforce laws relating to the importation of alcohol have run into significant legal hurdles in both state and Federal courts.

The scope of the 21st amendment is essentially a Federal question that must be decided by the Federal courts—and ultimately the Supreme Court. For that reason, among others, I believe a Federal court forum is appropriate for state enforcement efforts.

Most states do not permit direct shipping of alcohol to consumers. Therefore most Internet sales of alcohol are currently prohibited. If a state wants to set up a system to allow for the direct shipment of alcohol to consumers, such as New Hampshire and Louisiana have already done, then that is their right under the 21st amendment. But the decision to permit direct shipping, and under what conditions, is up to the states, not the purveyors of alcohol.

S. 577, the Twenty-First Amendment Enforcement Act was introduced by myself and Senator DEWINE on March 10, 1999. Senators BYRD and CONRAD have now cosponsored and Senator KOHL is to be added as a sponsor.

It is my understanding that Senator BYRD will offer the Twenty-First Amendment Enforcement Act as an amendment to S. 254, the Violent and Repeat Juvenile Offender Accountability Act of 1999. To my knowledge, only three Senators have gone on record opposing the bill—FEINSTEIN, DURBIN, ROCKEFELLER—and 57 Senators have given the bill tentative approval.

The bill is supported by a host of interests including, *inter alia*, Utah interests (Governor Leavitt, Attorney General Graham, Utah's Department of Alcoholic Beverage Control, the Utah Hospitality Association, numerous Utah Congressional Representatives and Senator BENNETT), SADD, the National Licensed Beverage Association, the National Beer Wholesalers Association, the Wine and Spirits Wholesalers, Geerlings and Wade (leading direct marketer of fine wines to 27 States and more than 81 percent of the wine consuming public) Americans for Responsible Alcohol Access, the National Association of Beverage Retailers, the National Alcohol Beverage Control Association, and the National Conference of State Liquor Administrators.

I had intended to offer this amendment. Senator FEINSTEIN asked that I withhold—and I was agreeable to working with her. I still wish to work with her. But, given Senator BYRD's decision to offer the amendment at this time I feel compelled to vote my conscience.

I have been working with Senator FEINSTEIN and others to try to come to an agreement on legislation which will balance the legitimate commercial interests involved with the rights of the states under the 21st amendment. However, I haven't seen any proposed amendments at this time which help alleviate the problems inherent in direct shipping while at the same time protecting the wineries' commercial interests.

I still want to work with the vineyards and those who have concerns. I hope we can keep working together.

SUMMARY OF BYRD AMENDMENT (S. 577, THE ''TWENTY-FIRST AMENDMENT ENFORCEMENT ACT'')

(1) Permits the chief law enforcement officer of a state to seek an injunction in federal court to prevent the violation of any of its laws regulating the importation or transportation of alcohol;

(2) Allows for venue for the suit where the defendant resides and where the violations occur;

(3) No injunctions issued without prior notice to the opposing party;

(4) Requires that injunctions be specific as to the parties, the conduct and the rationale underlying the issuance of the injunction;

(5) Allows for quick consideration of the application for an injunction; conserves court resources by avoiding redundant proceedings;

(6) Mandates a bench trial.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask unanimous consent to send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. BYRD. Mr. President, I certainly have no objection to the Senator sending her amendment to the desk. Wait, Mr. President. Is this amendment a second-degree amendment?

Mrs. FEINSTEIN. First degree.

Mr. ASHCROFT. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Is this an amendment to the amendment offered by the Senator from West Virginia or is this another amendment?

Mrs. FEINSTEIN. I say to the Senator, this is another amendment on the same subject. It is a first-degree amendment.

Mr. ASHCROFT. If I may ask, as a point of procedure, I thought we were operating under a unanimous consent that the next amendment to be offered was to be, according to the unanimous

consent, an amendment sponsored by Senator FRIST and myself.

The PRESIDING OFFICER. The Senator is correct.

Mr. ASHCROFT. I do not mean to forestall other amendments, but it was just my understanding. I am happy to try to work out a unanimous consent which allows for the other amendment. But I think it would be appropriate to do that rather than set aside the amendment in place, and as a result, until we work that out, I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Could I ask the distinguished Senator what her amendment is?

Mrs. FEINSTEIN. Yes. The amendment essentially would require that when one ships an alcoholic beverage, that there be a label on the shipping container that contains clearly and prominently an identification of the contents of the package. It would then require that upon delivery, an adult must show identification to receive it. It also would provide that it is a criminal charge to violate that, and with three violations, the BATF revokes the license.

Mr. HATCH. I ask the distinguished sponsor of the amendment, is this one of the amendments that has been approved by both sides under the unanimous consent agreement?

Mrs. FEINSTEIN. I do not believe it has been.

Mr. HATCH. If it has not been, the only way we can bring it up without objection would be to get one of the—I think there are nine reserved amendments that could be utilized for this purpose. If you can do that, if I have interpreted this correctly, you would like your amendment right after the Byrd amendment so there will be a contrast.

Mrs. FEINSTEIN. If possible, yes.

Mr. HATCH. I support the Byrd amendment, but I do not think that is an unreasonable request. I ask my colleagues on this side to allow it, as long as there is not a lot of intervening debate.

Mrs. FEINSTEIN. Thank you very much.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? Hearing none, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Utah for doing that. It was a request similar to what I wanted. I agree with him. I happen to support the amendment by the distinguished Senator from California. I think it is a very reasonable and realistic one that should be passed.

Mr. HATCH. I do not know whether I was clear or not on my unanimous consent request, but she should be entitled to do it if she can use one of those nine amendments which have been reserved for things like this. We shouldn't have this if it is an additional amendment to all the ones we have on the RECORD.

Mr. LEAHY. I did not understand that to be the unanimous consent.

Mr. HATCH. That is what I meant to say.

Mr. LEAHY. I did not understand that to be the unanimous consent request that was agreed to.

Mr. HATCH. Let me rephrase the unanimous consent request. There are nine reserved amendments, five by the distinguished ranking member and four by the minority leader. The Senator should be allowed to call up this amendment utilizing one of those nine amendments, if she wants to. I do not want to expand the amendment list.

I ask unanimous consent that she be permitted to do that, utilizing one of the nine that aren't presently utilized.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I make a parliamentary inquiry. What is the unanimous consent request the Senate just agreed to prior to this, as propounded by the distinguished senior Senator from Utah?

Mr. HATCH. Would the Senator acknowledge——

Mr. LEAHY. Could I get an answer?

Mr. HATCH. I do not know that I was clear. That is why I am trying to be clear now.

Mr. LEAHY. Well, all of us are unclear at times. I just want to be clear so I can understand how the Chair understands it.

Mr. HATCH. I did mention the nine amendments. That is clearly the import of what I wanted to do.

Mr. LEAHY. Well, except that that would not require, I would say to my friend from Utah, unanimous consent in any event, because we could just simply take one of those——

Mr. HATCH. I am prepared, but I think we should use one of the nine open amendments to be fair about it. But if you want to raise a technical objection and not use one, that is fine with me, because it is fair to the distinguished Senator from California, whom I oppose. That is why you kept those amendments. I think it is fairer to use one of them. That way, we do not expand the list. That is what I would do for you. If you won't, then I will accept whatever.

Mr. LEAHY. I tell my friend from Utah, I hope that I don't have to use them all in any event. But again, the reason I didn't object or anything, my understanding was that the distinguished Senator from Utah proposed a unanimous consent agreement which basically paralleled the unanimous consent agreement that the distinguished senior Senator from California had already made, which was to move forward, to be allowed to introduce her amendment. Now, that is why I am asking the distinguished occupant of the Chair, the Senator from Nebraska, just what it is we have agreed to.

Mr. HATCH. Let me say—

Mr. LEAHY. I am getting old, and it is Friday afternoon, Mr. President. I want to make sure I understand.

Mr. HATCH. I believe I was inarticulate. I believe I did not make it clear that one of these nine amendments should be used. If the Senator wants to be technical about it and not utilize one of those nine amendments, then let's quit debating and wasting time on it. We will just expand the amendment list by one in order to accommodate a Member of his side, but I would prefer, if he would, that he grant her the use of one of the nine which currently are not being used, as a courtesy to me and to her. And if he doesn't, we will do the other. I don't care, but I don't want a big debate on it. I want to get to the Ashcroft amendment, if we can.

Mr. BYRD. Will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I have two amendments that have been agreed upon for calling up. One of those I will not call up, if I may yield that slot to the distinguished Senator from California.

Mr. HATCH. If you will do that, that will be—

Mr. LEAHY. That takes care of everybody's problem, and it satisfies the Senator from Utah and the Senator from Vermont.

The PRESIDING OFFICER. Without objection, the request is modified and the request is agreed to.

The Senator from California.

Mrs. FEINSTEIN. I thank the Chair, and I thank the Senator from West Virginia whose intelligence is only exceeded by his gentility and courtliness. Thank you very, very much.

Mr. BYRD. I thank the Senator.

AMENDMENT NO. 354

(Purpose: To modify the laws relating to interstate shipment of intoxicating liquors)

Mrs. FEINSTEIN. If I may, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 354.

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:

At the appropriate place, add the following:

SEC. ___. INTERSTATE SHIPMENT AND DELIVERY OF INTOXICATING LIQUORS.

(a) IN GENERAL.—Chapter 59 of title 18, United States Code, is amended—

(1) in section 1263—

(A) by inserting ''a label on the shipping container that clearly and prominently identifies the contents as alcoholic beverages, and a'' after ''accompanied by''; and

(B) by inserting ''and requiring upon delivery the signature of a person who has attained the age for the lawful purchase of intoxicating liquor in the State in which the delivery is made,'' after ''contained therein,''; and

(2) in section 1264, by inserting ''or to any person other than a person who has attained the age for the lawful purchase of intoxicating liquor in the State in which the delivery is made,'' after ''consignee,''.

(b) REVOCATION OF BASIC PERMIT.—The Director of the Bureau of Alcohol, Tobacco, and Firearms shall revoke the basic permit of any person who has been convicted of 3 or more violations of the provisions of title 18, United States Code, added by this section.

Mrs. FEINSTEIN. Mr. President, what I believe we are in, to some extent, is a kind of interindustry beef, if I might use that vernacular. And it all deals with the shipment of alcohol or alcoholic beverages across State lines.

The amendment just submitted by the distinguished Senator from West Virginia is of major concern to the California wine industry. It is of major concern to the California wine industry, which makes 90 percent of the wine of this country, because small boutique wineries, which have wine tastings and then offer for sale a bottle of rather expensive wine over the Internet, are essentially affected by this amendment, which takes all State laws and essentially provides a Federal court venue.

We have had discussions in the Judiciary Committee; we had a full hearing in the the Judiciary Committee. The California Wine Institute testified as well as a vintner from Santa Cruz, CA. I thought there was going to be a delay. Senator HATCH had this amendment. He decided to let it sit for awhile so that we could put together some agreement.

Mothers Against Drunk Driving has been an original supporter of what the distinguished Senator from West Virginia proposes. However, at this time I will read from the text of a letter, dated May 13, from Mothers Against Drunk Driving, signed by Karolyn Nannalee, the national president.

At the time MADD provided testimony no legislation had been drafted on the subject. The text of S. 577 has implications far beyond our concerns and is, in fact, a battle between various elements within the alcoholic beverages industry. It does not surprise us that the competing parties would like to have the support of the victims of drunk driving. It does, however, dismay us that they would go to such lengths to misrepresent our views on the subject.

I only say this because Mothers Against Drunk Driving does not, in fact support the legislation that has just been presented.

The allegation is, of course, that this legislation is directed against the wine industry, which is having increasing success in the United States as more and more Americans consume wine as opposed to other alcoholic beverages. For the small winery that may not have shelf space in a supermarket, the Internet has emerged as a source of sales of their products.

Now, let's address the question of teenage drinking. In this respect, I agree entirely, 100 percent, with what the distinguished Senator from West Virginia said. We ought to do everything we can to discourage teenage drinking. I do not have a problem with that. What I have a problem with is throwing all complicated laws with respect to alcoholic beverages into the Federal courts. I think that is unnecessary, and I think it is unwanted by many of us at least.

The amendment I have submitted—actually as an alternative, although it is a first-degree amendment—as an alternative to the amendment of the distinguished Senator from West Virginia, I believe, would solve the problem, because it would require that any package containing an alcoholic beverage that is shipped across State lines must be labeled clearly and its contents must be identified as alcoholic beverages.

Second, it would require that upon delivery the recipient must be of an age to lawfully purchase the beverage and must sign and identify himself or herself as such. It would require the invoice to state that an adult signature is required for delivery. It would require the deliverer not to deliver unless an adult signature is attached. It provides criminal penalties for violation, and with three violations the BATF, on a mandatory basis, must revoke the basic permit of any person who has been convicted of three or more violations of this section.

I think this gets at the basic problem by setting up safeguards so that particularly wine can be shipped across State lines by the purchaser.

This is complicated but is something that has arisen and has become a kind of folk art, if you will, and that is the wine tasting where people go to wine areas, where they go directly to the winery where there is a wine tasting, where they see a new bottle of wine, sometimes very limited supply, and they say: Oh, how can I buy it? And the vendor will say: You can buy it through my web site, and it is $90, $80, $70 a bottle. That is how this is done.

I believe my amendment, without throwing all of this into Federal court, essentially skins the cat without killing it. I would be hopeful that the Senate would see it as worthy.

I very much thank the distinguished Senator from West Virginia. I would like to thank the ranking member and those who made it possible for me to offer this amendment at this time.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 355

(Purpose: To amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have firearms, and for other purposes)

Mr. FRIST. Mr. President, I call up the Frist-Ashcroft amendment as under the previous unanimous consent agreement.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST), for himself, Mr. ASHCROFT, Mr. ALLARD, Mr. COVERDELL, Mr. HELMS, and Mr. NICKLES proposes an amendment numbered 355.

Mr. FRIST. 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:

At the appropriate place, insert the following:

Subtitle ____—School Safety

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 educational 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 chooses 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) FIREARM.—The term 'firearm' has the meaning given the term under section 921 of title 18, 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: ''Except as provided in section 615(k)(10), whenever''.

Mr. FRIST. Mr. President, I offer on behalf of Senators ASHCROFT, ALLARD, COVERDELL, and HELMS an amendment which addresses an issue which is fundamentally central to the issues we have been discussing over the last several days; that is, of guns and bombs in schools. This amendment will address a problem that we in this body have created through good intent but created a loophole which allows students who have brought a bomb or a gun into a school to be allowed to return to the classroom.

The amendment very specifically ends what has become a mixed message that the Federal Government has sent and is sending to American students on the issue of guns and bombs in our schools. Under the Individuals with Disabilities Education Act, IDEA, a law that I have fought very hard for, supported and have worked hard to reform and improve in past Congresses, a student with a disability who is in possession of a firearm is treated differently than a regular education student because of the disability. Students in special education are treated differently than all other students, if both have brought a gun or a bomb into the school. That is wrong. It has to be fixed. It is a loophole that creates a huge danger, I believe, to the safety of our children and teachers in our schools.

How big a problem is it? Some people said it is a hypothetical problem. It is hard to get this data. But I want to share with my colleagues what I have been able to find.

If you look just last year, over the 1997–1998 school year, just in Nashville, just one community in this country, there were eight firearm infractions, where children have been found to have brought a gun or firearm into the school. That isn't how many came in, but only how many were actually discovered. Of those eight, six were special education students, protected under IDEA.

By the way, about 13 percent of all students, or one out of every eight, are in special education. What happened to the six special education students? Under the law as it is written, we basically determine whether or not bringing that gun into school was a manifestation, meaning was it related in any way to the disability. Of those six, three were found to have brought that firearm in for a reason that is unrelated to the disability, and were expelled but were still allowed to receive educational services. The other three special education students were found to have brought the firearm to the school because it was related to the disability.

The significance of this is that we take those three students and say, You can go back into the school. The other two regualr education students not protected under IDEA were expelled and were not required to receive educational services. They can't come back to the school. But because we created this special class, we are letting kids with bombs and firearms to come back into the school in as soon as 45 days later. It is no more complicated than that.

Our amendment fixes this dangerous, dangerous loophole. To look at just over the last 8 months, of nine firearm violations in Nashville, four have involved special education students. These statistics say that in one city, Nashville, it is a problem. But it is a snapshot, a microscopic picture of what goes on all over the country. It is wrong. Students should be subject to the exact same disciplinary action whether or not they happen to be in special education. It is our fault. We created this system which treats them differently.

We contend that when it comes to bombs and firearms, they should all be treated exactly alike. The issue of possession of a gun or firearm, I don't believe the Federal Government should tie the hands of our local education authorities, our principals and teachers, when it comes to protecting students and teachers from guns and bombs in schools.

I believe there is absolutely no excuse whatsoever for any student to intentionally possess or bring to school a gun. What we have done is create by previous legislation, which this amendment fixes, a means by which a special group of students, students in special education to hide behind the Individuals with Disabilities Education Act to avoid the same punishment that a regular education student would receive.

Our amendment says that the possession must be intentional. This would allow the principal to determine if the student with a disability unknowingly had the gun placed on him. This targets a student who comes to that schoolyard with a firearm or gun intentionally.

Again, it is a tight, focused amendment.

Since its inception in 1975, 24 years ago, IDEA has been gradually modified with the times and has been improved.

I believe this is a marked improvement. I think this amendment is necessary for the reasons that we have been discussing regarding this bill, with the catastrophes around my State and other States, and in Colorado most recently, which reflect the decline in safety in our Nation's schools.

Our amendment, very simply, ensures that school authorities at the local level have the ability to remove dangerous students, whoever they are, from the classroom regardless of their status. Today they can't. Our amendment fixes this problem.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I want to commend the Senator from Tennessee, first of all, for his sensitivity to what is happening in the schools of America. His visiting the schools is something which I find to be very important. You can sit here in Washington for a long time and cook up all sorts of theories about how schools ought to be, but until you talk to the people in the schools—and in his case Nashville, Davidson County—until you talk to the principals and teachers and parents, you do not understand the problems created by our current Federal IDEA law. The Senator from Tennessee has found out that in a 1-year snapshot there were eight detected possessions of weapons in the schools, six of which were from students covered by individualized education plans, and three of which our law—the law that we made—says schools can't expel those students the way they ought to be able to expel them. He has pointed out we should fix the law.

What is interesting to me—and I commend the Senator from Tennessee. I have visited school districts all across the State of Missouri. I have gone to district after district to try and assert exactly what it is we should be doing. I have had school superintendents mention to me time after time this same problem. I talked to one small school district superintendent who talked about the dangers of not being able to have discipline in these settings. He talked about a student who threatened to kill other students seven times—threaten to shoot them.

Finally, the individual shot another student. Fortunately, the shot took place off the school premises so that the legal authorities incarcerated the student. They didn't have to go through the painful procedure of trying to discipline him within the confines of this law which makes it virtually impossible to exercise the kind of discipline necessary.

This bill is very simple. This bill is not designed to hurt any group of students. This is designed to secure the classroom. There isn't any class of students that is better off being favored and being able to bring guns or bombs to school. That is not in the interest of any group of students.

This bill basically takes off barriers that the Congress placed in the path of good school administrators, parents, teachers and local school boards. We erected barriers that kept from taking students who had guns in their possession out of schools—merely because they were determined to be in some way disabled.

This amendment simply says in spite of the fact that you are a student—of

course, one out of every eight students nationally turns out to be disabled; one in seven in the State of Missouri—the fact that you are in this category called IDEA, doesn't mean you can bring a gun or a bomb to school with impunity.

We simply take the barriers, the roadblocks out of the system. We say to school administrators and principals: You are free to discipline these students uniformly, just like you would discipline other students.

I think that is a very important, profoundly simple point. It is the kind of correction which we only make when we get out and talk to people out there who are running the schools. When they tell you they can't discipline kids who are threatening over and over to kill other students, who eventually shoot other students, when they tell you they can't keep kids who brought guns to school out of school or from bringing guns back into school, and because of Federal procedures that say disciplines are more difficult the second time because we set up a Federal bureaucracy that keeps schools from being able to exercise discipline, it is time to say the most important thing for students—whether disabled, conventional, mainstream or not—the most important thing for that classroom is safety.

When you keep guns and bombs out of the school, you promote the safety of all students.

I am here to say how much I appreciate the opportunity to be able to sponsor this amendment that gives local schools, principals, teachers, parents and school boards the right to maintain gun-free, bomb-free schools, to have safe learning environments where students, without the feeling of threat and insecurity, can actually learn.

It is a pleasure to be a cosponsor of this amendment with Senator FRIST. I commend him. We all want to do everything we can for the education of all of our students. Our students who are disabled deserve our special compassion and attention, and more than any others, they deserve the protection that is afforded when we can have the ability to have secure, safe learning environments. We can do that when we allow our administrators to make sure that those individuals who bring guns to school can be disciplined.

One last point: The law that provides for expulsion of students who bring guns to schools gives principals discretion to allow students to reenter the school. That same discretion would apply to these kinds of students as it applies to conventional students.

This is a field leveler. It puts people on the same level and it puts the safety of our schoolchildren in first place—not part of our schoolchildren, all of them. Disabled children, other individuals, the entire school population must have the assurance that school officials have the capacity to enforce safe schools.

I thank the Senator from Tennessee and others for joining in this. I am honored to be an original cosponsor of this amendment.

Mr. HELMS. Mr. President, I am grateful to the able Senator from Missouri, Mr. ASHCROFT, and the able Senator from Tennessee, Mr. FRIST, for offering this amendment which corrects a glaring flaw in the Federal disabilities law and, in my judgment, is among the most important amendments to the juvenile justice legislation when, again, it is pending.

This past Thursday morning, I was aghast when I noted an op-ed piece in the Washington Times written by Kenneth Smith. It was entitled ''Disabled Educators.'' The article detailed a number of disturbing incidents of students threatening their teachers and peers with violence, bringing knives and guns to campus and even burning down their own schools. In the wake of the tragedy of Littleton, CO, these news items, of course, are particularly chilling.

What is most alarming about the column is not the individual stories of violence, it is that a well-intentioned Federal law nevertheless prevents local school officials from expelling these dangerous students from their schools for all but a short period of time.

Let me admit up front that I bear my share of the responsibility for this situation. Two years ago, I was one of 98 Senators who voted to reauthorize the Individuals with Disabilities Act, the so-called IDEA legislation.

Only the courageous and farsighted Senator from Washington, Mr. GORTON, voted against final passage of IDEA shortly after his commonsense amendment to address these discipline procedures failed by just three votes.

Two years later, Senator GORTON's warnings began to appear prophetic, and I certainly appreciate his crucial leadership on this issue, as well as the many others Senator GORTON has helped the Senate to follow.

In any case, I voted for IDEA because I believed then, and I continue to believe, that it is appropriate for the Federal Government to help local school districts bear the financial burden of attending to the special needs of disabled children. But it is unfair and it is unwise for the Federal Government to use these funds to mandate unreasonable and even dangerous discipline procedures on the local schools. I believe that the amendment which I hope will be pending shortly will be an important first step in correcting this flaw in the IDEA legislation.

There are 165,402 children in North Carolina classified as learning disabled. I believe that every one of these children is entitled to get an education. But under the IDEA legislation, if 1—even 1—of those 165,402 children brings a weapon to school, he or she must be returned to the classroom within 45 days if the school district wants to keep its IDEA funding. If a disabled student threatens violence or poses any other kind of general discipline problem, the student can be suspended for only 10 days. Worse, these limitations apply to disabled children even if their behavior is unrelated to the disability.

Clearly, this policy defies common sense. This amendment frees the hands of school administrators to use their discretion to discipline a learning-disabled student who brings a weapon to school or threatens violence. I believe the Senate should adopt this eminently reasonable position.

Anybody who does not want to take my word for it should listen to the experts. For example, North Carolina State University is home to a unique organization called the Center for the Prevention of School Violence. It is, as far as I know, one of the few public policy outlets devoted solely to the issue of school violence. Its director, Pam Riley, works tirelessly to collect statistics, analyze legislation, and suggest solutions to make our schools safer.

I called Dr. Riley and asked her to look over the amendment I am discussing and to let me know her opinion. With the Chair's permission, I shall read a paragraph from her reply to me, because she states the issue quite clearly and succinctly, as far as I am concerned. Let me quote her:

> I believe it is entirely appropriate—indeed, entirely necessary—for Congress to allow local schools the flexibility to discipline students who bring weapons to school or threaten violence on their teachers or peers, regardless of whether the student is classified as disabled. While I believe it is important to make sure disabled students receive quality education, the safety of our classrooms should be an overriding goal of federal education policy.

That says it all, as far as I am concerned. I know that Senator ASHCROFT and Senator FRIST share my appreciation for Dr. Riley's support of this amendment. I ask unanimous consent that her entire letter, dated May 11, be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. HELMS. I thank the Chair.

Mr. President, the North Carolina School Boards Association, in a letter dated May 13, 1999, echoed Dr. Riley's sentiments:

> Being able to appropriately discipline all students is essential to maintaining safe schools.

Dr. Bob Bowers, superintendent of the Buncombe County Schools, wrote:

> [T]he Ashcroft amendment—

And it is now the Ashcroft-Frist-Helms amendment—

> is a necessary and proper response to student threats of violence in our schools made against teachers and [other students]. Moreover, weapons have no place in our schools and making exceptions erodes confidence regarding overall school safety.

I certainly agree. I ask unanimous consent that this letter from the North Carolina School Boards Association and the Buncombe County Public Schools be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 2.)

Mr. HELMS. I thank the Chair.

I hope those listening to this discussion are not misled into thinking that school administrators are suddenly discovering this problem as an aftermath of the Littleton tragedy. The fact is that schools have long been concerned about this aspect of IDEA.

This letter to my office dated April 2, 1998, from the Onslow County Schools in Jacksonville, NC, clearly indicates that discipline procedures have long been a problem for our school districts. More than a year ago, Superintendent Ronald Singletary wrote to me to say that under the IDEA law, ''we convey [to students] that there are no real consequences for the serious misbehavior of a disabled student.'' I cannot imagine a more inappropriate message to send to our students.

The problems we are discussing are more than just a quirk in the law or a technical matter. It is clearly an ill-conceived mistake by Congress, in which I participated. And I hope Senators will ask themselves what possible reason the Federal Government would have to prevent local school officials from making sure that their students have safe classrooms. This is the real problem.

Our school boards and our administrators are asking for our help in correcting a part of IDEA that does not work. And I sincerely hope the Senate will listen.

Mr. President, I ask unanimous consent that the article ''Disabled educators'' to which I referred at the outset of my comments be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 3.)

Mr. HELMS. Mr. President, with that I thank the Chair for recognizing me and I yield the floor.

EXHIBIT NO. 1

CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE,
Raleigh, NC, May 11, 1999.

Hon. JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: I appreciate your letting me know of Senator Ashcroft's school safety amendment, which would free the hands of local school districts to discipline dangerous students without regard to their status under the Individuals with Disabilities Education Act. I am certainly pleased to offer my support for this proposal, and I hope it will be swiftly adopted by the Senate.

I believe it is entirely appropriate—indeed, entirely necessary—for Congress to allow local schools the flexibility to discipline students who bring weapons to school or threaten violence on their teachers or peers, regardless of whether the student is classified as disabled. While I believe it is important to make sure disabled students receive quality education, the safety of our classrooms should be an overriding goal of federal education policy.

As Director of the Center for the Prevention of School Violence at North Carolina State University, I know our local officials are struggling to curb the worsening problem of violence in our schools. The Center's vision that ''Every student will attend a school that is safe and secure, one that is free of fear and conductive to learning.'' I hope the federal government will take all proper steps to assist in obtaining this goal, and I believe the Ashcroft amendment is a step in the right direction.

Sincerely,

DR. PAMELA L. RILEY,
Executive Director.

EXHIBIT NO. 2

NORTH CAROLINA SCHOOL BOARDS ASSOCIATION,
Raleigh, NC, May 13, 1999.

PUBLIC EDUCATION: NORTH CAROLINA'S BEST INVESTMENT

Hon. JESSE A. HELMS,
Dirkson Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: Thank you for sharing with me the Ashcroft School Safety Act, which seeks to amend the IDEA and the Guns Free Schools Act of 1994. The North Carolina School Boards Association strongly supports this Act. As you know, school safety is an issue of paramount concern for school districts. If we cannot maintain safety, it is impossible for us to teach children. Being able to appropriately discipline all students is essential to maintaining safe schools. The Ashcroft School Safety Act would give school systems more ability to discipline special education students the same as regular education students in specific situations. This would allow the entire school's safety to not be impaired by one individual student.

If I can be of further assistance to you, please let me know.

Sincerely,

LEANNE E. WINNER,
Director of Governmental Relations.

BUNCOMBE COUNTY PUBLIC SCHOOLS,
Asheville, NC, May 12, 1999.

Re Ashcroft amendment to IDEA.

Hon. JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: Thank you for making this Board of Education aware of Senator Ashcroft's proposed amendment to the Individuals with Disabilities Education Act. This Board supports that law and is committed to providing an excellent education to all students attending the public schools in Buncombe County.

However, this Board is concerned about school violence and the ability of educators and administrators to deal with potential problems and protect the safety of everyone. To that end, we believe that the Ashcroft Amendment is a necessary and proper response to student threats of violence in our schools made against teachers and peers. Moreover, weapons have no place in our schools and making exceptions erodes confidence regarding overall school safety.

We are pleased to offer our support of this measure.

Sincerely,

DR. BOB BOWENS,
Superintendent, Buncombe County Board of Education.

EXHIBIT NO. 3

[From the Washington Post, May 6, 1999]

DISABLED EDUCATORS

(By Kenneth Smith)

When Fairfax County school officials discovered that a group of students had somehow managed to get a loaded .357 magnum handgun on school property, they moved swiftly to deal with the offenders. They expelled five of the students and would have done so with the sixth, only to discover that federal law prohibited them from doing so.

Why? He was considered ''learning disabled''—he had a ''weakness in written language skills''—and according to federal disabilities laws, Fairfax County had to continue educating him. As Jane Timian, a county School Board official who oversees student disciplinary cases, later explained the matter, ''The student was not expelled, The student later bragged to teachers and students at the school that he could not be expelled.''

He wasn't alone. She reported that after five gang members used a meat hook in an assault on another student, only three of them were expelled; the other two were special-ed students. When then-Virginia Gov. George Allen dared to challenge the wisdom of using federal law to make schools safer for violent offenders, the Clinton administration responded by threatening to yank millions of dollars in federal education dollars from the state.

That was 1994. Five years' worth of reform later, parents shocked by the shootings at Columbine High School and elsewhere may be interested to know that a law known as the Individuals with Disabilities Education Act still limits the discretion of local school boards to provide children with the safest schools possible. At a meeting in San Francisco last month, the National School Boards Association urged federal lawmakers to amend the law to provide greater flexibility to suspend, expel, or reassign students whose misconduct jeopardizes safety or unreasonably disrupts classroom learning. In particular, it seeks the removal of federal restrictions on withholding educational services to disabled students ''when their behavior, unrelated to their disability, endangers themselves or others.''

One would have thought it one of the more uncontroversial requests ever made of Congress. But when Rep. Bob Livingston, chairman of the House Appropriations Committee before he unexpectedly left town, tried to tack an amendment onto an appropriations measure that would accommodate the concerns of school officials, the administration forced him to drop it. Safer schools would have to wait.

How a model program like the IDEA turned out to be so delinquent would keep a political science class at the chalkboard for a week. The point of the act, first passed in 1975 and reauthorized most recently in 1997, was to ensure that a disability, physical or otherwise, did not deny someone access to education that everyone else got. Among other things, it called for the least restrictive—most permissive, one might say—educational setting possible for the disabled student. The law also dictated that special education was to take place within the school and not be isolated in some outside annex.

In theory it sounded like a fine idea. If the handicapped were to lead the kind of independent lives everyone wanted for them, they would need at least as good an education as everyone else. The last thing anyone worried about was that a blind, retarded child in a wheelchair might bring a gun to school.

Today, school officials still aren't very worried about that particular child. What's changed is the definition of disabled. When mere ''weakness in written language skills'' or attention and learning disorders constitute a handicap, not only do the numbers of disabled grow, there is no physical impairment to limit the harm they could do. ''No one thought,'' one school official says, ''the disabled would be like us.''

Louisiana officials who sought help from Mr. Livingston found out the hard way.

Among the anecdotes they collected from across the state:

Two students, one of them a special-education student, severely beat a third student who was subsequently hospitalized. The non-special-ed attacker was expelled from school. The special-ed attacker was suspended for 10 days, then returned to an alternative school across the street from the school where the girl was beaten.

A 14-year-old special-ed girl, who had been suspended for threatening a class aide, attacked her school principal twice, knocking her unconscious, damaging vertebrae in her neck and causing permanent nerve damage. Police arrested the student, and school officials kept her out of school for 45 days, the maximum under the IDEA. The principal was out for eight months.

A special-ed student, already under an in-school suspension, threatened to burn his school down after being told his suspension was being extended. Days later the school did in fact burn down, and police arrested the student. His brother, also a special-ed student under suspension, subsequently threatened to shoot the principal. The school was forced to lock its doors, keeping students inside, until police could apprehend the student. The law permits the students to return to school in 45 days, but the school superintendent has vowed he will go to jail before he lets them back in.

School administrators say they are more than willing to educate disabled students, but not at the cost of the safety of everyone else in the school. And they worry that the federal government is teaching disabled students a terrible lesson—that there is one standard for them, and another for everyone else. What could be more disabling?

Mrs. LINCOLN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I compliment my colleague from North Carolina. In the recent debates, certainly in the passage of the Ed-Flex bill, the great State of North Carolina showed what a great example it could be in its forward thinking and being able to look for innovative solutions for our children's education.

Mr. NICKLES. Mr. President, I wish to compliment my colleagues from Tennessee and from Missouri for an outstanding amendment, one that I hope will be overwhelmingly supported by all of our colleagues. It is important we not discriminate, in a way we would say if this child happens to be under the IDEA program, individuals with disabilities, that the laws or the rules and regulations say we will not discipline you if you happen to carry a gun or bomb to school.

Clearly, we want any student who is carrying a gun or a firearm or bomb to school to be disciplined—any student. We want safe schools. This amendment would provide for that. It is a commonsense amendment. It is an amendment that should be passed overwhelmingly.

I ask unanimous consent to be added as a cosponsor to the amendment.

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

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is critical to saving children's lives. That issue is guns in the hands of our children. The events of Columbine have been a wake up call for the American people. Guns don't belong in the hands of kids. We must do everything we can to see to it that children cannot buy guns. We also need tougher penalties for illegal possession and crimes committed with guns. This is about America's children and getting behind our kids. This is about keeping our kids safer in their schools and safer on our streets.

I respect the Constitution and the right of law-abiding citizens to own guns. I understand that many people own a gun for self-protection. The fear of crime is a real issue for many Americans. I believe people should be able to protect themselves. I also know people enjoy using guns for sport. Many Americans enjoy hunting, and I do not want to interfere with lawful sport.

My support for reasonable steps to protect kids does not go against my support for people's right to protect themselves or their right to hunt. We can take measures to save lives without infringing on the Constitution.

One of my biggest concerns is the safe storage of guns in the home. I think it makes sense to require trigger locks for guns while children are in the home. There have been too many tragic accidents with children that could have been prevented.

Guns are too easily available to our young people. We must require gun show participants to comply with the same laws as gun shop owners. This would cut off a deadly supply of firearms to our Nation's children and dangerous criminals. The guns used in the Columbine massacre were purchased from gun shows. I was very disappointed that the Lautenberg amendment did not pass. This amendment would have closed the gun show loophole. What passed instead was an amendment giving a gun show participant the option of conducting a background check. Now, what gun show participant is going to choose to take the time and effort when the gun seller in the next booth is willing to sell a gun with no questions asked?

I was happy to support an amendment which would toughen the penalties for possession of semiautomatic assault weapons. The presence of semiautomatic weapons on our streets is a deplorable situation. Assault weapons have one purpose—to kill the largest number of people as quickly and efficiently as possible. They have no legitimate hunting or sporting use. I want to see them taken off our streets.

We must get behind our kids and teach them that character counts. We have to teach them respect for guns and respect for human life. We must listen carefully to them and help them when they are in trouble. We need to give them constructive goals to work toward. We must give them opportunities to live a rewarding life. Then they can respect themselves and others and not resort to guns and violence to demand the attention they need. We want kids to turn toward each other—not against each other.

PRINTING OF RAMBOUILLET AGREEMENT

Mr. NICKLES. Mr. President, on May 3, 1999, I addressed the administration policy regarding the Federal Republic of Kosovo. During my remarks, I asked unanimous consent to have printed in the CONGRESSIONAL RECORD the text of the Rambouillet Agreement. It is 44 pages long.

Consistent with the Standing Rules of the Senate, I ask unanimous consent that the text be printed in the CONGRESSIONAL RECORD. The cost of printing the text will total $3,758.

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

RAMBOUILLET AGREEMENT—INTERIM AGREEMENT FOR PEACE AND SELF-GOVERNMENT IN KOSOVO

The Parties of the present Agreement,

Convinced of the need for a peaceful and political solution in Kosovo as a prerequisite for stability and democracy,

Determined to establish a peaceful environment in Kosovo,

Reaffirming their commitment to the Purposes and Principles of the United Nations, as well as to OSCE principles, including the Helsinki Final Act and the Charter of Paris for a new Europe,

Recalling the commitment of the international community to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia,

Recalling the basic Clements/principles adopted by the Contact Group at its ministerial meeting in London on January 29, 1999,

Recognizing the need for democratic self-government in Kosovo, including full participation of the members of all national communities in political decision-making,

Desiring to ensure the protection of the human rights of all persons in Kosovo, as well as the rights of the members of all national communities, *Recognizing* the ongoing contribution of the OSCE to peace and stability in Kosovo,

Noting that the present Agreement has been concluded under the auspices of the members of the Contact Group and the European Union and undertaking with respect to these members and the European Union to abide by this Agreement,

Aware that full respect for the present Agreement will be central for the development of relations with European institutions,

Have agreed as follows:

FRAMEWORK

ARTICLE I: PRINCIPLES

1. All citizens in Kosovo shall enjoy, without discrimination, the equal rights and freedoms set forth in this Agreement.

2. National communities and their members shall have additional rights specified in Chapter 1. Kosovo, Federal, and Republic authorities shall not interfere with the exercise of these additional rights. The national communities shall be legally equal as specified herein, and shall not use their additional rights to endanger the rights of other national communities or the rights of citizens, the sovereignty and territorial integrity of the Federal Republic of Yugoslavia, or the functioning of representative democratic government in Kosovo.

3. All authorities in Kosovo shall fully respect human rights, democracy, and the equality of citizens and national communities.

4. Citizens in Kosovo shall have the right to democratic self-government through legislative, executive, judicial, and other institutions established in accordance with this

Agreement. They shall have the opportunity to be represented in all institutions in Kosovo. The right to democratic self-government shall include the right to participate in free and fair elections.

5. Every person in Kosovo may have access to international institutions for the protection of their rights in accordance with the procedures of such institutions.

6. The Parties accept that they will act only within their powers and responsibilities in Kosovo as specified by this Agreement. Acts outside those powers and responsibilities shall be null and void. Kosovo shall have all rights and powers set forth herein, including in particular as specified in the Constitution at Chapter 1. This Agreement shall prevail over any other legal provisions of the Parties and shall be directly applicable. The Parties shall harmonize their governing practices and documents with this Agreement.

7. The Parties agree to cooperate fully with all international organizations working in Kosovo on the implementation of this Agreement.

ARTICLE II: CONFIDENCE-BUILDING MEASURES

END OF USE OF FORCE

1. Use of force in Kosovo shall cease immediately. In accordance with this Agreement, alleged violations of the cease-fire shall be reported to international observers and shall not be used to justify use of force in response.

2. The status of police and security forces in Kosovo, including withdrawal of forces, shall be governed by the items of this Agreement. Paramilitary and irregular forces in Kosovo are incompatible with the terms of this Agreement.

RETURN

3. The Parties recognize that all persons have the right to return to their homes. Appropriate authorities shall take all measures necessary to facilitate the safe return of persons, including issuing necessary documents. All persons shall have the right to reoccupy their real property, asset their occupancy rights in state-owned property, and recover their other property and personal possessions. The Parties shall take all measures necessary to readmit returning persons to Kosovo.

4. The Parties shall cooperate fully with all efforts by the United Nations High Commissioner for Refugees (UNHCR) and other international and non-governmental organizations concerning the repatriation and return of persons, including those organizations monitoring of the treatment of persons following their return.

ACCESS FOR INTERNATIONAL ASSISTANCE

5. There shall be no impediments to the normal flow of goods into Kosovo, including materials for the reconstruction of homes and structures. The Federal Republic of Yugoslavia shall not require visas, customs, or licensing for persons or things for the Implementation Mission (IM), the UNHCR, and other international organizations, as well as for non-governmental organizations working in Kosovo as determined by the Chief of the Implementation Mission (CIM).

6. All staff, whether national or international, working with international or non-governmental organizations including with the Yugoslav Red Cross, shall be allowed unrestricted access to the Kosovo population for purposes of international assistance. All persons in Kosovo shall similarly have safe, unhindered, and direct access to the staff of such organizations.

OTHER ISSUES

7. Federal organs shall not take any decisions that have a differential, disproportionate, injurious, or discriminatory effect on Kosovo. Such decisions, if any, shall be void with regard to Kosovo.

8. Martial law shall not be declared in Kosovo.

9. The Parties shall immediately comply with all requests for support from the Implementation Mission (IM). The IM shall have its own broadcast frequencies for radio and television programming in Kosovo. The Federal Republic of Yugoslavia shall provide all necessary facilities, including frequencies for radio communications, to all humanitarian organizations responsible for delivering aid to Kosovo.

DETENTION OF COMBATANTS AND JUSTICE ISSUES

10. All abducted persons or other persons held without charge shall be released. The Parties shall also release and transfer in accordance with this Agreement all persons held in connection with the conflict. The Parties shall cooperate fully with the International Committee of the Red Cross (ICRC) to facilitate its work in accordance with its mandate, including ensuring full access to all such persons, irrespective of their status, wherever they might be held, for visits in accordance with the ICRC's standard operating procedures.

11. The Parties shall provide information, through tracing mechanisms of the ICRC, to families of all persons who are unaccounted for. The Parties shall cooperate fully with the ICRC and the International Commission on Missing Persons in their efforts to determine the identity, whereabouts, and fate of those unaccounted for.

12. Each Party:

(a) shall not prosecute anyone for crimes related to the conflict in Kosovo, except for persons accused of having committed serious violations of international humanitarian law. In order to facilitate transparency, the Parties shall grant access to foreign experts (including forensics experts) along with state investigators;

(b) shall grant a general amnesty for all persons already convicted of committing politically motivated crimes related to the conflict in Kosovo. This amnesty shall not apply to those properly convicted of committing serious violations of international humanitarian law at a fair and open trial conducted pursuant to international standards.

13. All Parties shall comply with their obligation to cooperate in the investigation and prosecution of serious violations of international humanitarian law.

(a) As required by United Nations Security Council resolution 827 (1993) and subsequent resolutions, the Parties shall fully cooperate with the International Criminal Tribunal for the Former Yugoslavia in its investigations and prosecutions, including complying with its requests for assistance and its orders.

(b) The Parties shall also allow complete, unimpeded, and unfettered access to international experts—including forensics experts and investigators to investigate allegations of serious violations of international humanitarian law.

INDEPENDENT MEDIA

14. Recognizing the importance of free and independent media for the development of a democratic political climate necessary for the reconstruction and development of Kosovo, the Parties shall ensure the widest possible press freedoms in Kosovo in all media, public and private, including print, television, radio, and Internet.

CHAPTER 1

CONSTITUTION

Affirming their belief in a peaceful society, justice, tolerance, and reconciliation,

Resolved to ensure respect for human rights and the quality of all citizens and national communities,

Recognizing that the preservation and promotion of the national, cultural, and linguistic identity of each national community in Kosovo are necessary for the harmonious development of a peaceful society,

Desiring through this interim Constitution to establish institutions of democratic self-government in Kosovo grounded in respect for the territorial integrity and sovereignty of the Federal Republic of Yugoslavia and from this Agreement, from which the authorities of governance set forth herein originate,

Recognizing that the institutions of Kosovo should fairly represent the national communities in Kosovo and foster the exercise of their rights and those of their members,

Recalling and endorsing the principles/basic elements adopted by the Contact Group at its ministerial meeting in London on January 29, 1999,

ARTICLE I: PRINCIPLES OF DEMOCRATIC SELF-GOVERNMENT IN KOSOVO

1. Kosovo shall govern itself democratically through the legislative, executive, judicial, and other organs and institutions specified herein. Organs and institutions of Kosovo shall exercise their authorities consistent with the terms of this Agreement.

2. All authorities in Kosovo shall fully respect human rights, democracy, and the equality of citizens and national communities.

3. The Federal Republic of Yugoslavia has competence in Kosovo over the following areas, except as specified elsewhere in this Agreement: (a) territorial integrity, (b) maintaining a common market within the Federal Republic of Yugoslavia, which power shall be exercised in a manner tat does not discriminate against Kosovo, (c) monetary policy, (d) defense, (e) foreign policy, (f) customs services, (g) federal taxation, (h) federal elections, and (i) other areas specified in this Agreement.

4. The Republic of Serbia shall have competence in Kosovo as specified in this Agreement, including in relation to Republic elections.

5. Citizens in Kosovo may continue to participate in areas in which the Federal Republic of Yugoslavia and the Republic of Serbia have competence through their representation in relevant institutions, without prejudice to the exercise of competence by Kosovo authorities set forth in this Agreement.

6. With respect to Kosovo:

(a) There shall be no changes to the borders of Kosovo;

(b) Deployment and use of police and security forces shall be governed by Chapters 2 and 7 of this Agreement; and

(c) Kosovo shall have authority to conduct foreign relations within its areas of responsibility equivalent to the power provided to Republics under Article 7 of the Constitution of the Federal Republic of Yugoslavia.

7. There shall be no interference with the right of citizens and national communities in Kosovo to call upon appropriate institutions of the Republic of Serbia for the following purposes:

(a) assistance in designing school curricula and standards;

(b) participation in social benefits programs, such as care for war veterans, pensioners, and disabled persons; and

(c) other voluntarily received services, provided that these services are not related to police and security matters governed by Chapters 2 and 7 of this Agreement, and that any Republic personnel serving in Kosovo pursuant to this paragraph shall be unarmed service providers acting at the invitation of a national community in Kosovo.

The Republic shall have the authority to levy taxes or charges on those citizens requesting services pursuant to this paragraph,

as necessary to support the provision of such services.

8. The basic territorial unit of local self-government in Kosovo shall be the commune. All responsibilities in Kosovo not expressly assigned elsewhere shall be the responsibility of the communes.

9. To preserve and promote democratic self-government in Kosovo, all candidates for appointed, elective, or other public office, and all office holders, shall meet the following criteria:

(a) No person who is serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any office; and

(b) All candidates and office holders shall renounce violence as a mechanism for achieving political goals; past political or resistance activities shall not be a bar to holding office in Kosovo.

ARTICLE II; THE ASSEMBLY

GENERAL

1. Kosovo shall have an Assembly, which shall be comprised of 120 Members.

(a) Eighty Members shall be directly elected.

(b) A further 40 Members shall be elected by the members of qualifying national communities.

(i) Communities whose members constitute more than 0.5 per cent of the Kosovo population but less than 5 per cent shall have ten of these seats, to be divided among them in accordance with their proportion of the overall population.

(ii) Communities whose members constitute more than 5 per cent of the Kosovo population shall divide the remaining thirty seat equally. The Serb and Albanian national communities shall be presumed to meet the 5 per cent population threshold.

OTHER PROVISIONS

2. Elections for all Members shall be conducted democratically, consistent with the provisions of Chapter 3 of this Agreement. Members shall be elected for a term of three years.

3. Allocation of seats in the Assembly shall be based on data gathered in the census referred to in Chapter 5 of this Agreement. Prior to the completion of the census, for purposes of this Article declarations of national community membership made during voter registration shall be used to determine the percentage of the Kosovo population that each national community represents.

4. Members of the Assembly shall be immune from all civil or criminal proceedings on the basis of words expressed or other acts performed in their capacity as Members of the Assembly.

POWERS OF THE ASSEMBLY

5. The Assembly shall be responsible for enacting laws of Kosovo, including in political, security, economic, social, educational, scientific, and cultural areas as set out below and elsewhere in this Agreement. This Constitution and the laws of the Kosovo Assembly shall not be subject to change or modification by authorities of the Republic or the Federation.

(a) The Assembly shall be responsible for:

(i) Financing activities of Kosovo institutions, including by levying taxes and duties on sources within Kosovo;

(ii) Adopting budgets of the Administrative organs and other institutions of Kosovo, with the exception of communal and national community institutions unless otherwise specified herein;

(iii) Adopting regulations concerning the organization and procedures of the Administrative Organs of Kosovo;

(iv) Approving the list of Ministers of the Government, including the Prime Minister;

(v) Coordinating educational arrangements in Kosovo, with respect for the authorities of national communities and Communes;

(vi) Electing candidates for judicial office put forward by the President of Kosovo;

(vii) Enacting laws ensuring free movement of goods, services, and persons in Kosovo consistent with this Agreement;

(viii) Approving agreements concluded by the President within the areas of responsibility of Kosovo;

(ix) Cooperating with the Federal Assembly, and with the Assemblies of the Republics, and conducting relations with foreign legislative bodies;

(x) Establishing a framework for local self-government;

(xi) Enacting laws concerning inter-communal issues and relations between national communities, when necessary;

(xii) Enacting laws regulating the work of medical institutions and hospitals;

(xiii) Protecting the environment, where inter-communal issues are involved;

(xiv) Adopting programs of economic, scientific, technological, demographic, regional, and social development, as well as urban planning;

(xv) Adopting programs for the development of agriculture and of rural areas;

(xvi) Regulating elections consistent with Chapters 3 and 5;

(xvii) Regulating Kosovo-owned property; and

(xviii) Regulating land registries.

(b) The Assembly shall also have authority to enact laws in areas within the responsibility of the Communes if the matter cannot be effectively regulated by the Communes or if regulation by individual Communes might prejudice the rights of other Communes. In the absence of a law enacted by the Assembly under this subparagraph that preempts communal action, the Communes shall retain their authority.

PROCEDURE

6. Laws and other decisions of the Assembly shall be adopted by majority of Members present and voting.

7. A majority of the Members of a single national community elected to the Assembly pursuant to paragraph 1(b) may adopt a motion that a law or other decision adversely affects the vital interests of their national community. The challenged law or decision shall be suspended with regard to that national community until the dispute settlement procedure in paragraph 8 is completed.

8. The following procedure shall be used in the event of a motion under paragraph 7:

(a) The Members making the vital interest motion shall give reasons for their motion. The proposers of the legislation shall be given an opportunity to respond.

(b) The Members making the motion shall appoint within one day a mediator of their choice to assist in reaching an agreement with those proposing the legislation.

(c) If mediation does not produce an agreement within seven days, the matter may be submitted for a binding ruling. The decision shall be rendered by a panel comprising three Members of the Assembly: one Albanian and one Serb, each appointed by his or her national community delegation; and a third Member, who will be of a third nationality and will be selected within two days by consensus of the Presidency of the Assembly.

(i) A vital interest motion shall be upheld if the legislation challenged adversely affects the community's fundamental constitutional rights, additional rights as set forth in Article VII, or the principle of fair treatment.

(ii) If the motion is not upheld, the challenged legislation shall enter into force for that community.

(d) Paragraph (c) shall not apply to the selection of Assembly officials.

(e) The Assembly may exclude other decisions from this procedure by means of a law enacted by a majority that includes a majority of each national community elected pursuant to paragraph 1(b).

9. A majority of the Members shall constitute a quorum. the Assembly shall otherwise decide its own rules of procedure.

LEADERSHIP

10. The Assembly shall elect from among its Members a Presidency, which shall consist of a President, two Vice-Presidents, and other leaders in accordance with the Assembly's rules of procedure. Each national community meeting the threshold specified in paragraph 1(b)(ii) shall be represented in the leadership. the President of the Assembly shall not be from the same national community as the President of Kosovo.

The President of the Assembly shall represent it, call its sessions to order, chair its meetings, coordinate the work of any committees it may establish, and perform other tasks prescribed by the rules of procedure of the Assembly.

ARTICLE III: PRESIDENT OF KOSOVO

1. There shall be a President of Kosovo, who shall be elected by the Assembly by vote of a majority of its Members. The President of Kosovo shall serve for a three-year term. No person may serve more than two terms as President of Kosovo.

2. The President of Kosovo shall be responsible for:

(i) Representing Kosovo, including before any international or Federal body or any body of the Republics;

(ii) Proposing to the Assembly candidates for Prime Minister, the Constitutional Court, the Supreme Court, and other Kosovo judicial offices;

(iii) Meeting regularly with the democratically elected representatives of the national communities;

(iv) Conducting foreign relations and concluding agreements within this power consistent with the authorities of Kosovo institutions under this Agreement. Such agreements shall only enter into force upon approval by the Assembly;

(v) Designating a representative to serve on the Joint Commission established by Article 1.2 of Chapter 5 of this Agreement;

(vi) Meeting regularly with the Federal and Republic Presidents; and

(vii) Other functions specified herein or by law.

ARTICLE IV: GOVERNMENT AND ADMINISTRATIVE ORGANS

1. Executive power shall be exercised by the Government. The Government shall be responsible for implementing the laws of Kosovo, and of other government authorities when such responsibilities are devolved by those authorities. The Government shall also have competence to propose laws to the Assembly.

(a) The Government shall consist of a Prime Minister and Ministers, including at least one person from each national community meeting the threshold specified in paragraph 1(b)(ii) of Article II. Ministers shall head the Administrative Organs of Kosovo.

(b) The candidate for Prime Minister proposed by the President shall put forward a list of Ministers to the Assembly. The Prime Minister, together with the list of Ministers, shall be approved by the majority of those present and voting in the Assembly. In the event that the Prime Minister is not able to obtain a majority for the Government, the President shall propose a new candidate for Prime Minister within ten days.

(c) The Government shall resign if a no confidence motion is adopted by a vote of a

majority of the members of the Assembly. If the Prime Minster or the Government resigns, the President shall select a new candidate for Prime Minister who shall seek to form a Government.

(d) The Prime Minister shall call meetings of the Government, represent it as appropriate, and coordinate its work. Decisions of the Government shall require a majority of Ministers present and voting. The Prime Minister shall cast the deciding vote in the event Ministers are equally divided. The Government shall otherwise decide its own rules of procedure.

2. Administrative Organs shall be responsible for assisting the Government in carrying out its duties.

(a) National communities shall be fairly represented at all levels in the Administrative Organs.

(b) Any citizen in Kosovo claiming to have been directly and adversely affected by the decision of an executive or administrative body shall have the right to judicial review of the legality of that decision that exhausting all avenues for administrative review. The Assembly shall enact a law to regulate this review.

3. There shall be a Chief Prosecutor who shall be responsible for prosecuting individuals who violate the criminal laws of Kosovo. He shall head an Office of the Prosecutor, which shall at all levels have staff representative of the population of Kosovo.

ARTICLE V: JUDICIARY

GENERAL

1. Kosovo shall have a Constitutional Court, a Supreme Court, District Courts, and Communal Courts.

2. The Kosovo courts shall have juridiction over all matters arising under this Constitution or the laws of Kosovo except as specified in paragraph 3. The Kosovo courts shall also have jurisdiction over questions of federal law, subject to appeal to the Federal courts on these questions after all appeals available under the Kosovo system have been exhausted.

3. Citizens in Kosovo may opt to have civil disputes to which they are party adjudicated by other courts in the Federal Republic of Yugoslavia, which shall apply the law applicable in Kosovo.

4. The following rules will apply to criminal cases:

(a) At the start of criminal proceedings, the defendant is entitled to have his or her trial transferred to another Kosovo court that he or she designates.

(b) In criminal cases in which all defendants and victims are members of the same national community, all members of the judicial council will be from a national community of their choice if any party so requests.

(c) A defendant in a criminal case tried in Kosovo courts is entitled to have at least one member of the judicial council hearing the case to be from his or her national community. Kosovo authorities will consider and allow judges of other courts in the Federal Republic of Yugoslavia to serve as Kosovo judges for these purposes.

CONSTITUTIONAL COURT

5. The Constitutional Court shall consist of nine judges. There shall be at least one Constitutional Court judge from each national community meeting the threshold specified in paragraph 1(b)(ii) of Article II. Until such time as the Parties agree to discontinue this arrangement, 5 judges of the Constitutional Court shall be selected from a list drawn up by the President of the European Court of Human Rights.

6. The Constitutional Court shall have authority to resolve disputes relating to the meaning of this Constitution. That authority shall include, but is not limited to, determining whether laws applicable in Kosovo, decisions or acts of the President, the Assembly, the Government, the Communes, and the national communities are compatible with this Constitution.

(a) Matters may be referred to the Constitutional Court by the President of Kosovo, the President or Vice-Presidents of the Assembly, the Ombudsman, the communal assemblies and councils, and any national community acting according to the democratic procedures.

(b) Any court which finds in the course of adjudicating a matter that the dispute depends on the answer to a question within the Constitutional Court's jurisdiction shall refer the issue to the Constitutional Court for a preliminary decision.

7. Following the exhaustion of other legal remedies, the Constitutional Court shall at the request of any person claiming to be victim have jurisdiction over complaints that human rights and fundamental freedoms and the rights of members of national communities set forth in this Constitution have been violated by a public authority.

8. The Constitutional Court shall have such other jurisdiction as may be specified elsewhere in this Agreement or by law.

SUPREME COURT

9. The Supreme Court shall consist of nine judges. There shall be at least one Suprme Court judge from each national community meeting the threshold specified in paragraph 1(b)(ii) of Article II.

10. The Supreme Court shall hear appeals from the District Courts and the Communal Courts. Except as otherwise provided in this Constitution, The Supreme Court shall be the court of final appeal for all cases arising under law applicable in Kosovo. Its decisions shall be recognized and executed by all authorities in the Federal Republic of Yugoslavia.

FUNCTIONING OF THE COURTS

11. The Assembly shall determine the number of District and Communal Court judges necessary to meet current needs.

12. Judges of all courts in Kosovo shall be distinguished jurists of the highest moral character. They shall be broadly representative of the national communities of Kosovo.

13. Removal of a Kosovo judge shall require the consensus of the judges of the Constitutional Court. A Constitutional Court judge whose removal is in question shall not participate in the decision on his case.

14. The Constitutional Court shall adopt rules for itself and for other courts in Kosovo. The Constitutional and Supreme Courts shall each adopt decisions by majority vote of their members.

15. Except as otherwise specified in their rules, all Kosovo courts shall hold public proceedings. They shall issue published opinions setting forth the reasons for their decisions.

ARTICLE VI: HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

1. All authorities in Kosovo shall ensure internationally recognized human rights and fundamental freedoms.

2. The right and freedoms set forth in the European Convention for the Protection of Human Right and Fundamental Freedoms and its Protocols shall apply directly in Kosovo. Other internationally recognized human rights instruments enacted into law by the Kosovo Assembly shall also apply. These rights and freedoms shall have priority over all other law.

3. All courts, agencies, governmental institutions, and other pubic institutions of Kosovo or operating in relation to Kosovo shall conform to these human rights and fundamental freedoms.

ARTICLE VII: NATIONAL COMMUNITIES

1. National communities and their members shall have additional rights as set forth below in order to preserve and express their national, cultural, religious, and linguistic identities in accordance with international standards and the Helsinki Final Act. Such rights shall be exercised in conformity with human rights and fundamental freedoms.

2. Each national community may elect, through democratic means and in a manner consistent with the principles of Chapter 3 of this Agreement, institutions to administer its affairs in Kosovo.

3. The national communities shall be subject to the laws applicable in Kosovo, provided that any act or decision concerning national communities must be non-discriminatory. The Assembly shall decide upon a procedure for resolving disputes between national communities.

4. The additional rights of the national communities, acting through their democratically elected institutions, are to:

(a) preserve and protect their national, cultural, religious, and linguistic identities, including by:

(i) inscribing local names of towns and villages, of squares and streets, and of other topographic names in the language and alphabet of the national community in addition to signs in Albanian and Serbia, consistent with decisions about style made by the communal institutions;

(ii) providing information in the language and alphabet of the national community;

(iii) providing for education and establishing educational institutions, in particular for schooling in their own language and alphabet and in national culture and history, for which relevant authorities will provide financial assistance; curricula shall reflect a spirit of tolerance between national communities and respect for the rights of members of all national communities in accordance with international standards;

(iv) enjoying unhindered contacts with representatives of their respective national communities, within the Federal Republic of Yugoslavia and abroad;

(v) using and displaying national symbols, including symbols of the Federal Republic of Yugoslavia and the Republic of Serbia;

(vi) protecting national traditions on family law by, if the community decides, arranging rules in the field of inheritance; family and matrimonial relations; tutorship; and adoption;

(vii) the preservation of sites of religious, historical, or cultural importance to the national community in cooperation with other authorities;

(viii) implementing public health and social services on a non-discriminatory basis as to citizens and national communities;

(ix) operating religious institutions in cooperation with religious authorities; and

(x) participating in regional and international non-governmental organizations in accordance with procedures of these organizations;

(b) be guaranteed access to, and representation in, public broadcast media, including provisions for separate programming in relevant languages under the direction of those nominated by the respective national community on a fair and equitable basis; and

(c) finance their activities by collecting contributions the national communities may decided to levy on members of their own communities.

5. Members of national communities shall also be individually guaranteed:

(a) the right to enjoy unhindered contacts with members of their respective national

communities elsewhere in the Federal Republic of Yugoslavia and abroad;

(b) equal access to employment in public services at all levels;

(c) the right to use their languages and alphabets;

(d) the right to use and display national community symbols;

(e) the right to participate in democratic institutions that will determine the national community's exercise of the collective rights set forth in this Article; and

(f) the right to establish cultural and religious association, for which relevant authorities will provide financial assistance.

(6) Each national community and, where appropriate, their members acting individually may exercise these additional rights through Federal institutions and institutions of the Republics, in accordance with the procedures of those institutions and without prejudice to the ability of Kosovo institutions to carry out their responsibilities.

7. Every person shall have the right freely to choose to be treated or not to be treated as belonging to a national community, and no disadvantage shall result from that choice or from the exercise of the rights connected to that choice.

ARTICLE VIII: COMMUNES

1. Kosovo shall have the existing communes. Changes may be made to communal boundaries by act of the Kosovo Assembly after consultation with the authorities of the communes concerned.

2. Communes may develop relationships among themselves for their mutual benefit.

3. Each commune shall have an Assembly, and Executive Council, and such administrative bodies as the commune may establish.

(a) Each national community whose membership constitutes at least three percent of the population of the commune shall be represented on the Council in proportion to its share of the communal population or by one member, whichever is greater.

(b) Prior to the completion of a census, disputes over communal population percentages for purposes of this paragraph shall be resolved by reference to declarations of national community membership in the voter registry.

4. The communes shall have responsibility for:

(a) law enforcement, as specified in Chapter 2 of this Agreement;

(b) regulating and, when appropriate, providing child care;

(c) providing education, consistent with the rights and duties of national communities, and in a spirit of tolerance between national communities and respect for the rights of the members of all national communities in accordance with international standards;

(d) protecting the communal environment;

(e) regulating commerce and privately-owned stores;

(f) regulating hunting and fishing;

(g) planning and carrying out public works of communal importance, including roads and water supplies, and participating in the planning and carrying out of Kosovo-wide public works projects in coordination with other communes and Kosovo authorities;

(h) regulating land use, town planning, building regulations, and housing construction;

(i) developing programs for tourism, the hotel industry, catering, and sport;

(j) organizing fairs and local markets;

(k) organizing public services of communal importance, including fire, emergency response, and police consistent with Chapter 2 of this Agreement; and

(l) financing the work of communal institutions, including raising revenues, taxes and preparing budgets.

5. The communes shall also have responsibility for all other areas within Kosovo's authority not expressly assigned elsewhere herein, subject to the provisions of Article II.5(b) of this Constitution.

6. Each commune shall conduct its business in public and shall maintain publicly available records of its deliberations and decisions.

ARTICLE IX: REPRESENTATION

1. Citizens in Kosovo shall have the right to participate in the election of:

(a) At least 10 deputies in the House of Citizens of the Federal Assembly; and

(b) At least 20 deputies in the National Assembly of the Republic of Serbia.

2. The modalities of elections for the deputies specified in paragraph 1 shall be determined by the Federal Republic of Yugoslavia and the Republic of Serbia respectively, under procedures to be agreed with the Chief of the Implementation Mission.

3. The Assembly shall have the opportunity to present to the appropriate authorities a list of candidates from which shall be drawn:

(a) At least one citizen in Kosovo to serve in the Federal Government, and at least one citizen in Kosovo to serve in the Government of the Republic of Serbia; and

(b) At least one judge on the Federal Constitutional Court, one judge on the Federal Court, and three judges on the Supreme Court of Serbia.

ARTICLE X: AMENDMENT

1. The Assembly may by a majority of two-thirds of its Members, which majority must include a majority of the Members elected from each national community pursuant to Article II.1(b)(ii), adopt amendments to this Constitution.

2. There shall, however, be no amendments to Article I.3–8 or to this Article, nor shall any amendment diminish the rights granted by Articles VI and VII.

ARTICLE XI: ENTRY INTO FORCE

This Constitution shall enter into force upon signature of this Agreement.

CHAPTER 2

POLICE AND CIVIL PUBLIC SECURITY

ARTICLE I: GENERAL PRINCIPLES

1. All law enforcement agencies, organizations and personnel of the Parties, which for purposes of this Chapter will include customs and border police operating in Kosovo, shall act in compliance with this Agreement and shall observe internationally recognized standards of human rights and due process. In exercising their functions, law enforcement personnel shall not discriminate on any ground, such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national community, property, birth or other status.

2. The Parties invite the Organization for Security and Cooperation in Europe (OSCE) through its Implementation Mission (IM) to monitor and supervise implementation of this Chapter and related provisions of this Agreement. The Chief of the Implementation Mission (CIM) or his designee shall have the authority to issue binding directives to the Parties and subsidiary bodies on police and civil public security matters to obtain compliance by the Parties with the terms of this Chapter. The Parties agree to cooperate fully with the IM and to comply with its directives. Personnel assigned to police-related duties within the IM shall be permitted to wear a uniform while serving in this part of the mission.

3. In carrying out his responsibilities, the CIM will inform and consult KFOR as appropriate.

4. The IM shall have the authority to:

(a) Monitor, observe, and inspect law enforcement activities, personnel, and facilities, including border police and customs units, as well as associated judicial organizations, structures, and proceedings;

(b) Advise law enforcement personnel and forces, including border police and customs units, and, when necessary to bring them into compliance with this Agreement, including this Chapter, issue appropriate binding directions in coordination with KFOR;

(c) Participate in and guide the training of law enforcement personnel;

(d) In coordination with KFOR, assess threats to public order;

(e) Advise and provide guidance to governmental authorities on how to deal with threats to public order and on the organization of effective civilian law enforcement agencies;

(f) Accompany the Parties' law enforcement personnel as they carry out their responsibilities, as the IM deems appropriate;

(g) Dismiss or discipline public security personnel of the Parties for cause; and

(h) Request appropriate law enforcement support from the international community to enable IM to carry out the duties assigned in this Chapter.

5. All Kosovo, Republic and Federal law enforcement and Federal military authorities shall be obligated, in their respective areas of authority, to ensure freedom of movement and safe passage for all persons, vehicles and goods. This obligation includes a duty to permit the unobstructed passage into Kosovo of police equipment which has been approved by the CIM and COMKFOR for use by Kosovo police, and of any other support provided under subparagraph 4(h) above.

6. The Parties undertake to provide one another mutual assistance, when requested, in the surrender of those accused of committing criminal acts within a Party's jurisdiction, and in the investigation and prosecution of offenses across the boundary of Kosovo with other parts of the FRY. The Parties shall develop agreed procedures and mechanisms for responding to these requests. The CIM or his designee shall resolve disputes on these matters.

7. The IM shall aim to transfer law enforcement responsibilities described in Article II below to the law enforcement officials and organizations described in Article II at the earliest practical time consistent with civil public security.

ARTICLE II: COMMUNAL POLICE

1. As they build up, communal police units, organized and stationed at the communal and municipal levels, shall assume primary responsibility for law enforcement in Kosovo. The specific responsibilities of the communal police will include police patrols and crime prevention, criminal investigations, arrest and detention of criminal suspects, crowd control, and traffic control.

2. *Number and Composition.* The total number of communal police established by this Agreement operating within Kosovo shall not exceed 3,000 active duty law enforcement officers. However, the CIM shall have the authority to increase or decrease this personnel ceiling if he determines such action is necessary to meet operational needs. Prior to taking any such action, the CIM shall consult with the Criminal Justice Administration and other officials as appropriate. The national communities in each commune shall be fairly represented in the communal police unit.

3. *Criminal Justice Administration.*

a. A Criminal Justice Administration (CJA) shall be established. It shall be an Administrative Organ of Kosovo, reporting to an appropriate member of the Government of

Kosovo as determined by the Government. The CJA shall provide general coordination of law enforcement operations in Kosovo. Specific functions of the CJA shall include general supervision over, and providing guidance to, communal police forces through their commanders, assisting in the coordination between separate communal police forces, and oversight of the operations of the police academy. In carrying out these responsibilities, the CJA may issue directives, which shall be binding on communal police commanders and personnel. In the exercise of its functions, the CJA shall be subject to any directions given by CIM.

b. Within twelve months of the establishment of the CJA, the CJA shall submit for review by the CIM a plan for the coordination and development of law enforcement bodies and personnel in Kosovo within its jurisdiction. This plan shall serve as the framework for law enforcement coordination and development in Kosovo and be subject to modification by the CIM.

c. The IM will endeavor to develop the capacities of the CJA as quickly as possible. Prior to the point when the CJA is able to properly carry out the functions described in the preceding paragraph, as determined by the CIM, the IM shall carry out these functions.

4. *Communal Commanders.* Subject to review by the CIM, each commune will appoint, and may remove for cause, by majority vote of the communal council, a communal police commander with responsibility for police operations within the commune.

5. *Service in Police.*

(a) Recruitment for public security personnel will be conducted primarily at the local level. Local and communal governments, upon consultation with communal Criminal Justice Commissions, will nominate officer candidates to attend the Kosovo Police Academy. Offers of employment will be made by communal police commanders, with the concurrence of the academy director, only after the candidate has successfully completed the academy basic recruit course.

(b) Recruitment, selection and training of communal police officers shall be conducted under the direction of the IM during the period of its operation.

(c) There shall be no bar to service in the communal police based on prior political activities. Members of the police shall not, however, be permitted while they hold this public office to participate in party political activities other than membership in such a party.

(d) Continued service in the police is dependent upon behavior consistent with the terms of this Agreement, including this Chapter. The IM shall supervise regular reviews of officer performance, which shall be conducted in accordance with international due process norms.

6. *Uniforms and Equipment.*

(a) All communal police officers, with the exception of officers participating in crowd control functions, shall wear a standard uniform. Uniforms shall include a badge, picture identification, and name tag.

(b) Communal police officers may be equipped with a sidearm, handcuffs, a baton, and a radio.

(c) Subject to authorization or modification by the CIM, each commune may maintain, either at the communal headquarters or at municipal stations, no more than one long-barreled weapon not to exceed 7.62 mm for every fifteen police officers assigned to the commune. Each such weapon must be approved by and registered with the IM and KFOR pursuant to procedures established by the CIM and COMKFOR. When not in use, all such weapons will be securely stored and each commune will keep a registry of these weapons.

(i) In the event of a serious law enforcement threat that would justify the use of these weapons, the communal police commander shall obtain IM approval before employing these weapons.

(ii) The communal police commander may authorize the use of these weapons without prior approval of the IM for the sole purpose of self-defense. In such cases, he must report the incident no later than one hour after it occurs to the IM and KFOR.

(iii) If the CIM determines that a weapon has been used by a member of a communal police force in a manner contrary to this Chapter, he may take appropriate corrective measures; such measures may include reducing the number of such weapons that the communal police force is allowed to possess or dismissing or disciplining the law enforcement personnel involved.

(d) Communal police officers engaged in crowd control functions will receive equipment appropriate to their task, including batons, helmets and shields, subject to IM approval.

ARTICLE III: INTERIM POLICE ACADEMY

1. under the supervision of the IM, the CJA shall establish an interim Police Academy that will offer mandatory and professional development training for all public security personnel, including border police. Until the interim police academy is established, IM will oversee a temporary training program for public security personnel including border police.

2. All public security personnel shall be required to complete a course of police studies successfully before serving as communal police officers.

3. The Academy shall be headed by a Director appointed and removed by the CJA in consultation with the Kosovo Criminal Justice Commission and the IM. The Director shall consult closely with the IM and comply fully with its recommendations and guidance.

4. All Republic and Federal police training facilities in Kosovo, including the academy at Vucitrn, will cease operations within 6 months of the entry into force of this Agreement.

ARTICLE IV: CRIMINAL JUSTICE COMMISSIONS

1. The parties shall establish a Kosovo Criminal Justice Commission and Communal Criminal Justice Commissions. The CIM or his designee shall chair meetings of these Commissions. They shall be forums for cooperation, coordination and the resolution of disputes concerning law enforcement and civil public security in Kosovo.

2. The functions of the Commissions shall include the following:

(a) Monitor, review, and make recommendations regarding the operation of law enforcement personnel and policies in Kosovo, including communal police units;

(b) Review, and make recommendations regarding the recruitment, selection and training of communal police officers and commanders;

(c) Consider complaints regarding police practices filed by individuals or national communities, and provided information and recommendations to communal police commanders and the CIM for consideration in their reviews of officer performance; and

(d) In the Kosovo Criminal Justice Commission only: In consultation with designated local, Republic and Federal police liaisons, monitor jurisdiction sharing in cases of overlapping criminal jurisdiction between Kosovo, Republic and Federal authorities.

3. The membership of the Kosovo Criminal Justice Commission and each Communal Criminal Justice Commission shall be representative of the population and shall include:

(a) In the Kosovo Criminal Justice Commission:

(i) a representative of each commune;

(ii) the head of the Kosovo CJA;

(iii) a representative of each Republic and Federal law enforcement component operating in Kosovo (for example, Customs police and Border police);

(iv) a representative of each national community;

(v) a representative of the IM, during its period of operation in Kosovo;

(vi) a representative of the VJ border guard, as appropriate;

(vii) a representative of the MUP, as appropriate, while present in Kosovo; and

(viii) a representative of KFOR, as appropriate. (b) In the Communal Criminal Justice Commissions:

(i) the communal police commander;

(ii) a representative of any Republic and Federal law enforcement component operating in the commune;

(iii) a representative of each national community;

(iv) a civilian representative of the communal government;

(v) a representative of the IM, during its period of operation in Kosovo;

(vi) a representative of the VJ border guard, who shall have observer status, as appropriate; and

(viii) A representative of KFOR, as appropriate.

4. Each Criminal Justice Commission shall meet at least monthly, or at the request of any Commission member.

ARTICLE V: POLICE OPERATIONS IN KOSOVO

1. The communal police established by this Agreement shall have exclusive law enforcement authority and jurisdiction and shall be the only police presence in Kosovo following the reduction and eventual withdrawal from Kosovo by the MUP, with the exception of border police as specified in Article VI and any support provided pursuant to Article I(3)(h).

(a) During the transition to communal police, the remaining MUP shall carry out only normal policing duties, and shall draw down, pursuant to the schedule described in Chapter 7.

(b) During the period of the phased drawdown of the MUP, the MUP in Kosovo shall have authority to conduct only civil police functions and shall be under the supervision and control of the CIM. The IM may dismiss from service, or take other appropriate disciplinary action against, MUP personnel who obstruct implementation of this Agreement.

2. Concurrent Law Enforcement in Kosovo.

(a) Except as provided in Article V.1 and Article VI, Federal and Republic law enforcement officials may only act within Kosovo in cases of hot pursuit of a person suspected of committing a serious criminal offense.

(i) Federal and Republic authorities shall as soon as practicable, but in no event later than one hour after their entry into Kosovo while engaged in a hot pursuit, notify the nearest Kosovo law enforcement officials that the pursuit has crossed into Kosovo. Once notification has been made, further pursuit and apprehension shall be coordinated with Kosovo law enforcement. Following apprehension, suspects shall be placed into the custody of the authorities originating the pursuit. If the suspect has not been apprehended within four hours, the original pursuing authorities shall cease their pursuit and immediately depart Kosovo unless invited to continue their pursuit by the CJA or the CIM.

(ii) In the event the pursuit is of such short duration as to preclude notification, Kosovo law enforcement officials shall be notified

that an apprehension has been made and shall be given access to the detainee prior to his removal from Kosovo.

(iii) Personnel engaged in hot pursuit under the provisions of this Article may only be civilian police, may only carry weapons appropriate for normal civilian police duties (sidearms, and long-barreled weapons not to exceed 7.62mm), may only travel in officially marked police vehicles, and may not exceed a total of eight personnel at any one time. Travel in armored personnel carriers by police engaged in hot pursuit is strictly prohibited.

(iv) The same rules shall apply to hot pursuit of suspects by Kosovo law enforcement authorities to Federal territory outside of Kosovo.

(b) All Parties shall provide the highest degree of mutual assistance in law enforcement matters in response to reasonable requests.

ARTICLE VI: SECURITY ON INTERNATIONAL BORDERS

1. The Government of the FRY will maintain official border crossings on its international borders (Albania and FYROM).

2. Personnel from the organizations listed below may be present along Kosovo's international borders and at international border crossings, and may not act outside the scope of the authorities specified in this Chapter.

(a) Republic of Serbia Border Police.

(i) The Border Police shall continue to exercise authority to Kosovo's international border crossings and in connection with the enforcement of Federal Republic of Yugoslavia immigration laws. The total number of border police shall be drawn down to 75 within 14 days of entry into force of this Agreement.

(ii) While maintaining the personnel threshold specified in subparagraph (i), the ranks of the existing Border Police units operating in Kosovo shall be supplemented by new recruits so that they are representative of the Kosovo population.

(iii) All Border Police stationed in Kosovo must attend police training at the Kosovo police academy within 18 months of the entry into force of this Agreement.

(b) Customs Officers.

(i) The FRY Customs Service will continue to exercise customs jurisdiction at Kosovo's official international border crossings and in such customs warehouses as may be necessary within Kosovo. The total number of customs personnel shall be drawn down to 50 within 14 days of the entry into force of this Agreement.

(ii) Kosovar Albanian officers of the Customs Service shall be trained and compensated by the FRY.

(c) The CIM shall conduct a periodic review of customs and border police requirements and shall have the authority to increase or decrease the personnel ceilings described in paragraphs (a)(i) and (b)(i) above to reflect operational needs and to adjust the composition of individual customs units.

ARTICLE VII: ARREST AND DETENTION

1. Except pursuant to Article V, Article I(3)(h), and sections (a)–(b) of this paragraph, only officers of the communal police shall have authority to arrest and detain individuals in Kosovo. (a) Border Police officers shall have authority within Kosovo to arrest and detain individuals who have violated criminal provisions of the immigration laws.

(b) Officers of the Customs Service shall have authority within Kosovo to arrest and detain individuals for criminal violations of the customs laws.

2. Immediately upon making an arrest, the arresting officer shall notify the nearest Communal Criminal Justice Commission of the detention and the location of the detainee. He subsequently shall transfer the detainee to the nearest appropriate jail in Kosovo at the earliest opportunity.

3. Officers may use reasonable and necessary force proportionate to the circumstances to effect arrests and keep suspects in custody.

4. Kosovo and its constituent communes shall establish jails and prisons to accommodate the detention of criminal suspects and the imprisonment of individuals convicted of violating the laws applicable in Kosovo. Prisons shall be operated consistent with international standards. Access shall be provided to international personnel, including representatives of the International Committee of the Red Cross.

ARTICLE VIII: ADMINISTRATION OF JUSTICE

1. Criminal Jurisdiction over Persons Arrested within Kosovo.

(a) Except in accordance with Article V and subparagraph (b) of this paragraph, any person arrested within Kosovo shall be subject to the jurisdiction of the Kosovo courts.

(b) Any person arrested within Kosovo, in accordance with the law and with this Agreement, by the Border Police or Customs Police shall be subject to be jurisdiction of the FRY courts. If there is no applicable court of the FRY to hear the case, the Kosovo courts shall have jurisdiction.

2. *Prosecution of Crimes.*

(a) The CJA shall, in consultation with the CIM, appoint and have the authority to remove the Chief Prosecutor.

(b) The IM shall have the authority to monitor, observe, inspect, and when necessary, direct the operations of the Office of the Prosecutor and any and all related staff.

ARTICLE IX: FINAL AUTHORITY TO INTERPRET

The CIM is the final authority regarding interpretation of this Chapter and his determinations are binding on all Parties and persons.

CHAPTER 3

CONDUCT AND SUPERVISION OF ELECTIONS

ARTICLE I: CONDITIONS FOR ELECTIONS

1. The Parties shall ensure that conditions exist for the organization of free and fair elections, which include but are not limited to:

(a) freedom of movement for all citizens;

(b) an open and free political environment;

(c) an environment conducive to the return of displaced persons;

(d) a safe and secure environment that ensures freedom of assembly, association, and expression;

(e) an electoral legal framework of rules and regulations complying with OSCE commitments, which will be implemented by a Central Election Commission, as set forth in Article III, which is representative of the population of Kosovo in terms of national communities and political parties; and

(f) free media, effectively accessible to registered political parties and candidates, and available to voters throughout Kosovo.

2. The Parties request the OSCE to certify when elections will be effective under current conditions in Kosovo, and to provide assistance to the Parties to create conditions for free and fair elections.

3. The Parties shall comply fully with Paragraphs 7 and 8 of the OSCE Copenhagen Document, which are attached to this Chapter.

ARTICLE II: ROLE OF THE OSCE

1. The Parties request the OSCE to adopt and put in place an elections program for Kosovo and supervise elections as set forth in this Agreement.

2. The Parties request the OSCE to supervise, in a manner to be determined by the OSCE and in cooperation with other international organizations the OSCE deems necessary, the preparation and conduct of elections for:

(a) Members of the Kosovo Assembly;

(b) Members of Communal Assemblies;

(c) other officials popularly elected in Kosovo under this Agreement and the laws and Constitution of Kosovo at the discretion of the OSCE.

3. The Parties request the OSCE to establish a Central Election Commission in Kosovo (''the Commission'').

4. Consistent with Article IV of Chapter 5, the first elections shall be held within nine months of the entry into force of this Agreement. The President of the Commission shall decide, in consultation with the Parties, the exact timing and order of elections for Kosovo political offices.

ARTICLE III: CENTRAL ELECTION COMMISSION

1. The Commission shall adopt electoral Rules and Regulations on all matters necessary for the conduct of free and fair elections in Kosovo, including rules relating to: the eligibility and registration of candidates, parties, and voters, including displaced persons and refugees; ensuring a free and fair elections campaign; administrative and technical preparation for elections including the establishment, publication, and certification of election results; and the role of international and domestic election observers.

2. The responsibilities of the Commission, as provided in the electoral Rules and Regulations, shall include:

(a) the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration, and creation of secure and transparent procedures for production and dissemination of ballots and sensitive election materials, vote counts, tabulations, and publication of elections results;

(b) ensuring compliance with the electoral Rules and Regulations established pursuant to this Agreement, including establishing auxiliary bodies for this purpose as necessary;

(c) ensuring that action is taken to remedy any violation of any provision of this Agreement, including imposing penalties such as removal from candidate or party lists, against any person, candidate, political party, or body that violates such provisions; and

(d) accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant the accredited observers unimpeded access and movement.

3. The Commission shall consist of a person appointed by the Chairman-in-Office (CIO) of the OSCE, representatives of all national communities, and representatives of political parties in Kosovo selected by criteria to be determined by the Commission. The person appointed by the CIO shall act as the President of the Commission. The rules of procedure of the Commission shall provide that in the exceptional circumstance of an unresolved dispute within the Commission, the decision of the President shall be final and binding.

4. The Commission shall enjoy the right to establish communication facilities, and to engage local and administrative staff.

CHAPTER 4

ECONOMIC ISSUES

ARTICLE I

1. The economy of Kosovo shall function in accordance with free market principles.

2. The authorities established to levy and collect taxes and other charges are set forth in this Agreement. Except as otherwise expressly provided, all authorities have the

right to keep all revenues from their own taxes or other charges consistent with this Agreement.

3. Certain revenue from Kosovo taxes and duties shall accrue to the Communes, taking into account the need for an equalization of revenues between the Communes based on objective criteria. The Assembly of Kosovo shall enact appropriate non-discriminatory legislation for this purpose. The Communes may also levy local taxes in accordance with this Agreement.

4. The Federal Republic of Yugoslavia shall be responsible for the collection of all customs duties at international borders in Kosovo. There shall be no impediments to the free movement of persons, goods, services, and capital to and from Kosovo.

5. Federal authorities shall ensure that Kosovo receives a proportionate and equitable share of benefits that may be derived from international agreements concluded by the Federal Republic and of Federal resources.

6. Federal and other authorities shall within their respective powers and responsibilities ensure the free movement of persons, goods, services, and capital to Kosovo, including from international sources. They shall in particular allow access to Kosovo without discrimination for person delivering such goods and services.

7. If expressly required by an international donor or lender, international contracts for reconstruction projects shall be concluded by the authorities of the Federal Republic of Yugoslavia, which shall establish appropriate mechanisms to make such funds available to Kosovo authorities. Unless precluded by the terms of contracts, all reconstruction projects that exclusively concern Kosovo shall be managed and implemented by the appropriate Kosovo authority.

ARTICLE II

1. The Parties agree to reallocate ownership and resources in accordance insofar as possible with the distribution of powers and responsibilities set forth in this Agreement, in the following areas:

(a) government-owned assets (including educational institutions, hospitals, natural resources, and production facilities);

(b) pension and social insurance contributions;

(c) revenues to be distributed under Article 1.5; and

(d) any other matters relating to economic relations between the Parties not covered by this Agreement.

2. The Parties agree to the creation of a Claim Settlement Commission (CSC) to resolve all disputes between them on matters referred to in paragraph 1.

(a) The CSC shall consist of three experts designated by Kosovo, three experts designated jointly by the Federal Republic of Yugoslavia and the Republic of Serbia, and three independent experts designated by the CIM.

(b) The decisions of the CSC, which shall be taken by majority vote, shall be final and binding. The Parties shall implement them without delay.

3. Authorities receiving ownership of public facilities shall have the power to operate such facilities.

CHAPTER 4A

HUMANITARIAN ASSISTANCE, RECONSTRUCTION AND ECONOMIC DEVELOPMENT

1. In parallel with the continuing full implementation of this Agreement, urgent attention must be focused on meeting the real humanitarian and economic needs of Kosovo in order to help create the conditions for reconstruction and lasting economic recovery. International assistance will be provided without discrimination between national communities.

2. The Parties welcome the willingness of the European Commission working with the international community to co-ordinate international support for the parties' efforts. Specifically, the European Commission will organize an international donors' conference within one month of entry into force of this Agreement.

3. The international community will provide immediate and unconditional humanitarian assistance, focusing primarily on refugees and internally displaced persons returning to their former homes. The Parties welcome and endorse the UNHCR's lead role in co-ordination of this effort, and endorse its intention, in close co-operation with the Implementation Mission, to plan an early, peaceful, orderly and phased return of refugees and displaced persons in conditions of safety and dignity.

4. The international community will provide the means for the rapid improvement of living conditions for the population of Kosovo through the reconstruction and rehabilitation of housing and local infrastructure (including water, energy, health and local education infrastructure) based on damage assessment surveys.

5. Assistance will also be provided to support the establishment and development of the institutional and legislative framework laid down in this Agreement, including local governance and tax settlement, and to reinforce civil society, culture and education. Social welfare will also be addressed, with priority given to the protection of vulnerable social groups.

6. It will also be vital to lay the foundations for sustained development, based on a revival of the local economy. This must take account of the need to address unemployment, and to stimulate the economy by a range of mechanisms. The European Commission will be giving urgent attention to this.

7. International assistance, with the exception of humanitarian aid, will be subject to full compliance with this Agreement as well as other conditions defined in advance by the donors and the absorptive capacity of Kosovo.

CHAPTER 5

IMPLEMENTATION I

ARTICLE I: INSTITUTIONS

IMPLEMENTATION MISSION

1. The Parties invite the OSCE, in cooperation with the European Union, to constitute an Implementation Mission in Kosovo. All responsibilities and powers previously vested in the Kosovo Verification Mission and its Head by prior agreements shall be continued in the Implementation Mission and its Chief.

JOINT COMMISSION

2. A Joint Commission shall serve as the central mechanism for monitoring and coordinating the civilian implementation of this Agreement. It shall consist of the Chief of the Implementation Mission (CIM), one Federal and one Republic representative, one representative of each national community in Kosovo, the President of the Assembly, and a representative of the President of Kosovo. Meetings of the Joint Commission may be attended by other representatives of organizations specified in this Agreement or needed for its implementation.

3. The CIM shall serve as the Chair of the Joint Commission. The Chair shall coordinate and organize the work of the Joint Commission and decide the time and place of its meetings. The Parties shall abide by and fully implement the decisions of the Joint Commission. The Joint Commission shall operate on the basis of consensus, but in the event consensus cannot be reached, the Chair's decision shall be final.

4. The Chair shall have full and unimpeded access to all places, persons, and information (including documents and other records) within Kosovo that in his judgment are necessary to his responsibilities with regard to the civilian aspects of this Agreement.

JOINT COUNCIL AND LOCAL COUNCILS

5. The CIM may, as necessary, establish a Kosovo Joint Council and Local Councils, for informal dispute resolution and cooperation. The Kosovo Joint Council would consist of one member from each of the national communities in Kosovo. Local Councils would consist of representatives of each national community living in the locality where the Local Council is established.

ARTICLE II: RESPONSIBILITIES AND POWERS

1. The CIM shall:

(a) supervise and direct the implementation of the civilian aspects of this Agreement pursuant to a schedule that he shall specify;

(b) maintain close contact with the Parties to promote full compliance with those aspects of this Agreement;

(c) facilitate, as he deems necessary, the resolution of difficulties arising in connection with such implementation;

(d) participate in meetings of donor organizations, including on issues of rehabilitation and reconstruction, in particular by putting forward proposals and identifying priorities for their consideration as appropriate;

(e) coordinate the activities of civilian organizations and agencies in Kosovo assisting in the implementation of the civilian aspects of this Agreement, respecting fully their specific organizational procedures;

(f) report periodically to the bodies responsible for constituting the Mission on progress in the implementation of the civilian aspects of this Agreement; and

(g) carry out the functions specified in this Agreement pertaining to police and security forces.

2. The CIM shall also carry out other responsibilities set forth in this Agreement or as may be later agreed.

ARTICLE III: STATUS OF IMPLEMENTATION MISSION

1. Implementation Mission personnel shall be allowed unrestricted movement and access into and throughout Kosovo at any time.

2. The Parties shall facilitate the operations of the Implementation Mission, including by the provision of assistance as requested with regard to transportation, subsistence, accommodation, communication, and other facilities.

3. The Implementation Mission shall enjoy such legal capacity as may be necessary for the exercise of its functions under the laws and regulations of Kosovo, the Federal Republic of Yugoslavia, and the Republic of Serbia. Such legal capacity shall include the capacity to contract, and to acquire and dispose of real and personal property.

4. Privileges and immunities are hereby accorded as follows to the Implementation Mission and associated personnel:

(a) the Implementation Mission and its premises, archives, and other property shall enjoy the same privileges and immunities as a diplomatic mission under the Vienna Convention on Diplomatic Relations;

(b) the CIM and professional members of his staff and their families shall enjoy the same privileges and immunities as are enjoyed by diplomatic agents and their families under the Vienna Convention on Diplomatic Relations; and

(c) other members of the Implementation Mission staff and their families shall enjoy the same privileges and immunities as are

enjoyed by members of the administrative and technical staff and their families under the Vienna Convention on Diplomatic Relations.

ARTICLE IV: PROCESS OF IMPLEMENTATION

GENERAL

1. The Parties acknowledge that complete implementation will require political acts and measures, and the election and establishment of institutions and bodies set forth in this Agreement. The Parties agree to proceed expeditiously with these tasks on a schedule set by the Joint Commission. The Parties shall provide active support, cooperation, and participation for the successful implementation of this Agreement.

ELECTION AND CENSUS

2. Within nine months of the entry into force of this Agreement, there shall be elections in accordance with and pursuant to procedures specified in Chapter 3 of this Agreement for authorities established herein, according to a voter list prepared to international standards by the Central Election Commission. The Organization for Security and Cooperation in Europe (OSCE) shall supervise those elections to ensure that they are free and fair.

3. Under the supervision of the OSCE and with the participation of Kosovo authorities and experts nominated by and belonging to the national communities of Kosovo, Federal authorities shall conduct an objective and free census of the population in Kosovo under rules and regulations agreed with the OSCE in accordance with international standards. The census shall be carried out when the OSCE determines that conditions allow an objective and accurate enumeration.

(a) The first census shall be limited to name, place of birth, place of usual residence and address, gender, age, citizenship, national community, and religion.

(b) The authorities of the Parties shall provide each other and the OSCE with all records necessary to conduct the census, including data about places of residence, citizenship, voters' lists, and other information.

TRANSITIONAL PROVISIONS

4. All laws and regulations in effect in Kosovo when this Agreement enters into force shall remain in effect unless and until replaced by laws or regulations adopted by a competent body. All laws and regulations applicable in Kosovo that are incompatible with this Agreement shall be presumed to have been harmonized with this Agreement. In particular, martial law in Kosovo is hereby revoked.

5. Institutions currently in place in Kosovo shall remain until superseded by bodies created by or in accordance with this Agreement. The CIM may recommend to the appropriate authorities the removal and appointment of officials and the curtailment of operations of existing institutions in Kosovo if he deems it necessary for the effective implementation of this Agreement. If the action recommended is not taken in the time requested, the Joint Commission may decide to take the recommended action.

6. Prior to the election of Kosovo officials pursuant to this Agreement, the CIM shall take the measures necessary to ensure the development and functioning of independent media in keeping with international standards, including allocation of radio and television frequencies.

ARTICLE V: AUTHORITY TO INTERPRET

The CIM shall be the final authority in theater regarding interpretation of the civilian aspects of this Agreement, and the Parties agree to abide by his determinations as binding on all Parties and persons.

CHAPTER 6

THE OMBUDSMAN

ARTICLE I: GENERAL

1. There shall be an Ombudsman, who shall monitor the realization of the rights of members of national communities and the protection of human rights and fundamental freedoms in Kosovo. The Ombudsman shall have unimpeded access to any person or place and shall have the right to appear and intervene before any domestic, Federal, or (consistent with the rules of such bodies) international authority upon his or her request. No person, institution, or entity of the Parties may interfere with the functions of the Ombudsman.

2. The Ombudsman shall be an eminent person of high moral standing who possesses a demonstrated commitment to human rights and the rights of members of national communities. He or she shall be nominated by the President of Kosovo and shall be elected by the Assembly from a list of candidates prepared by the President of the European Court of Human Rights for a non-renewable three-year term. The Ombudsman shall not be a citizen of any State or entity that was a part of the former Yugoslavia, or of any neighboring State. Pending the election of the President and the Assembly, the CIM shall designate a person to serve as Ombudsman on an interim basis who shall be succeeded by a person selected pursuant to the procedure set forth in this paragraph.

3. The Ombudsman shall be independently responsible for choosing his or her own staff. He or she shall have two Deputies. The Deputies shall each be drawn from different national communities.

(a) The salaries and expenses of the Ombudsman and his or her staff shall be determined and paid the Kosovo Assembly. The salaries and expenses shall be fully adequate to implement the Ombudsman's mandate.

(b) The Ombudsman and members of his or her staff shall not be held criminally or civilly liable for any acts carried out within the scope of their duties.

ARTICLE II: JURISDICTION

1. The Ombudsman shall consider:

(a) alleged or apparent violations of human rights and fundamental freedoms in Kosovo, as provided in the Constitutions of the Federal Republic of Yugoslavia and the Republic of Serbia, and the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto; and

(b) alleged or apparent violations of the rights of members of national communities specified in this Agreement.

2. All persons in Kosovo shall have the right to submit the complaints to the Ombudsman. The Parties agree not to take any measures to punish persons who intend to submit or who have submitted such allegations, or in any other way to deter the exercise of this right.

ARTICLE III: POWERS AND DUTIES

1. The Ombudsman shall investigate alleged violations falling within the jurisdiction set forth in Article II.1. He or she may act either on his or her own initiative or in response to an allegation presented by any Party or person, non-governmental organization, or group of individuals claiming to be the victim of a violation or acting on behalf of alleged victims who are deceased or missing. The work of the Ombudsman shall be free of charge to the person concerned.

2. The Ombudsman shall have complete, unimpeded, and immediate access to any person, place, or information upon his or her request.

(a) The Ombudsman shall have access to and may examine all official documents, and he or she can require any person, including officials of Kosovo, to cooperate by providing relevant information, documents, and files.

(b) The Ombudsman may attend administrative hearings and meetings of other Kosovo institutions in order to gather information.

(c) The Ombudsman may examine facilities and places where persons deprived of their liberty are detained, work, or are otherwise located.

(d) The Ombudsman and staff shall maintain the confidentiality of all confidential information obtained by them, unless the Ombudsman determines that such information is evidence of a violation of rights falling within his or her jurisdiction, in which case that information may be revealed in public reports or appropriate legal proceedings.

(e) The Parties undertake to ensure cooperation with the Ombudsman's investigations. Willful and knowing failure to comply shall be criminal offense prosecutable in any jurisdiction of the Parties. Where an official impedes an investigation by refusing to provide necessary information, the Ombudsman shall contact that official's superior or the public prosecutor for appropriate penal action to be taken in accordance with the law.

3. The Ombudsman shall issue findings and conclusions in the form of a published report promptly after concluding an investigation.

(a) A Party, institution, or official identified by the Ombudsman as a violator shall, within a period specified by the Ombudsman, explain in writing how it will comply with any prescriptions the Ombudsman may put forth for remedial measures.

(b) In the event that a person or entity does not comply with the conclusions and recommendations of the Ombudsman, the report shall be forwarded for further action to the Joint Commission established by Chapter 5 of this Agreement, to the President of the appropriate Party, and to any other officials or institutions that the Ombudsman deems proper.

CHAPTER 7

IMPLEMENTATION II

ARTICLE I: GENERAL OBLIGATIONS

1. The Parties undertake to recreate, as quickly as possible, normal conditions of life in Kosovo and to co-operate fully with each other and with all international organizations, agencies, and non-governmental organizations involved in the implementation of this Agreement. They welcome the willingness of the international community to send to the region a force to assist in the implementation of this Agreement.

a. The United Nations Security Council is invited to pass a resolution under Chapter VII of the Charter endorsing and adopting the arrangements set forth in this Chapter, including the establishment of a multinational military implementation force in Kosovo. The Parties invite NATO to constitute and lead a military force to help ensure compliance with the provisions of this Chapter. They also reaffirm the sovereignty and territorial integrity of the Federal Republic of Yugoslavia (FRY).

b. The Parties agree that NATO will establish and deploy a force (hereinafter ''KFOR'') which may be composed of ground, air, and maritime units from NATO and non-NATO nations, operating under the authority and subject to the direction and the political control of the North Atlantic Council (NAC) through the NATO chain of command. The Parties agree to facilitate the deployment and operations of this force and agree also to comply fully with all the obligations of this Chapter.

c. It is agreed that other States may assist in implementing this Chapter. The Parties

agree that the modalities of those States' participation will be the subject of Agreement between such participating States and NATO.

2. The purposes of these obligations are as follows:

a. to establish a durable cessation of hostilities. Other than those Forces provided for in this Chapter, under no circumstances shall any armed Forces enter, reenter, or remain within Kosovo without the prior express consent of the KFOR Commander (COMKFOR). For the purposes of this Chapter, the term ''Forces'' includes all personnel and organizations with military capability, including regular army, armed civilian groups, paramilitary groups, air forces, national guards, border police, army reserves, military police, intelligence services, Ministry of Internal Affairs, Local, Special, Riot and Anti-Terrorist Police, and any other groups or individuals so designated by COMKFOR. The only exception to the provisions of this paragraph is for civilian police engaged in hot pursuit of a person suspected of committing a serious criminal offense, as provided for in Chapter 2;

b. to provide for the support and authorization of the KFOR and in particular to authorize the KFOR to take such actions as are required, including the use of necessary force, to ensure compliance with this Chapter and the protection of the KFOR, Implementation Mission (IM), and other international organizations, agencies, and non-governmental organizations involved in the implementation of this Agreement, and to contribute to a secure environment;

c. to provide, at no cost, the use of all facilities and services required for the deployment, operations and support of the KFOR.

3. The Parties understand and agree that the obligations undertaken in this Chapter shall apply equally to each Party. Each Party shall be held individually responsible for compliance with its obligations, and each agrees that delay or failure to comply by one Party shall not constitute cause for any other Party to fail to carry out its own obligations. All Parties shall be equally subject to such enforcement action by the KFOR as may be necessary to ensure implementation of this Chapter in Kosovo and the protection of the KFOR, IM, and other international organizations, agencies, and non-governmental organizations involved in the implementation of this Agreement.

ARTICLE II: CESSATION OF HOSTILITIES

1. The Parties shall, immediately upon entry into force of this Agreement (EIF), refrain from committing any hostile or provocative acts of any type against each other or against any person in Kosovo. They shall not encourage or organize hostile or provocative demonstrations.

2. In carrying out the obligations set forth in paragraph 1, the Parties undertake in particular to cease the firing of all weapons and explosive devices except as authorized by COMKFOR. They shall not place any mines, barriers, unauthorized checkpoints, observation posts (with the exception of COMKFOR-approved border observation posts and crossing points), or protective obstacles. Except as provided in Chapter 2, the Parties shall not engage in any military, security, or training-related activities, including ground, air, or air defense operations, in or over Kosovo, without the prior express approval of COMKFOR.

3. Except for Border Guard forces (as provided for in Article IV), no Party shall have Forces present within a 5 kilometer zone inward from the international border of the FRY that is also the border of Kosovo (hereinafter ''the Border Zone''). The Border Zone will be marked on the ground by EIF + 14 days by VJ Border Guard personnel in accordance with direction from IM. COMKFOR may determine small scale reconfigurations for operational reasons.

4. a. With the exception of civilian police performing normal police duties as determined by the CIM, no Party shall have Forces present within 5 kilometers of the Kosovo side of the boundary of Kosovo with other parts of the FRY.

b. The presence of any Forces within 5 kilometers of the other side of that boundary shall be notified to COMKFOR; if, in the judgment of COMKFOR, such presence threatens or would threaten implementation of this Chapter in Kosovo, he shall contact the authorities responsible for the Forces in question and may require those Forces to withdraw from or remain outside the area.

5. No party shall conduct any reprisals, counter-attacks, or any unilateral actions in response to violations of this Chapter by another Party. The Parties shall respond to alleged violations of this Chapter through the procedures provided in Article XI.

ARTICLE III: REDEPLOYMENT, WITHDRAWAL, AND DEMILITARIZATION OF FORCES

In order to disengage their Forces and to avoid any further conflict, the Parties shall immediately upon EIF begin to re-deploy, withdraw, or demilitarize their Forces in accordance with Articles IV, V, and VI.

ARTICLE IV: VJ FORCES

1. VJ ARMY UNITS

a. By K-Day + 5 days, all VJ Army units in Kosovo (with the exception of those Forces specified in paragraph 2 of this Article) shall have completed redeployment to the approved cantonment sites listed at Appendix A to this Chapter. This senior VJ commander in Kosovo shall confirm in writing to COMKFOR by K-Day + 5 days that the VJ is in compliance and provide the information required in Article VII below to take account of withdrawals or other changes made during the redeployment. This information shall be updated weekly.

b. By K-Day + 30 days, the Chief of the VJ General Staff, through the senior VJ commander in Kosovo, shall provide for approval by COMKFOR a detailed plan for the phased withdrawal of VJ Forces from Kosovo to other locations in Serbia to ensure the following timelines are met:

(1) By K-Day + 90 days, VJ authorities must, to the satisfaction of COMKFOR, withdraw from Kosovo to other locations in Serbia 50% of men and materiel and all designated offensive assets. Such assets are taken to be: main battle tanks; all other armored vehicles mounting weapons greater than 12.7mm; and, all heavy weapons (vehicle mounted or not) of over 82mm.

(2) By K-Day + 180 days, all VJ Army personnel and equipment (with the exception of those Forces specified in paragraph 2 of this Article) shall be withdrawn from Kosovo to other locations in Serbia.

2. VJ BORDER GUARD FORCES

a. VJ Border Guard forces shall be permitted but limited to a structure of 1500 members at pre-February 1998 Border Guard Battalion facilities located in Djakovica, Prizren, and Urosevac and subordinate facilities within the 5 kilometer Border Zone, or at a limited number of existing facilities in the immediate proximity of the Border Zone subject to the prior approval of COMKFOR, with that number to be reached by K-Day + 14 days. An additional number of VJ personnel—totaling no more than 1000 C2 and logistics forces—will be permitted to remain in the approved cantonment sites listed at Appendix A to fulfill brigade-level functions related only to border security. After an initial 90 day period from K-Day, COMKFOR may at any time review the deployments of VJ personnel and may require further adjustments to force level, with the objective of reaching the minimum force structure required for legitimate border security, as the security situation and the conduct of Parties warrant.

b. VJ elements in Kosovo shall be limited to weapons of 82mm and below. They shall possess neither armored vehicles (other than wheeled vehicles mounting weapons of 12.7mm or less) nor air defense weapons.

c. VJ Border Guard units shall be permitted to patrol in Kosovo only within the Border Zone and solely for purpose of defending the border against external attack and maintaining its integrity by preventing illicit border crossings. Geographic terrain considerations may require Border Guard maneuver inward of the Border Zone; any such maneuver shall be coordinated with and approved by COMKFOR.

d. With the exception of the Border Zone, VJ units may travel through Kosovo only to reach duty stations and garrisons in the Border Zone or approved cantonment sites. Such travel may only be along routes and in accordance with procedures that have been determined by COMKFOR after consultation with the CIM, VJ unit commanders, communal government authorities, and police commanders. These routes and procedures will be determined by K-Day + 14 days, subject to re-determination by COMKFOR at any time. VJ forces in Kosovo but outside the Border Zone shall be permitted to act only in self-defense in response to a hostile act pursuant to Rules of Engagement (ROE) which will be approved by COMKFOR in consultation with the CIM. When deployed in the Border Zone, they will act in accordance with ROE established under control of COMKFOR.

e. VJ Border Guard forces may conduct training activities only within the 5 kilometer Border Zone, and only with the prior express approved of COMKFOR.

3. YUGOSLAV AIR AND AIR DEFENSE FORCES (YAADF)

All aircraft, radars, surface-to-air missiles (including man-portable air defense systems {MANPADS}) and anti-aircraft artillery in Kosovo shall immediately upon EIF begin withdrawing from Kosovo to other locations in Serbia outside the 25 kilometer Mutual Safety Zone as defined in Article X. This withdrawal shall be completed and reported by the senior VJ commander in Kosovo to the appropriate NATO commander not more than 10 days after EIF. The appropriate NATO commander shall control and coordinate use of airspace over Kosovo commencing at EIF as further specified in Article X. No air defense systems, target tracking radars, or anti-aircraft artillery shall be positioned or operated within Kosovo or the 25 kilometer Mutual Safety Zone without the prior express approval of the appropriate NATO commander.

ARTICLE V: OTHER FORCES

1. The actions of Forces in Kosovo other than KFOR, VJ, MUP, or local police forces provided for in Chapter 2 (hereinafter referred to as ''Other Forces'') shall be in accordance with this Article. Upon EIF, all Other Forces in Kosovo must immediately observe the provisions of Article I, paragraph 2, Article II, paragraph 1, and Article III and in addition refrain from all hostile intent, military training and formations, organization of demonstrations, and any movement in either direction or smuggling across international borders or the boundary between Kosovo and other parts of the FRY. Furthermore, upon EIF, all Other Forces in Kosovo must publicly commit themselves to demilitarize on terms to be determined by

COMKFOR, renounce violence, guarantee security of international personnel, and respect the international borders of the FRY and all terms of this Chapter.

2. Except as approved by COMKFOR, from K-Day, all Other Forces in Kosovo must not carry weapons:

a. within 1 kilometer of VJ and MUP cantonments listed at Appendix A;

b. within 1 kilometer of the main roads as follows:

(1) Pec—Lapusnik—Pristina.

(2) border—Djakovica—Klina.

(3) border—Prizren—Suva Rika—Pristina.

(4) Djakovica—Orahovac—Lapusnik—Pristina.

(5) Pec—Djakovica—Prizren—Urosevac—border.

(6) border—Urosevac—Pristina—Podujevo—border.

(7) Pristina—Kosovska Mitrovica—border.

(8) Kosovka Mitrovica—(Rakos)—Pec.

(9) Pec—Border with Montenegro (through Pozaj).

(10) Pristina—Lisica—border with Serbia.

(11) Pristina—Gnjilane—Urosevac.

(12) Gnjilane—Veliki Trnovac—border with Serbia.

(13) Prizren—Doganovic.

c. within 1 kilometer of the Border Zone;

d. in any other areas designated by COMKFOR.

3. By K-Day+5 days, all Other Forces must abandon and close all fighting positions, entrenchments, and checkpoints.

4. By K-Day+5 days, all Other Forces' commanders designated by COMKFOR shall report completion of the above requirements in the format at Article VII to COMKFOR and continue to provide weekly detailed status reports until demilitarization is complete.

5. COMKFOR will establish procedures for demilitarization and monitoring of Other Forces in Kosovo and for the further regulation of their activities. These procedures will be established to facilitate a phased demilitarization program as follows:

a. By K-Day+5 days, all Other Forces shall establish secure weapons storage sites, which shall be registered with and verified by the KFOR;

b. By K-Day+30 days, all Other Forces shall store all prohibited weapons (any weapon 12.7mm or larger, any anti-tank or anti-aircraft weapons, grenades, mines or explosives) and automatic weapons in the registered weapons storage sites. Other Forces commanders shall confirm completion of weapons storage to COMKFOR no later than K-Day+30 days;

c. By K-Day+30 days, all Other Forces shall cease wearing military uniforms and insignia, and cease carrying prohibited weapons and automatic weapons;

d. By K-Day+90 days, authority for storage sites shall pass to the KFOR. After this date, it shall be illegal for Other Forces to possess prohibited weapons and automatic weapons, and such weapons shall be subject to confiscation by the KFOR;

e. By K-Day+120 days, demilitarization of all Other Forces shall be completed.

6. By EIF+30 days, subject to arrangements by COMKFOR is necessary, all Other Forces personnel who are not of local origin, whether or not they are legally within Kosovo, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from Kosovo.

ARTICLE VI: MUP

1. Ministry of Interior Police (MUP) is defined as all police and public security units and personnel under the control of Federal or Republic authorities except for the border police referred to in Chapter 2 and police academy students and personnel at the training school in Vucitrn referred to in Chapter 2. The CIM, in consultation with COMKFOR, shall have the discretion to exempt any public security units from this definition if he determines that it is in the public interest (e.g. firefighters).

a. By K-Day+5 days, all MUP units in Kosovo (with the exception of the border police referred to in Chapter 2) shall have completed redeployment to the approved cantonment sites listed at Appendix A to this Chapter or to garrisons outside Kosovo. The senior MUP commander in Kosovo or his representatives shall confirm in writing by K-Day+5 days to COMKFOR and the CIM that the MUP is in compliance and update the information required in Article VII to take account of withdrawals or other changes made during the redeployment. This information shall be updated weekly. Resumption of normal communal police patrolling will be permitted under the supervision and control of the IM and as specifically approved by the CIM in consultation with COMKFOR, and will be contingent on compliance with the terms of this Agreement.

b. Immediately upon EIF, the following withdrawals shall begin:

(1) By K-Day+5 days, those MUP units not assigned to Kosovo to 1 February 1998 shall withdraw all personnel and equipment from Kosovo to other locations in Serbia.

(2) By K-Day+20 days, all Special Police, including PJP, SAJ, and JSO forces, and their equipment shall be withdrawn from their cantonment sites out of Kosovo to other locations in Serbia. Additionally, all MUP offensive assets (designated as armored vehicles mounting weapons 12.7mm or larger, and all heavy weapons {vehicle mounted or not} of over 82mm) shall be withdrawn.

c. By K-Day+30 days, the senior MUP commander shall provide for approval by COMKFOR, in consultation with the CIM, a detailed plan for the phased drawdown of the remainder of MUP forces. In the event that COMKFOR, in consultation with the CIM, does not approve the plan, he has the authority to issue his own binding plan for further MUP drawdowns. The CIM will decide at the same time when the remaining MUP units will wear new insignia. In any case, the following time-table must be met:

(1) by K-Day+60 days, 50% drawdown of the remaining MUP units including reservists. The CIM after consultations with COMKFOR shall have the discretion to extend this deadline for up to K-Day+90 days if he judges there to be a risk of a law enforcement vacuum;

(2) by K-Day+120 days, further drawdown to 2500 MUP. The CIM after consultations with COMKFOR shall have the discretion to extend this deadline for up to K-Day+180 days to meet operational needs;

(3) transition to communal police force shall begin as Kosovar police are trained and able to assume their duties. The CIM shall organize this transition between MUP and communal police;

(4) in any event, by EIF+one year, all Ministry, of Interior Civil Police shall be drawn down to zero. The CIM shall have the discretion to extend this deadline for up to an additional 12 months to meet operational needs.

d. The 2500 MUP allowed by this Chapter and referred to in Article V.1(a) of Chapter 2 shall have authority only for civil police functions and be under the supervision and control of the CIM.

ARTICLE VII: NOTIFICATIONS

1. By K-Day+5 days, the Parties shall furnish the following specific information regarding the status of all conventional military; all police, including military police, Department of Public Security Police, special police; paramilitary; and all Other Forces in Kosovo, and shall update the COMKFOR weekly on changes in this information:

a. location, disposition, and strengths of all military and special police units referred to above;

b. quantity and type of weaponry of 12.7mm and above, and ammunition for such weaponry, including location of cantonments and supply depots and storage sites;

c. positions and descriptions of any surface-to-air missiles/launchers, including mobile systems, anti-aircraft artillery, supporting radars, and associated command and control systems;

d. positions and descriptions of all miners, unexploded ordnance, explosive devices, demolitions, obstacles, booby traps, wire entanglements, physical or military hazards to the safe movement of any personnel in Kosovo, weapons systems, vehicles, or any other military equipment; and

e. any further information of a military or security nature requested by the COMKFOR.

ARTICLE VIII: OPERATIONS AND AUTHORITY OF THE KFOR

1. Consistent with the general obligations of Article I, the Parties understand and agree that the KFOR will deploy and operate without hindrance and with the authority to take all necessary action to help ensure compliance with this Chapter.

2. The Parties understand and agree that the KFOR shall have the right:

a. to monitor and help ensure compliance by all Parties with this Chapter and to respond promptly to any violations and restore compliance, using military force if required. This includes necessary action to:

1) enforce VJ and MUP reductions; 2) enforce demilitarization of Other Forces; 3) enforce restrictions of all VJ, MUP and Other Forces' activities, movement and training in Kosovo;

b. to establish liaison arrangements with IM, and support IM as appropriate;

c. to establish liaison arrangements with local Kosovo authorities, with Other Forces, and with FRY and Serbian civil and military authorities;

d. to observe, monitor, and inspect any and all facilities or activities in Kosovo, including within the Border Zone, that the COMKFOR believes has or may have military capability, or are or may be associated with the employment of military or police capabilities, or are otherwise relevant to compliance with this Chapter;

e. to require the Parties to mark and clear minefields and obstacles and to monitor their performance;

f. to require the Parties to participate in the Joint Military Commission and its subordinate military commissions as described in Article XI.

3. The Parties understand and agree that the KFOR shall have the right to fulfill its supporting tasks, within the limits of its assigned principal tasks, its capabilities, and available resources, and as directed by the NAC, which include the following:

a. to help create secure conditions for the conduct by others of other tasks associated with this Agreement, including free and fair elections;

b. to assist the movement of organizations in the accomplishment of humanitarian missions;

c. to assist international agencies in fulfilling their responsibilities in Kosovo;

d. to observe and prevent interference with the movement of civilian populations, refugees, and displaced persons, and to respond appropriately to deliberate threat to life and person.

4. The Parties understand and agree that further directives from the NAC may establish additional duties and responsibilities for the KFOR in implementing this Chapter.

5. KFOR operations shall be governed by the following provisions:

a. KFOR and its personnel shall have the legal status, rights, and obligations specified in Appendix B to this Chapter;

b. the KFOR shall have the right to use all necessary means to ensure its full ability to communicate and shall have the right to the unrestricted use of the entire electromagnetic spectrum. In implementing this right, the KFOR shall make reasonable efforts to coordinate with the appropriate authorities of the Parties;

c. The KFOR shall have the right to control and regulate surface traffic throughout Kosovo including the movement of the Forces of the Parties. All military training activities and movements in Kosovo must be authorized in advance by COMKFOR;

d. The KFOR shall have complete and unimpeded freedom of movement by ground, air, and water into and throughout Kosovo. It shall in Kosovo have the right to bivouac, maneuver, billet, and utilize any areas or facilities to carry out its responsibilities as required for its support, training, and operations, with such advance notice as may be practicable. Neither the KFOR nor any of its personnel shall be liable for any damages to public or private property that they may cause in the course of duties related to the implementation of this Chapter. Roadblocks, checkpoints, or other impediments to KFOR freedom of movement shall constitute a breach of this Chapter and the violating Party shall be subject to military action by the KFOR, including the use of necessary force to ensure compliance with its Chapter.

6. The Parties understand and agree that COMKFOR shall have the authority, without interference or permission of any Party, to do all that he judges necessary and proper, including the use of military force, to protect the KFOR and the IM, and to carry out the responsibilities listed in this Chapter. The Parties shall comply in all respects with KFOR instructions and requirements.

7. Notwithstanding any other provision of this Chapter, the Parties understand and agree that COMKFOR has the right and is authorized to compel the removal, withdrawal, or relocation of specific Forces and weapons, and to order the cessation of any activities whenever the COMKFOR determines such Forces, weapons, or activities to constitute a threat or potential threat to either the KFOR or its mission, or to another Party. Forces failing to redeploy, withdraw, relocate, or to cease threatening or potentially threatening activities following such a demand by the KFOR shall be subject to military action by the KFOR, including the use of necessary force, to ensure compliance, consistent with the terms set forth in Article I, paragraph 3.

ARTICLE IX: BORDER CONTROL

The Parties understand and agree that, until other arrangements are established, and subject to provisions of this Chapter and Chapter 2, controls along the international border of the FRY that is also the border of Kosovo will be maintained by the existing institutions normally assigned to such tasks, subject to supervision by the KFOR and the IM, which shall have the right to review and approve all personnel and units, to monitor their performance, and to remove and replace any personnel for behavior inconsistent with this Chapter.

ARTICLE X: CONTROL OF AIR MOVEMENTS

The appropriate NATO commander shall have sole authority to establish rules and procedures governing command and control of the airspace over Kosovo as well as within a 25 kilometer Mutual Safety Zone (MSZ). This MSZ shall consist of FRY airspace within 25 kilometers outward from the boundary of Kosovo with other parts of the FRY. This Chapter supersedes the NATO Kosovo Verification Mission Agreement of October 12, 1998 on any matter or area in which they may contradict each other. No military air traffic, fixed or rotary wing, of any Party shall be permitted to fly over Kosovo or in the MSZ without the prior express approval of the appropriate NATO commander. Violations of any of the provisions above, including the appropriate NATO commander's rules and procedures governing the airspace over Kosovo, as well as unauthorized flight or activation of FRY Integrated Air Defense (IADS) within the MSZ, shall be subject to military action by the KFOR, including the use of necessary force. The KFOR shall have a liaison team at the FRY Air Force HQ and a YAADF liaison shall be established with the KFOR. The Parties understand and agree that the appropriate NATO commander may delegate control of normal civilian air activities to appropriate FRY institutions to monitor operations, deconflict KFOR air traffic movements, and ensure smooth and safe operation of the air traffic system.

ARTICLE XI: ESTABLISHMENT OF A JOINT MILITARY COMMISSION

1. A Joint Military Commission (JMC) shall be established with the deployment of the KFOR to Kosovo.

2. The JMC shall be chaired by COMKFOR or his representative and consist of the following members:

a. the senior Yugoslav military commander of the Forces of the FRY or his representative;

b. the Ministers of Interior of the FRY and Republic of Serbia or their representatives;

c. a senior military representative of all Other Forces;

d. a representative of the IM;

e. other persons as COMKFOR shall determine, including one or more representatives of the Kosovo civilian leadership.

3. The JMC shall:

a. serve as the central body for all Parties to address any military complaints, questions, or problems that require resolution by the COMKFOR, such as allegations of ceasefire violations or other allegations of noncompliance with this Chapter;

b. receive reports and make recommendations for specific actions to COMKFOR to ensure compliance by the Parties with the provisions of this Chapter;

c. assist COMKFOR in determining and implementing local transparency measures between the Parties.

4. The JMC shall not include any persons publicly indicted by the International Criminal Tribunal for the Former Yugoslavia.

5. The JMC shall function as a consultative body to advise COMKFOR. However, all final decisions shall be made by COMKFOR and shall be binding on the Parties.

6. The JMC shall meet at the call of COMKFOR. Any Party may request COMKFOR to convene a meeting.

7. The JMC shall establish subordinate military commissions for the purpose of providing assistance in carrying out the functions described above. Such commissions shall be at an appropriate level, as COMKFOR shall direct. Composition of such commissions shall be determined by COMKFOR.

ARTICLE XII: PRISONER RELEASE

1. By EIF + 21 days, the Parties shall release and transfer, in accordance with international humanitarian standards, all persons held in connection with the conflict (hereinafter ''prisoners''). In addition, the Parties shall cooperate fully with the International Committee of the Red Cross (ICRC) to facilitate its work, in accordance with its mandate, to implement and monitor a plan for the release and transfer of prisoners in accordance with the above deadline. In preparation for compliance with this requirement, the Parties shall:

a. grant the ICRC full access to all persons, irrespective of their status, who are being held by them in connection with the conflict, for visits in accordance with the ICRC's standard operating procedures;

b. provide to the ICRC any and all information concerning prisoners, as requested by the ICRC, by EIF + 14 days.

2. The Parties shall provide information, through the tracing mechanisms of the ICRC, to the families of all persons who are unaccounted for. The Parties shall cooperate fully with the ICRC in its efforts to determine the identity, whereabouts, and fate of those unaccounted for.

ARTICLE XIII: COOPERATION

The Parties shall cooperate fully with all entities involved in implementation of this settlement, as described in the Framework Agreement, or which are otherwise authorized by the United Nations Security Council, including the International Criminal Tribunal for the former Yugoslavia.

ARTICLE XIV: NOTIFICATION TO MILITARY COMMANDS

Each Party shall ensure that the terms of this Chapter and written orders requiring compliance are immediately communicated to all of its Forces.

ARTICLE XV: FINAL AUTHORITY TO INTERPRET

1. Subject to paragraph 2, the KFOR Commander is the final authority in theater regarding interpretation of this Chapter and his determinations are binding on all Parties and persons.

2. The CIM is the final authority in theater regarding interpretation of the references in this Chapter to his functions (directing the VJ Border Guards under Article II, paragraph 3; his functions concerning the MUP under Article VI) and his determinations are binding on all Parties and persons.

ARTICLE XVI: K–DAY

The date of activation of KFOR—to be known as K–Day—shall be determined by NATO.

APPENDICES

A. Approved VJ/MUP Cantonment Sites

B. Status of Multi-National Military Implementation Force

APPENDIX A: APPROVED VJ/MUP CANTONMENT SITES

1. There are 13 approved cantonment sites in Kosovo for all VJ units, weapons, equipment, and ammunition. Movement to cantonment sites, and subsequent withdrawal from Kosovo, will occur in accordance with this Chapter. As the phased withdrawal of VJ units progresses along the timeline as specified in this Chapter, COMKFOR will close selected cantonment sites.

2. Initial approved VJ cantonment sites:

(a) Pristina SW 423913NO210819E.

(b) Pristina Airfield 423412NO210040E

(c) Vuctrin North 424936NO205227E.

(d) Kosovska Mitrovica 425315NO205227E.

(e) Gnjilane NE 422807NO212845E.

(f) Urosevac 422233NO210753E.

(g) Prizren 421315NO204504E.

(h) Djakovica SW 422212NO202530E.

(i) Pec 423910NO201728E.

(j) Pristina Explosive Storage Fac 423636NO211225E.

(k) Pristina Ammo Depot SW 423518NO205923E.

(l) Pristina Ammo Depot 510 424211NO211056E.

(m) Pristina Headquarters facility 423938NO210934E.

3. Within each cantonment site, VJ units are required to canton all heavy weapons and vehicles outside of storage facilities.

4. After EIF + 180 days, the remaining 2500 VJ forces dedicated to border security functions provided for this Agreement will be garrisoned and cantoned at the following locations: Djakovica, Prizren, and Ursoevac; subordinate border posts within the Border Zone; a limited number of existing facilities in the immediate proximity of the Border Zone subject to the prior approval of COMKFOR; and headquarters/C2 and logistic support facilities in Pristina.

5. There are 37 approved cantonment sites for all MUP and Special Police force units in Kosovo. There are seven (7) approved regional SUP's. Each of the 37 approved cantonment sites will fall under the administrative control of one of the regional SUPs. Movement to cantonment sites, and subsequent withdrawal of MUP from Kosovo, will occur in accordance with this Chapter.

6. Approved MUP regional SUPs and cantonment sites:

(a) Kosovska Mitrovica SUP 425300NO205200E.

(1) Kosovska Mitrovica (2 locations)
(2) Leprosavic
(3) Srbica
(4) Vucitrin
(5) Zubin Potok

(b) Pristina SUP 424000NO211000E.

(1) Pristina (6 locations)
(2) Glogovac
(3) Kosovo Polje
(4) Lipjan
(5) Obilic
(6) Podujevo

(c) Pec SUP 423900NO201800E.

(1) Pec (2 locations)
(2) Klina
(3) Istok
(4) Malisevo

(d) Djakovica SUP 422300NO202600E.

(1) Djakovica (2 locations)
(2) Decani

(e) Urosevac SUP 422200NO2111000E.

(1) Urosevac (2 locations)
(2) Stimlje
(3) Strpce
(4) Kacanik

(f) Gnjilane SUP 422800NO212900E.

(1) Gnjilane (2 locations)
(2) Kamenica
(3) Vitina
(4) Kosovska
(5) Novo Brdo

(g) Prizren SUP 421300NO204500E.

(1) Prizxen (2 locations)
(2) Orahovac
(3) Suva Reka
(4) Gora

7. Within each cantonment site, MUP units are required to canton all vehicles above 6 tons, including APCs and BOVs, and all heavy weapons outside of storage facilities.

8. KFOR will have the exclusive right to inspect any cantonment site or any other location, at any time, without interference from any Party.

APPENDIX B: STATUS OF MULTI-NATIONAL MILITARY IMPLEMENTATION FORCE

1. For the purposes of this Appendix, the following expressions shall have the meetings hereunder assigned to them:

a. ''NATO'' means the North Atlantic Treaty Organization (NATO), its subsidiary bodies, its military Headquarters, the NATO-led KFOR, and any elements/units forming any part of KFOR or supporting KFOR, whether or not they are from a NATO member country and whether or not they are under NATO or national command and control, when acting in furtherance of this Agreement.

b. ''Authorities in the FRY'' means appropriate authorities, whether Federal, Republic, Kosovo or other.

c. ''NATO personnel'' means the military, civilian, and contractor personnel assigned or attached to or employed by NATO, including the mililtary, civilian, and contractor personnel from non-NATO states participating in the Operation, with the exception of personnel locally hired.

d. ''the Operation'' means the support, implementation, preparation, and participation by NATO and NATO personnel in furtherance of this Chapter.

e. ''Military Headquarters'' means any entity, whatever its denomination, consisting of or constituted in part by NATO military personnel established in order to fulfill the Operation.

f. ''Authorities'' means the appropriate responsible individual, agency, or organization of the Parties.

g. ''Contractor personnel'' means the technical experts or functional specialists whose services are required by NATO and who are in the territory of the FRY exclusively to serve NATO either in an advisory capacity in technical matters, or for the setting up, operation, or maintenance of equipment, unless they are:

(1) nationals of the FRY; or
(2) persons ordinarily resident in the FRY.

h. ''Official use'' means any use of goods purchased, or of the services received and intended for the performance of any function as required by the operation of the Headquarters.

i. ''Facilities'' means all buildings, structures, premises, and land required for conducting the operational, training, and administrative activities by NATO for the Operation as well as for accommodation of NATO personnel.

2. Without prejudice to their privileges and immunities under this Appendix, all NATO personnel shall respect the laws applicable in the FRY, whether Federal, Republic, Kosovo, or other, insofar as compliance with those laws is compatible with the entrusted tasks/mandate and shall refrain from activities not compatible with the nature of the Operation.

3. The Parties recognize the need for expeditious departure and entry procedures for NATO personnel. Such personnel shall be exempt from passport and visa regulations and the registration requirements applicable to aliens. At all entry and exit points to/from the FRY, NATO personnel shall be permitted to enter/exit the FRY on production of a national identification (ID) card. NATO personnel shall carry identification which they may be requested to produce for the authorities in the FRY, but operations, training, and movement shall not be allowed to be impeded or delayed by such requests.

4. NATO military personnel shall normally wear uniforms, and NATO personnel may posses and carry arms if authorized to do so by their orders. The Parties shall accept as valid, without tax or fee, drivers' licenses and permits issued to NATO personnel by their respective national authorities.

5. NATO shall be permitted to display the NATO flag and/or national flags of its constituent national elements/units on any NATO uniform, means of transport, or facility.

6. a. NATO shall be immune from all legal process, whether civil, administrative, or criminal.

b. NATO personnel, under all circumstances and at all times, shall be immune from the Parties' jurisdiction in respect of any civil, administrative, criminal, or disciplinary offenses which may be committed by them in the FRY. The Parties shall assist States participating in the Operation in the exercise of their jurisdiction over their own nationals.

c. Notwithstanding the above, and with the NATO Commander's express agreement in each case, the authorities in the FRY may exceptionally exercise jurisdiction in such matters, but only in respect of Contractor personnel who are not subject to the jurisdiction of their nation of citizenship.

7. NATO personnel shall be immune from any form of arrest, investigation, or detention by the authorities in the FRY. NATO personnel erroneously arrested or detained shall immediately be turned over to NATO authorities.

8. NATO personnel shall enjoy, together with their vehicles, vessels, aircraft, and equipment, free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and territorial waters. This shall include, but not be limited to, the right of bivouac, maneuver, billet, and utilization of any areas or facilities as required for support, training, and operations.

9. NATO shall be exempt from duties, taxes, and other charges and inspections and custom regulations including providing inventories or other routine customs documentation, for personnel, vehicles, vessels, aircraft, equipment, supplies, and provisions entering, exiting, or transiting the territory of the FRY in support of the Operation.

10. The authorities in the FRY shall facilitate, on a priority basis and with all appropriate means, all movement of personnel, vehicles, vessels, aircraft, equipment, or supplies, through or in the airspace, ports, airports, or roads used. No charges may be assessed against NATO for air navigation, landing, or takeoff of aircraft, whether government-owned or chartered. Similarly, no duties, dues, tolls or charges may be assessed against NATO ships, whether government-owned or chartered, for the mere entry and exit of ports. Vehicles, vessels, and aircraft used in support of the Operation shall not be subject to licensing or registration requirements, nor commercial insurance.

11. NATO is granted the use of airports, roads, rails, and ports without payment of fees, duties, dues, tolls, or charges occasioned by mere use. NATO shall not, however, claim exemption from reasonable charges for specific services requested and received, but operations/movement and access shall not be allowed to be impeded pending payment for such services.

12. NATO personnel shall be exempt from taxation by the Parties on the salaries and emoluments received from NATO and on any income received from outside the FRY.

13. NATO personnel and their tangible moveable property imported into, acquired in, or exported from the FRY shall be exempt from all duties, taxes, and other charges and inspections and custom regulations.

14. NATO shall be allowed to import and to export, free of duty, taxes and other charges, such equipment, provisions, and supplies as NATO shall require for the Operation, provided such goods are for the official use of NATO or for sale to NATO personnel. Goods sold shall be solely for the use of NATO personnel and not transferable to unauthorized persons.

15. The Parties recognize that the use of communications channels is necessary for the Operation. NATO shall be allowed to operate its own internal mail services. The Parties shall, upon simple request, grant all telecommunications services, including broadcast services, needed for the Operation, as determined by NATO. This shall include the right to utilize such means and services as required to assure full ability to communicate, and the right to use all of the electromagnetic spectrum for this purpose, free of cost. In implementing this right, NATO shall

make every reasonable effort to coordinate with and take into account the needs and requirements of appropriate authorities in the FRY.

16. The Parties shall provide, free of cost, such public facilities as NATO shall require to prepare for and execute the Operation. The Parties shall assist NATO in obtaining, at the lowest rate, the necessary utilities, such as electricity, water, gas and other resources, as NATO shall require for the Operation.

17. NATO and NATO personnel shall be immune from claims of any sort which arise out of activities in pursuance of the Operation; however, NATO will entertain claims on an ex gratia basis.

18. NATO shall be allowed to contract directly for the acquisition of goods, services, and construction from any source within and outside the FRY. Such contracts, goods, services, and construction shall be subject to the payment of duties, taxes, or other charges. NATO may also carry out construction works with their own personnel.

19. Commercial undertakings operating in the FRY only in the service of NATO shall be exempt from local laws and regulations with respect to the terms and conditions of their employment and licensing and registration of employees, businesses, and corporations.

20. NATO may hire local personnel who on an individual basis shall remain subject to local laws and regulations with the exception of labor/employment laws. However, local personnel hired by NATO shall:

a. be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

b. be immune from national services and/or national military service obligations;

c. be subject only to employment terms and conditions established by NATO; and

d. be exempt from taxation on the salaries and emoluments paid to them by NATO.

21. In carrying out its authorities under this Chapter, NATO is authorized to detain individuals and, as quickly as possible, turn them over to appropriate officials.

22. NATO may, in the conduct of the Operation, have need to make improvements or modifications to certain infrastructure in the FRY, such as roads, bridges, tunnels, buildings, and utility systems. Any such improvements or modifications of a non-temporary nature shall become part of and in the same ownership as that infrastructure. Temporary improvements or modifications may be removed at the discretion of the NATO Commander, and the infrastructure returned to as near its original condition as possible, fair wear and tear excepted.

23. Failing any prior settlement, disputes with the regard to the interpretation or application of this Appendix shall be settled between NATO and the appropriate authorities in the FRY.

24. Supplementary arrangements with any of the Parties may be concluded to facilitate any details connected with the Operation.

25. The provisions of this Appendix shall remain in force until completion of the Operation or as the Parties and NATO otherwise agree.

CHAPTER 8

AMENDMENT, COMPREHENSIVE ASSESSMENT, AND FINAL CLAUSES

ARTICLE I: AMENDMENT AND COMPREHENSIVE ASSESSMENT

1. Amendments to this Agreement shall be adopted by agreement of all the Parties, except as otherwise provided by Article X of Chapter 1.

2. Each Party may propose amendments at any time and will consider and consult with the other Parties with regard to proposed amendments.

3. Three years after the entry into force of this Agreement, an international meeting shall be convened to determine a mechanism for a final settlement for Kosovo, on the basis of the will of the people, opinions of relevant authorities, each Party's efforts regarding the implementation of this Agreement, and the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this Agreement and to consider proposals by any Party for additional measures.

ARTICLE II: FINAL CLAUSES

1. This Agreement is signed in the English language. After signature of this Agreement, translations will be made into Serbian, Albanian, and other languages of the national communities of Kosovo, and attached to the English text.

2. This Agreement shall enter into force upon signature.

Mr. NICKLES. I further ask unanimous consent that in the permanent CONGRESSIONAL RECORD, the text of the agreement be printed immediately following my remarks of May 3, 1999.

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

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk.

Mr. HATCH. Mr. President, I object.

Mr. LAUTENBERG. I ask unanimous consent to be permitted to do that.

The PRESIDING OFFICER. Is there objection? The Senator from Utah?

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, 2 minutes ago the distinguished Senator from Utah had made the suggestion, another unanimous consent request, that Senators bring up things even if Senators were not available on the other side of an issue to speak, and that that Senator be given equal time on Monday or sometime prior to the vote. I might ask the Chair, is there such a unanimous consent pending? Am I perhaps stating it too broadly?

The PRESIDING OFFICER. There were two amendments authorized to be offered with the understanding, the proviso, that they would have adequate time on Monday. There was, further, an additional granting of the request of the Senator from California that her amendment to be considered. But it does take consent for further amendments to be offered at this time.

Mr. LEAHY. I thank the Chair. I note the Senator from New Jersey is within his rights to make such a request. The Senator from Utah is within his rights to object to it.

Mr. President, I note the distinguished majority leader was on the floor earlier, urging we move forward on this legislation, that we try to get as much done as possible today and Monday, a position both the distinguished Senator from Utah and I joined. I suspect the two of us have probably worked more hours than anybody else in this body to bring that about. But there are not an awful lot of Senators around here waiting to be heard. I urge the majority, they may well allow Senators like Senator LAUTENBERG or others who have amendments to bring them up, discuss them, have some debate on them, and then if there are those who wish to oppose those amendments, they would of course have an equal amount of time on Monday to do that. Otherwise, of course, the Senator from New Jersey can bring it up Monday.

But you cannot keep holding it off with the idea that maybe it will only come up at the time of the vote on Tuesday, because that would be, in effect, a debate cloture on the part of the Republican side that would say even if it was a serious matter they would only get 2.5 minutes of debate.

I know the distinguished senior Senator from Utah is a fair person. I think he would perhaps agree that 2.5 minutes debate is not quite enough on major amendments. I hope they will find in their heart to allow the distinguished senior Senator from New Jersey to bring up his amendment. Clearly, he is going to be allowed to bring it up sometime prior to the vote on it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Utah.

Mr. HATCH. Mr. President, when I suggested equal time, it was on those particular amendments because of the need for certain Senators to be here on those particular amendments. Earlier this morning, Senator LAUTENBERG desired to call up his amendment and I respectfully requested that he reserve bringing it up until Monday because there are people gone who will not have an opportunity, who have asked me—who believed these amendments would not be brought up, who asked me to protect their right to be here when the amendments are brought up. As a courtesy, I ask him not to bring up the amendment. So I have no alternative other than to object to it.

We have had six amendments brought up. It is our turn on our side to present an amendment. I think we are making progress. But we should honor, to the best of our abilities on each side—the request of some of our colleagues that they might be here on amendments they consider to be important to them, especially since this is a Friday and almost everybody left believing we would not do much more today.

Be that as it may, that is why I have to object. I have objected and I will object to certain amendments where I have to protect people on our side, as I would expect the distinguished Senator from Vermont to object if we tried to bring up an amendment when Senators on his side could not be here to respond.

I have another amendment for our side to bring up at this time. It is an amendment on the part of Senator SESSIONS and Senator ROBB and Senator ALLARD. I send the amendment to the desk and ask for its immediate consideration.

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Y2K ACT—MOTION TO PROCEED

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I call for the regular order with respect to the motion to proceed to S. 96.

The PRESIDING OFFICER. The motion to proceed to S. 96 is the regular order.

The Senator from New Jersey.

ORDER OF PROCEDURE

Mr. LAUTENBERG. Mr. President, while we were on the motion to proceed, taking a cue from earlier speeches—the distinguished Senator from Colorado spoke at some length earlier. I would just like to take a few minutes.

Mr. LEAHY. Will the Senator yield to me?

Mr. LAUTENBERG. I will be happy to yield.

Mr. LEAHY. I just note two things. First is that even though the last amendment brought up by the Republican side is vehemently opposed by a Member on this side who could not be present, we made no objection to that, knowing he would have time to debate later on. Mr. President, we did this to try to comply with the request of the majority leader and the distinguished Senator from Utah, who said they wanted to move forward with this. We did it in good faith. Frankly, for one of the very few times in my 25 years in the Senate, I find my faith shaken because it is very obvious nobody intended to go forward; they just wanted to go right back to Y2K and block anything else.

If their side wants to bring up something even if our side is not here to debate it, that is fine. If our side wants something similar, that is not fine. It is like the Democratic amendments being voted down over here so a day or so later they can be brought up as Republican amendments and voted up over there. And in between we hear complaints about this is taking too long.

I will repeat what I have said before: Every single Democrat wants a juvenile justice bill with everything from the prevention of crime to education to helping our juveniles. I question whether the same thing can be said for the other side of the aisle.

The Senator from New Jersey had the floor. I yield back to him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. HATCH. He can't yield the floor to another person—or did he have the floor? I don't know.

The PRESIDING OFFICER. The Senator can only yield for a question.

Mr. HATCH. Mr. President, let me just answer that and then I will be happy to yield to the distinguished Senator from New Jersey.

Look, the games are over as far as I am concerned. When a Senator stands on the floor and says he is protecting Members of his side and extends the same courtesy to the other side to protect Members on their side, all they have to do is tell us. If the distinguished Senator believes somebody on his side has to be protected, all he has to do to be protected is tell me and I will honor that. I asked for that same courtesy on our side because there are Senators who cannot be here who want to be here when Senator LAUTENBERG brings up his amendment. It is a fair request, a fair statement; it is a fair position. I really do not think people should try to make political points or political hay out of it.

I might also add, nobody wants this bill more than I do. I have been working on it for 2 solid years. I have been working on it every day on the floor. I am going to do everything in my power to get it passed. I have to admit I have had a lot of cooperation from our distinguished ranking minority leader on the Judiciary Committee, for which I am very grateful. But there is no reason to play these games here. It is unreasonable for anybody to suggest that because somebody is protecting his side, because I am protecting my side, there is something untoward about that. I would not suggest it if the Senator wanted to protect his side.

Naturally, I am going to yield the floor to my friend from New Jersey. I wish I could accommodate him, frankly, because I care for him. I know he is sincere on this amendment. But it is not unreasonable to ask that Senators, on something they feel very deeply about, since everybody left here today other than a few of us, that they be protected so they can be here when the amendment is brought up.

Also, I note the distinguished Senator from Arkansas is on the floor. She wants to make a statement that is unrelated to the bill, as I understand it, or to either of the bills—the current bill that is on the floor or the prior bill we were debating.

So I yield the floor for the distinguished Senator, and of course, hopefully the Senator from Arkansas will then make her statement.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank my colleague from Utah for his consummate interest in issues that matter, even though at times we differ. He did request a courtesy that I would like to have yielded to, except for the fact that we have allowed some on that side to be protected while not enabling this Senator to be able to obtain the same protection. I am bound, at 3:30, for Albania, Macedonia, Hungary, and Bulgaria.

I plan to visit with our people in Aviano, Italy, and Brussels headquarters and be back here Monday night. This is not intended to be a world endurance record. That is not why I am doing this. I am doing it because I have had a deep interest in what takes place there and am shocked by the horror of the deeds that the Serbian Government is perpetrating on these people.

I have had a chance to meet some of the refugees at Fort Dix. I was there last week with the First Lady to greet the first of the refugees who arrived in America. I did serve in World War II—not in this area, but I was in Europe during the war. The horrors we are witnessing are too much for a civilized world to bear.

I salute the leadership of the President, the courage and the commitment of our troops who are there for long hours each and every day working to the best of their ability, which ability is very good.

There have been mistakes made, and that happens in a wartime environment. Mistakes are made because we are trying to make sure our casualties are few.

That is where I am going, and I will not be here then on Monday to bring up this amendment. I would have offered the amendment without debate.

The fact of the matter is that everyone is pretty much aware of what my amendment is. It helps to further close the loopholes, which I know the Senator from Utah wanted to do. I do not think the amendment we voted on this morning does it. It does not close the loopholes. That is my judgment, and I am prepared to defend that judgment.

I want to correct it. I want to see all the loopholes closed, and so do the vast majority of Americans. Eighty-seven percent, as a matter of fact, in a national poll said they want the loopholes at the gun shows closed.

I take a second seat to no one in wanting to get a juvenile justice bill in place. I want to see if we can help our young people avoid the violence that seems to permeate our society. But the fact of the matter is that each of us in this parliamentary structure that we operate under is entitled to offer amendments.

I had hoped I would have been able to, as they say in the vernacular here, lay it down, put it at the desk and have it saved for debate at a later time. The Senator from Utah tried very hard to be cooperative, as he always does with me—we have a good relationship, and I respect that enormously—to say: All right, we can have some time. We will arrange not a lot of time on Tuesday for a discussion and a vote.

The inability to offer that amendment is decidedly a disadvantage, though it will be offered by one of my colleagues. I had hoped, since I authored it in the first place, to send it up. That may be a red flag to some over there, but the fact of the matter is that I know the Senator from Utah does not disagree with me in principle; in approach perhaps, in principle certainly not.

I ask once again if it is possible just to send it up. It does need unanimous consent. I will not force any objections. I take the liberty of asking the distinguished manager whether it is possible just to send it up and lay it down.

Mr. HATCH. We are no longer on that bill. I really cannot do that because of the courtesies I must extend to people on both sides. I am sorry I cannot accommodate the distinguished Senator from New Jersey. We are no longer on that bill. As I understand it, we are on the motion to proceed to the Y2K bill.

The PRESIDING OFFICER. The Senator from Utah is correct.

Mr. HATCH. Mr. President, I see some colleagues who want to speak at this time. I ask unanimous consent that Senator LINCOLN be recognized for 10 minutes and then Senator VOINOVICH, who will be on the floor shortly, be recognized for another 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE JUVENILE JUSTICE BILL

Mrs. LINCOLN. Mr. President, I rise today to speak on a bill that we have been addressing and that I think we have made some good progress on, the juvenile justice bill. But I rise today to encourage, to plead with both sides of the aisle, with all of my colleagues in the Senate, that we remember what it is we are here to address, and that is the well-being of our children; that we put down and put aside all of the other things to really focus on what it is we are here to do, and that is to address the well-being of our children in this country.

I think it is so important that we do not lose sight of the tragedies we have seen that have presented to us the agony which has brought us to this floor and to this debate to try to do something to correct those tragedies and, more importantly, to prevent any others from happening in the future.

It is so easy to lose sight of the forest for the trees. If we continue that in this debate on juvenile justice, we will have done a true disservice to the children of this Nation.

I will speak today on an amendment which will be offered, which I am joining two of my colleagues in offering, Senator HARKIN and Senator WELLSTONE. We think it will help to reduce crime and violence in our Nation's schools by preventing it before it ever happens, and that is exactly what can be the most important tool in this Nation in providing safety for our children.

It addresses the issues of the children's emotional well-being and providing schools with the necessary resources to help our children deal with the complicated problems that today society brings them.

Students bring more to school today than just backpacks and lunch boxes; they bring severe emotional problems. Our children in today's world come to school with problems far more severe than we can imagine, and certainly far more severe than we may have experienced ourselves. And 71 percent of the children ages 7 to 10 are worried whether they will be stabbed or shot while in their school. This is inexcusable in a country like ours, that that many children are frightened to go to school and they are frightened of what they will be up against.

The Department of Education reported that in 1997 there were approximately 11,000 incidents nationally of physical attacks or fights in which weapons were used. We can no longer continue to look for a solution which is only a Band-Aid. We must look at the source of the problem. Preventative medicine rather than a haphazard Band-Aid approach is something that is absolutely essential to the emotional well-being of our children today and the future of our country. Theodore Roosevelt said: To educate a man in mind and not in morals is to educate a menace to society.

It is so absolutely essential, in today's society where we are blessed with so much advanced technology, that we remind our children that their emotional well-being, that the friendships and the fellowships that they must build with their fellow students is essential to the safety of mankind and the future of this country. Isn't it great that my children and other people's children, one day when they are older, will be able to communicate on the Internet to children in France and other countries across the world?

But let us not forget that we must encourage them also to walk out the back door of the house and to talk over the back fence again with their neighbors and their neighbor's children so they know who their friends and their neighbors are and so they are less likely to violate them.

It is absolutely essential that we do not lose sight of what it is we are here to do on behalf of our children. Improvements, changes in accountability, are absolutely essential in our children's education. Metal detectors and surveillance cameras in schools won't get rid of the root of the problem. They will help us in dealing with what we have to deal with right now, but the most important thing we can do is provide our children with the kind of counseling and background to deal with the severity of problems they are coming to school with at a younger and younger age. We must minimize access to guns that can address the means to act out, but it doesn't address the illnesses that we begin with in our children's minds.

I have traveled across our State of Arkansas, and in absolutely every school I have visited, every teacher and administrator has said the same thing to me—we do not have adequate counselors and trained professionals to deal with the severity of problems our children are coming to school with today in K through 3. We do not have the appropriate resources to give to our teachers and our administrators to help them recognize the problem in these children.

It is absolutely essential that we give them that resource in counselors and professionally trained individuals. The National Institutes of Health estimates although 7.5 million children under the age of 18 require mental health services, fewer than one in five receives it.

All of us have our own personal stories to tell of a relationship or something we have heard through the education process. One of my older sisters was a teacher in the public schools. She had a classroom of 31 students, 6 and younger. She said that wasn't the biggest challenge in her classroom. The biggest challenge in her classroom was that those students came to school hungry and sick and, most importantly, frightened.

We have a severe crisis on our hands in the fact that we now, in our State of Arkansas and in other States, have no young people going into the teaching profession. Less than 25 percent of the teachers in the State of Arkansas are under the age of 40. We will hit a brick wall soon, because no one is going into the teaching profession. My sister is a great example. One of the reasons she got out of teaching was she said she couldn't handle bus duty when she had it, because there were students that clung to her leg and said, please, don't make me go home. It is essential that we deal with the emotional well-being of our children.

I rise today in support, with two other colleagues, of an amendment we will offer to this juvenile justice bill when we get beyond the forest and we start to recognize what it is we are here to do; that is, the details of dealing with the well-being of our children.

The details of the Harkin-Lincoln-Wellstone amendment are basically to put $100 million in authorizing funds for fiscal year 2000. The first $60 million must be spent for counseling services in elementary schools where the illness and the problem begins, before it grows into the problems that we deal with in terms of guns and violence in later grades. Only qualified mental health professionals may be hired with this funding. The funds are eligible to urban, suburban and rural local school districts, knowing that every school is suffering from these problems. Some more than others, but all of them equally in need.

It is absolutely essential. The benefits of what we are proposing are to treat the emotional problems before they are out of control, to work hand in hand with an advisory board of parents, teachers, administrators and community leaders to design and implement counseling services, because we know that the most important part of any child's well-being is their parental and family involvement. It is essential in what we are doing.

We know that when we involve the parents in the child's life, it is far more

productive. But involve the parents of the children who receive services so that the parents can be more involved in the development and the well-being of their children, so it is not just one shot at trying to fix the problem, but a continuing of trying to fix the problem both through the counseling services to the children and assistance with the parents.

Teachers focus more on a student's skills at writing and arithmetic, rather than their potential for violence, because they do not have the support that they need, because their classroom sizes are too large, and they don't have the time to devote to it. I plead with my colleagues that we must get back to the business at hand, and that business is the well-being of the children of this country who are our future.

I urge Congress to act quickly, and I certainly want to devote the time to this important issue that we have begun to do and I hope we will continue. I just plead with my colleagues to remember that what we are dealing with in this legislation is our Nation's greatest resource—our children.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AN ALTERNATIVE APPROACH ON JUVENILE CRIME

Mr. VOINOVICH. Mr. President, this week in the Senate, we are discussing legislation that is meant to address the seemingly ever-growing problem of juvenile crime. Before we despair, let us recognize that the overwhelming majority of young people in America are good kids and don't get into trouble with the law and are making a substantial contribution to our society. In fact, in my State of Ohio, the adjudications of young people are down as well as incarceration of young offenders.

However, most Americans cannot turn on television, read a newspaper, or pick up a magazine without being told about the crisis facing our society because of young people who have turned violent. The fact that this problem exists at all is a sad commentary on our modern society. However, it is a reality, and we have got to deal with it. The question is, How do we deal with it? As we in Congress try to answer that question we have to make sure that we take the time to deal with juvenile crime from the proper perspective.

We cannot expect there to be a silver bullet or a quick fix that will solve our problems, although the recent tragedy in Littleton, CO, has intensified the urgency and our search for answers.

Naturally, part of the solution to juvenile crimes is traditional crime prevention, penalties and sentences. However, these remedies, while important, only treat the symptoms of the disease and not the disease itself. I believe our focus should not only be on the symptoms of juvenile crime, but on the root causes as well.

Two or three years ago, Princeton University Professor John DiIulio lamented over the upcoming ''predator generation'' because projected demographics showed a marked increase in the amount of young people who were going to become violent in our society. Professor DiIulio commented that we would have a real problem around 2010 to 2015 As Professor DiIulio stated, we have a generation, it seems, growing up in moral poverty. And that is the poverty of being without loving, capable, responsible adults who teach kids right from wrong.

Concerned about his pronouncement, I convened a juvenile crime summit in 1997 in Ohio and again in 1998, as Governor. We found that it wasn't longer sentences or boot camps or harsher penalties that were required. What we found we needed to do was to get into the lives of our children at an early age, including while they are in their mother's womb, to give them the positive influences they need.

Within the next two weeks, I will be introducing legislation along with Senator BOB GRAHAM from Florida that will help us address the needs of our children in the most critical times of their lives—pre-natal to three.

When I was Governor, I often said that if I had a magic wand to solve Ohio's problems, I would reconstitute the family.

It's the dysfunction of the family and the lack of moral and religious values that causes so many problems in our nation today.

Too often our children are groundless—they have no honor nor fear of the Lord, nor any understanding of the 10 Commandments.

I believe the best place to catch problems and prevent them from ever occurring is when children are at their youngest, when parents and young children are forming life-long attachments and when parents and other care-givers have an opportunity to construct lasting values.

Government is a lousy substitute for the family. Unfortunately, there are circumstances where the government is the only alternative because there is no family in place.

In these situations, we must look for the most effective way to give them our assistance.

I truly believe there is something we can do to help in that respect.

Today, thanks to decades of research on brain chemistry and through the utilization of sophisticated new technologies, neuro-scientists are telling us that the experiences that fill a baby's first days, months, and years have a decisive impact on the development of the brain and on the nature and extent of one's adult capacities.

As a result of the research, we know that throughout the entire process of development, beginning before birth, the brain is affected by environmental conditions such as nourishment, nurturing and sensory stimulation; early childhood care has a decisive and long-lasting impact on how people develop their ability to learn, and their capacity to regulate their own emotions; there are times when negative experiences—or the absence of appropriate stimulation—are more likely to have serious and sustained effects, the period of prenatal to three is such a time in a child's development; the human brain has a remarkable capacity to change, but timing is crucial and the first three years of life appear to be the most influential period for growth and change.

To ensure that children prenatal to three have the best possible start in life, we must establish specific support mechanisms to help parents and other adult care-givers. We have to become better partners.

These include health care, nutrition programs, childcare, early intervention services, adoption assistance, education programs, and other support services.

We must also reach out to parents—our children's first teachers and care-givers—to help them understand that the day-to-day interaction with children helps them to develop cognitively, socially and emotionally.

A mother comforting her crying baby, a father holding and reading to his toddler and a care-giver singing and playing with an infant are not just involved in ''feel-good'' interactions.

They are involved in biological activities that exert a powerful, enduring impact on the young child's physical, intellectual, emotional and social development.

Mr. President, you know, with your large family, that these positive early childhood experiences give children a jump-start or a life-long learning opportunity.

It is imperative that our nationwide education agenda be geared toward ensuring that children enter school ready to learn. Otherwise, we put our children at a grave disadvantage of not being well-rounded and productive members of society.

In 1991, in my first State of the State Address, I drew a line in the sand in Ohio and said that this was going to be the last generation of children to go on welfare, go to jail, to get pregnant while they are teenagers.

We make a commitment to Head Start, to enroll as many eligible children as possible and increasing the funding for that program from $18.4 million in fiscal year 1990 to $181.3 million in fiscal year 1998.

And, the fact of the matter is that today in Ohio, we have a slot for every child who is eligible for Head Start, public school, pre-school or special needs. Ohio leads the nation—and does so primarily with state tax dollars.

In addition, we established Early Start, which was designed to provide early intervention services for children from pre-natal to three who are at significant risk of abuse, neglect or future developmental delay. It's just a fantastic program.

I believe a Federal investment in our children at the most critical juncture of their lives—pre-natal to three—will do more to end the cycle of crime and violence in America than anything else the Senate could do.

Studies looking at resiliency in adolescents are finding that a stable beginning contributes significantly to the youth's ability to take control and turn their life around.

During consideration of this juvenile justice legislation, we have considered, and may still consider, controversial proposals associated with this bill that elicit either solid support of deep opposition.

Yet, when it comes time to consider our legislation to provide enhanced prenatal-to-3 services, I am hopeful that proposal will receive support from both sides of the aisle.

I will speak again on this issue when I introduce our legislation in the next 2 weeks.

However, with the context of the floor debate, I could not pass up this opportunity to express my views on how best we can get to the root of juvenile crime in this country.

Thank you, Mr. President.

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. VOINOVICH. 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. Mr. President. During the debate over juvenile crime, we have heard a lot about the negative activities that juveniles participate in—playing violent video games, viewing unseemly sites on the Internet, and watching objectionable movies. But little has been said about the constructive things that kids can be—and are—doing with their time. It seems, sometimes, that there are few alternatives to the pollution that modern culture often feeds to our children.

However, in my home state of Utah there are many programs that help children to focus their attention away from destructive activities. For example, the Police Athletic League in Ogden, Utah provides sports lessons and intramural teams for 325 kids. Police officers serve as mentors to children and supply much needed attention through athletic activities.

The Hispanic Cultural Youth Program in Utah holds dances and social events that present a safe place for youth to socialize. And the LDS church has an extensive youth program that provides social events, educational activities, mentoring and community service activities.

I want my colleagues to be aware of an excellent program in Arizona that gives juveniles positive alternatives to the destructive activities that contribute to juvenile crime. ''Kid-Star'' Radio 590 AM, in Phoenix, allows children to produce, broadcast, and promote their own radio shows. Perry Damone, son of my good friend Vic Damone, has founded this program that places radio stations in the public schools and allows the children to control the broadcast. The kids run the entire program and have had phenomenal success with it. Over 3,000 students throughout Arizona have participated in the program. Individual schools report an almost immediate improvement in over-all student responsibility, and better written and oral skills.

Under this program, the students have conducted numerous interviews with prominent individuals including country singer Garth Brooks, comedian Jay Leno and our esteemed colleague Senator JOHN MCCAIN. Children have emerged from this program with a better self-esteem, greater maturity, and life skills.

In S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, the Federal Government is required to disseminate data on prevention programs that are successful. This bill provides over $1 billion a year to the States to fight juvenile crime and prevent juvenile delinquency. This money will help the Department of Justice isolate and encourage successful prevention programs. Programs like the Police Athletic League, the Hispanic Cultural Youth Program, and ''Kid-Star'' should receive our special attention and be encouraged to continue the good work that they do.

As we continue to search for solutions to juvenile crime, let's remember the best solutions come from individuals working on a local level to make a difference. We can learn much from these initiatives on behalf of our children. I am extremely enthusiastic about the programs I have mentioned and hope the positive benefits of programs such as this can be extended to the entire Nation.

ARLINGTON, VIRGINIA DMV DEMONSTRATES IMPORTANCE OF THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM

Mr. LOTT. Mr. President, I rise to thank the Virginia Department of Motor Vehicles (DMV) and the American Association of Motor Vehicle Administrators for hosting a demonstration of the National Motor Vehicle Title Information System (NMVTIS) today in Arlington, Virginia.

Staff representing Senators from both sides of the aisle were shown how the national titling information system will allow participating states to track a motor vehicle from essentially birth to death. NMVTIS will let DMVs and consumers know where a vehicle was previously titled and which, if any, brands have been associated with the vehicle. It will also let law enforcement know if a vehicle being registered or titled is stolen. Again, this is crucial disclosure information for states, car buyers, and police forces across the country.

It is a system that is consistent with advances in technology. One that allows states to share information over the wire. NMVTIS makes a great deal of sense as state governments move to paperless systems and greater use of the Internet to share information with their citizenry.

Mr. President, Congress directed the establishment of NMVTIS as part of the Anti-Car Theft Act of 1992. In part, to curtail motor vehicle theft, but also to allow states to share ''real time'' up-to-date vehicle information.

It is clear though, that the effectiveness of a national titling information system depends on maximum state participation. Congress knew this when it authorized incentive grants to encourage states to use the system. A minimum of $300,000 is available to a state to offset its implementation costs.

Virginia, often a technology leader, embraced NMVTIS early and agreed to be the first state to pilot test the system. It will have the system online at all DMVs this June. Indiana, Massachusetts, Florida, and Arizona are also in the process of implementing NMVTIS. Kentucky and New Hampshire are not far behind. Both states submitted formal grant applications to the Department of Justice which oversees NMVTIS. Additionally, a number of states have also sent letters of interest and are hopeful to obtain startup funding this year. These include: Alabama, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Louisiana, Maryland, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia.

It is expected that 21 states will be full partners in the national titling system by 2000 and that all states will choose to participate in the system by 2003.

Mr. President, I congratulate Virginia and the other participating states for leading the way. NMVTIS is one significant tool that will be used to combat title fraud and vehicle theft. With NMVTIS, and appropriate and workable uniform salvage vehicle titling definitions and standards, consumers across the country will have the kind of disclosure detail they need to make informed purchase decisions.

Somewhere down the road, consumers will be able to conduct vehicle queries and get ''real time'' vehicle history information from their home computers.

Mr. President, the 106th Congress does not need to put roadblocks in the way. My colleagues must reject any proposal that would jeopardize full nationwide implementation of this much needed system. Instead, this Congress must do everything it can to maintain the vitality of NMVTIS. For America's motorists, for car purchasers, and for all 50 states.

Mr. President, I ask unanimous consent to have printed in the RECORD an

AAMVA news release and other background information on NMVTIS.

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

AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS,
Arlington, VA, May 14, 1999.

SALVAGE LEGISLATION KILLS TITLE WASHING RIDS ROAD OF UNSAFE VEHICLES

ARLINGTON, VA.—Senate staffers tomorrow at 10:30 a.m., get a first hand, real-time look at what could signal the end of automobile title theft and help rid our highways of unsafe vehicles.

At the Virginia Department of Motor Vehicles (DMV), 4150 South Four Mile Run Drive, Arlington, Virginia, members of the Committee on Commerce, Science, and Transportation will peek at the technology serving as the backbone for Senator Lott's S. 655.

This bill encourages the standardization of title laws combating the fraudulent resale of damaged and stolen vehicles. Under Lott's bill, federal incentives would be provided to those states enacting uniform state title branding laws. An opposing bill circulating through committee doesn't provide the federal incentives and increases the paper trail with salvaged vehicles.

''We support S. 655 and the standardization of title laws to combat fraud,'' said Kenneth M. Beam, president, American Association of Motor Vehicle Administrators (AAMVA). ''Ridding our highways of unsafe vehicles and eliminating 'title washing' is of eminent importance to highway safety.''

The Anti-Car Theft Act of 1992 required the U.S. Department of Transportation (DOT) to implement a National Motor Vehicle Title Information System (NMVTIS pronounced min-veet-us). The American Association of Motor Vehicle Administrators (AAMVA) undertook the responsibility of assisting states in complying with the new legislation. And in 1996, Congress mandated responsibility of the system to the U.S. Department of Justice (DOJ).

Currently five states are online with NMVTIS including; Virginia, Indiana, Massachusetts, Florida and Arizona. Lott's bill will reinforce the effort to implement NMVTIS nationwide.

PUBLIC RELATIONS OFFICE,
DEPARTMENT OF MOTOR VEHICLES,
Richmond, VA, May 14, 1999.

NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM (NMVTIS)

INTRODUCTION

NMVTIS is required by the Anti Car Theft Act of 1992, which was enacted to deter trafficking of stolen vehicles by strengthening law enforcement, combating automobile title fraud, preventing ''chop shop'' related thefts, and inspecting exports for stolen vehicles. Approximately $800,000 was appropriated to the National Highway Transportation Safety Administration (NHTSA) to develop a prototype system for a national clearinghouse of vehicle title information. The idea is to have a central file which, when polled, would tell a state where the vehicle is currently titled and verify the validity before a new title is issued. NHTSA allocated the funds to the American Association of Motor Vehicle Administrators (AAMVA) for AAMVAnet, the AAMVA non-profit entity that manages the network, to coordinate the project and to run a pilot of the program. Virginia developed a system design for the pilot program and was the first state to place all NMVTIS transactions into production. The other states participating in the pilot are Arizona, Florida, Indiana, Kentucky, Massachusetts, and New Hampshire.

AAMVA has contracted with the Polk Company to provide the Central File Operator (CFO) services for Manufacturer's Statement of Origin (MSO), VIN and State of Title (SOT) information. They have also contracted with NICB-Facta to provide similar services for the Brand and Theft files (to advise the inquiring state of any reported thefts and any brands on the vehicle). Also, Congress provided an additional $1,000,000 for the project to the Department of Justice, Federal Bureau of Investigation (FBI) and moved the project responsibility from NHTSA to the FBI.

This online, real-time system currently includes vehicle information from both pilot and non-pilot states. Non-repairable and salvage vehicle information from junkyards, salvage yards, and insurance carriers is also included. Manufacturers also enter Manufacturer's Certificate of Origin (MCO) information into the system.

The following types of data are exchanged between states, private sector service providers (i.e. salvage yards), and users:

Title
Registration
Brand
Theft
Detailed vehicle information
Vehicle information is also provided to:
Other states
Federal, state, and local law enforcement
Insurance carriers
Prospective purchasers
States use the system to determine:
Validity and status of a Manufacturers Certificate of Origin (MCO)
Validity and status of a title document
Current State of Title (SOT)
Title and registration history
If a vehicle is non-repairable, salvage, or otherwise branded
A vehicle's last recorded odometer reading
If a vehicle has been reported stolen
Detailed vehicle data from manufacturer and/or SOT
States update the system when:
A vehicle has been titled from an MCO or issued from an MCO in error
A vehicle has been re-titled from another state or re-titled from another state in error
Title data has changed
A title record has been deleted from a state's files
A vehicle has been registered or registered in error
A brand has been recorded on a title or has been recorded in error
The system notifies the states when another state has:
Titled a vehicle or titled a vehicle in error
Registered a vehicle or registered a vehicle in error
Examples of vehicle information maintained on NMVTIS are:
VIN
Make
Year
Model
Body type
Color
GVW (Gross Vehicle Weight)
The following information is not included in NMVTIS:
An individual's Social Security Number (SSN) or address
Non-electronic updates of brand data from junk yards, salvage yard, or insurance carriers
Pointers to the State of Registration (SOR)
Any guarantee that brand history is complete at the time of inquiry (Junkyards, salvage yards, and insurance carriers report monthly.)
The following vehicles (based on body type) are currently excluded from NMVTIS:
All trailers
Mopeds
Motor bikes
Manufactured homes
Equipment

NMVTIS will benefit states by allowing for:

A framework to promote uniformity in titling procedures among U.S. jurisdictions.

Titling jurisdictions to verify the vehicle and title information, obtain information on all brands ever applied to a vehicle, and obtain information on whether the vehicle has been reported stolen, prior to issuing a title.

The VIN to be checked against a national pointer file, which provides the last jurisdiction that issued a title on a vehicle and requests detail of the vehicle from the jurisdiction.

Law enforcement to create lists of vehicles, by junkyard, salvage yard, or insurance carrier that are reported as junk or salvage. The Act requires junkyard, salvage yards, and insurance carriers to report monthly to NMVTIS on all junk and salvage vehicles obtained. Law enforcement's inquiries to NMVTIS will further assist its investigations of vehicle theft and fraud.

Manufacturers to dramatically reduce the use of paper Manufacturer's Certificate of Origin. NMVTIS will incorporate the functionality of the AAMV Anet Paperless MCO application, which allows jurisdictions to inquire on an electronic MCO file for data necessary to create the vehicle's first title. The manufacturers reduce their use of the paper MCO, and the jurisdictions build their initial title records from the electronic data created by manufacturers, which will significantly reduce data entry errors.

The consumer, through a Prospective Purchaser Inquiry (PPI), to have access to any current or former title brands that relate to the value and condition of a particular vehicle. This allows consumers to make better-informed decisions on whether to buy a vehicle and at what purchase price.

NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM

EXECUTIVE SUMMARY

Background: Anti Car Theft Act of 1992

The Anti Car Theft Act of 1992 (the Act) was enacted to deter trafficking in stolen vehicles by strengthening law enforcement against auto theft (Title I), combating automobile title fraud (Title II), preventing ''chop shop'' related thefts (Title III), and inspecting exports for stolen vehicles (Title IV). Title II of the Act required the Department of Transportation (DOT) to implement a National Motor Vehicle Title Information System (NMVTIS).

Title II intent

The intent of Title II is to make it as difficult as possible for automobile thieves to obtain legitimate vehicle ownership documentation. Also, consumers will have ready access to vehicle information.

System capabilities

NMVTIS will allow jurisdictions to verify the validity of titles prior to issuing new titles. This will inhibit title fraud and auto theft by making it harder to title stolen vehicles. Law enforcement officials will be provided access to junk yard and salvage yard information, allowing them to identify illegal activities. The consumer will have access to the latest odometer reading and any current or former title brands that relate to the value and condition of a particular vehicle. This allows consumers to make better-informed decisions on whether to buy a vehicle and at what purchase price.

Authorized users of NMVTIS

The Act specifies that the information within NMVTIS shall be available to jurisdictions; federal, state and local law enforcement officials; insurance carriers and other prospective purchasers (e.g., individuals, auction companies, and used car dealers).

The NMVTIS pilot

AAMVA has developed a pilot NMVTIS. The design of the system was selected by the U.S. jurisdictions as one that posed the least burden on the states for creating, maintaining, and operating a system for the exchange of vehicle titling and brand data. The purpose of the pilot is to confirm the feasibility and benefits of the system's technical design and operational procedures. The pilot will allow for a fine-tuning of the technical and procedural issues prior to the national rollout of NMVTIS.

Pilot participants are Kentucky, Massachusetts, Indiana, Virginia, Florida, and Arizona.

The Anti Car Theft Improvements Act

To implement the National Motor Vehicle Title Information System (NMVTIS) nationwide (i.e., post-pilot), the states need Congressional authorization of funds for grants. The Anti Car Theft Improvements Act of 1996 was signed into law on July 2, 1996. It amends the Anti Car Theft Act of 1992 to:

authorize funding for states' development of NMVTIS,

remove the cap previously placed on state grant funding,

give the Department of Justice the responsibility for the information system, and

move the date of implementation of NMVTIS to December 1997.

Data available

Data supported by this system and available to its users include:

registration and title data,

brand history data,

detailed vehicle data.

Benefits of the system

NMVTIS will allow for:

Titling jurisdictions to verify the vehicle and title information, obtain information on all brands ever applied to a vehicle, and obtain information on whether the vehicle has been reported stolen. This information can be received prior to issuing a title, which allows the title jurisdiction to verify the data before creating the title.

The VIN is checked against a national pointer file, which provides the last jurisdiction that issued a title on a vehicle and requests details of the vehicle from that jurisdiction. The details include the latest odometer reading for the vehicle. This verification of title, brand, theft, and odometer data will allow for a reduction in the issuance of fraudulent titles and a reduction in odometer fraud. Once the inquiring jurisdiction receives the information, it can decide whether to issue a title; if so, NMVTIS notifies the last titling jurisdiction that another jurisdiction has issued a title. The old jurisdiction can then inactivate its title record. This will allow jurisdictions to identify and purge inactive titles on a regular basis.

Law enforcement to create lists of vehicles, by junk yard, salvage yard, or insurance carrier, that are reported as junk or salvage. The Act requires junk yards, salvage yards, and insurance carriers to report monthly to NMVTIS on all junk and salvage vehicles obtained. Law enforcement's inquiries will allow it to use NMVTIS to further its investigations of vehicle theft and fraud.

Manufacturers to dramatically reduce the use of paper Manufacturer's Certificate of Origin. NMVTIS will incorporate the functionality of the AAMVAnet Paperless MCO application, which allows jurisdictions to inquire on an electronic MCO file for data necessary to create the vehicle's first title. The manufacturers reduce their use of the paper MCO, and the jurisdictions build their initial title records from the electronic data created by the manufacturers, which will significantly reduce data entry errors.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, May 13, 1999, the federal debt stood at $5,579,720,008,674.59 (Five trillion, five hundred seventy-nine billion, seven hundred twenty million, eight thousand, six hundred seventy-four dollars and fifty-nine cents).

One year ago, May 13, 1998, the federal debt stood at $5,492,157,000,000 (Five trillion, four hundred ninety-two billion, one hundred fifty-seven million).

Five years ago, May 13, 1994, the federal debt stood at $4,579,502,000,000 (Four trillion, five hundred seventy-nine billion, five hundred two million).

Twenty-five years ago, May 13, 1974, the federal debt stood at $469,298,000,000 (Four hundred sixty-nine billion, two hundred ninety-eight million) which reflects a debt increase of more than $5 trillion—$5,110,422,008,674.59 (Five trillion, one hundred ten billion, four hundred twenty-two million, eight thousand, six hundred seventy-four dollars and fifty-nine cents) during the past 25 years.

NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT

Mr. AKAKA. Mr. President, last night, the Senator from Alaska and I introduced the Commonwealth of the Northern Mariana Islands Covenant Implementation Act, legislation to end immigration abuses in a U.S. territory know as the CNMI. This is a bipartisan reform bill, and the changes we propose were supported by the Clinton Administration during the 105th Congress.

I commend my colleague from Alaska, Senator MURKOWSKI, for his leadership on CNMI reform. He traveled more than 10,000 miles to get a first-hand understanding of this issue. Our bill responds to the profound problems that we witnessed while visiting the CNMI.

The Commonwealth of the Northern Mariana Islands is a group of islands located in the far western Pacific. Following World War II, the United States administered the islands under a U.N. Trusteeship.

In 1975, the people of the CNMI voted for political union with the United States. Today, the CNMI is a U.S. territory.

A 1976 covenant enacted by Congress gave U.S. citizenship to CNMI residents. The covenant also exempted the Commonwealth from U.S. immigration law. This exemption led to the immigration abuses that our bill will correct.

I don't represent the CNMI, but the Commonwealth is in Hawaii's backyard. I speak as a friend and neighbor when I say that conditions in the CNMI must change. The CNMI system of indentured immigrant labor is morally wrong, and violates basic democratic principles.

The CNMI shares the American flag, but it does not share our immigration system. When the Commonwealth became a territory of the United States, we allowed them to write their own immigration laws. After twenty years of experience, we know that the CNMI immigration experiment has failed.

Conditions in the CNMI prompt the question whether the United States should operate a unified system of immigration, or whether a U.S. territory should be allowed to establish laws in conflict with national immigration policy.

Common sense tells us that a unified system is the only answer. If Puerto Rico, or Hawaii, or Arizona, or Oklahoma could write their own immigration laws—and give work visas to foreigners—our national immigration system would be in chaos.

America is one country. We need a uniform immigration system, rather than one system for the 50 states and another system for one of our territories.

There is a mountain of evidence proving just how bad the CNMI situation has become. Let me cite a few examples:

Twenty years ago, the CNMI had a population of 15,000 citizens and 2,000 alien workers. Today, the citizen population has increased to 28,000. Yet the alien worker population has mushroomed to 42,000—a 2000 percent increase. Three to four thousand of these alien workers are illegal aliens.

The Immigration and Naturalization Service reports that the CNMI has no reliable records of aliens who have entered the Commonwealth, how long they remain, and when, if ever, they depart. A CNMI official testified that they have ''no effective control'' over immigration in their island.

The bipartisan Commission on Immigration studied immigration and indentured labor in the CNMI. The Commission called it ''antithetical to American values,'' and announced that no democratic society has an immigration policy like the CNMI. ''The closest equivalent is Kuwait,'' the Commission found.

The Department of Commerce found that the territory has become ''a Chinese province'' for garment production. The CNMI garment industry employs 15,000 Chinese workers, some of whom sign contracts that forbid participation in religious or political activities while on U.S. soil. China is exporting their workers, and their human rights policies, to the CNMI.

The CNMI is becoming an international embarrassment to the United States. We have received complaints from the Philippines, Nepal, Sri Lanka, and Bangladesh about immigration abuses and the treatment of workers.

Despite efforts by the Reagan, Bush and Clinton Administrations to persuade the CNMI to correct these problems, the situation has only deteriorated.

My colleagues, the Senator from Alaska and I have been patient. After years of waiting, the time for patience has ended. Conditions in the CNMI are a looming political embarrassment to our country. I urge the Senate to respond by enacting the reform legislation we have introduced.

AGRICULTURAL BOND ENHANCEMENT ACT

Mr. GRASSLEY. Mr. President, yesterday, Senator CONRAD, and Representatives NUSSLE and BOSWELL helped me stand up for American agriculture.

Agriculture is capital intensive. As a family farmer myself, I know you can't put your love of the land to work if you don't have the resources to get started.

My colleagues and I introduced a bipartisan bicameral bill that will expand opportunities for beginning farmers who are in need of low interest loans for capital purchases of farmland and equipment. This legislation is called the ''Agricultural Bond Enhancement Act.''

Back in the early 1980s, I realize the federal government needed to do more to provide young farmers an opportunity to start farming. In 1981, I pushed for pilot projects to establish the Aggie Bond program. After temporarily reauthorizing the program many times I succeeded in making the Beginning Farmer Loan Program permanent in the 103rd Congress.

Current law permits state authorities to issue tax exempt bonds and to loan the proceeds from the sale of the bonds to beginning farmers and ranchers to finance the cost of acquiring land, buildings and equipment used in a farm or ranch operation. The tax-exempt nature of the Aggie Bonds provides a below-market interest rate on the loan made to the farmer or rancher.

The program has been very successful, especially in my home state of Iowa. Since the beginning of the program in 1981, more than 2,600 Iowans have taken advantage of this opportunity. Iowa's program has provided over $260 million in qualified beginning loans and the default rate has only been 1.5% of the total number of loans. I believe most ag lenders would agree those are very good numbers.

We have an opportunity to make the Beginning Farmer Loan Program even better. Currently, Aggie Bonds are subjected to a volume cap. That puts them in competition with industrial projects for bond allocation. This is the problem we would like to remedy.

Aggie Bonds share few similarities to Industrial Revenue Bonds and should not be subjected to the same volume cap. Insufficient funding due to the volume cap limits the effectiveness of this program.

The solution: amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap.

During the past three years the Iowa Agricultural Development Authority has consistently used all of the $24 million bond allocation it was allowed. Some beginning farmers had to sit idle until the next year to close their loan, or pay a higher interest rate if they closed their loan without the bond.

We cannot afford to stand by and allow the next generation of family farmers to lose out on an opportunity to start farming. The average age of America's family farmers continues to climb.

Deserving young farmers should not be forced to compete against industry for reduced interest loans.

The ''Agricultural Bond Enhancement Act'' will open the door to more young farmers and help cultivate the next crop of family farmers in the 21st century.

KOSOVO REFUGEE REGISTRATION

Mr. GRAMS. Mr. President, we are all horrified by the human suffering that we are seeing every day as ethnic Albanians are being forced to flee Kosovo. The scope of this tragedy is overwhelming. Many of the refugees have not only lost their homes and other material possessions—they have been separated from their families and stripped of their identities, as documents were stolen and destroyed. While NATO and the United Nations are trying to manage the refugee crisis, there have been glaring shortcomings in their capacity to help refugees to be reunited with loved ones.

I am pleased the United Nations High Commissioner for Refugees (UNHCR) is looking to the private sector for assistance, and that the private sector is generously contributing equipment, funds, and expertise to help ease this horrible situation. UNHCR currently does not have the technological capability to furnish a registration system which could log and issue identification papers to over 400,000 displaced Kosovars who have taken refuge in Albania. So Microsoft, Hewlett-Packard, Compaq, Securit World Ltd, and ScreenCheck B.V., have offered to provide a registration system that will facilitate the distribution of relief supplies and assist in the reunification of family members. Clearly, this effort will make a substantial difference in helping the refugees in Albania to rebuild their lives. While we automatically rely on government agencies to respond to such a crisis, it is encouraging to see companies step up to the plate and volunteer assistance they can provide faster and more efficiently than the public sector. This kind of private sector involvement should serve as an example for other companies to follow.

UNITED STATES EMBASSY IN ISRAEL

Mr. BROWNBACK. Mr. President, yesterday, Israel marked 32 years since Jerusalem was united under Israeli control in the 1967 Mideast war. I rise today to strongly urge the President of the United States not to employ the waiver provision in the Jerusalem Embassy Act of 1995, but rather to fulfill the intent of that law by moving our embassy in Israel from Tel Aviv to Israel's capital city, Jerusalem.

The United States has diplomatic relations with 184 countries around the world. With only one of those countries—Israel—do we neither recognize the country's designated capital nor have our embassy located in the designated capital. That is as incredible as it is unacceptable. It is not only that Israel is one of our closet and most important allies. Nor is it only the obvious principle that every country has the right to designate its own capital. It is also that there is no other capital city anywhere whose history is more intimately associated than is Jerusalem's with the nation of Israel.

Jerusalem is the only city on earth that is the capital of the same country, inhabited by the same people who speak the same language and worship the same God as they did 3,000 years ago. No other city on earth can make that claim. Three thousand years ago, David, King of Israel, made Jerusalem his capital city and brought the Ark of the Covenant into its gates. Ever since, Jerusalem has been the cultural, spiritual, and religious center of the Jewish people. Twenty-five hundred years ago an anonymous Jewish psalmist living in forced exile wrote the following words: ''By the rivers of Babylon, there we sat down and wept when we remembered Zion . . . If I forget the O Jerusalem, may my right hand lose its cunning; may my tongue cleave to the roof of my mouth if I do not remember thee, If I do not set Jerusalem above my chief joy.''

Jerusalem has been a capital city of an independent country only three times in its history, and all three were under Jewish sovereignty: under the four hundred year rule of the House of Davids, under the restored Jewish commonwealth following the period of Babylonian exile (586–536 BC), and now under the reborn State of Israel. Jerusalem has been the capital of no other independent state, nor of any other people. It has had a continuous Jewish presence for three thousand years, and for the last hundred and fifty years, Jews have been the largest single part of its population.

In 1947, The United Nations General Assembly passed the Partition Resolution for Palestine to partition what is today Israel, the West Bank, and Gaza into what was supposed to become a Jewish state and a Palestinian Arab state. In the resolution, Jerusalem was to have been an international city under UN auspices. The Jewish community of Palestine accepted the partition

proposal but the Arab community, along with the rest of the Arab world, refused. Instead, Arab armies invaded the nascent Jewish state intent on destroying it—a de facto rendering the Partition Resolution null and void.

Nevertheless, the United States established its embassy in Tel Aviv, where it sits to this day. But Jerusalem is Israel's capital: it is the seat of its government, its parliament, its supreme court. The President and Prime Minister reside there. Our ambassador travels daily from Tel Aviv to meetings with Israeli government officials in Jerusalem. All major political parties in Israel agree, moreover, that Jerusalem will remain Israel's undivided capital.

The United States Congress also agrees. Congress overwhelmingly passed legislation in 1995 that contained an official statement of US policy on Jerusalem: that it should remain united and be recognized as Israel's capital, and that our embassy should be located there by the end of May, 1999. If the embassy were not located in Jerusalem by that date, 50 percent of the State Department's budget for buildings and maintenance abroad would be withheld unless the President issued a national security waiver. That is the waiver which the President now considers issuing. I strongly believe that he should not do so, that instead he should do what is right by recognizing that Jerusalem is Israel's capital.

There are those who timidly argue that to do what is right will damage the peace process. How can that be possible? Is it not more harmful to fuel unrealizable expectations by pretending that Jerusalem is not Israel's capital or that it might someday be redivided? Would it not be better simply to finally do what we should have done fifty years ago by recognizing the only city that could ever be. Israel's capital, the one city that has always been Israel's capital, the eternal city of Jerusalem?

President Clinton stated when he was running for office on June 30, 1992 the following: ''Whatever the outcome of the negotiations, . . . Jerusalem is still the capital of Israel, and must remain an undivided city accessible to all.'' He was right then, and he has the chance to do right now.

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. BOND:

S. 1053. A bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999; to the Committee on Environment and Public Works.

By Ms. COLLINS:

S. 1054. A bill to amend the Internal Revenue Code of 1986 to enhance various tax incentives for education; to the Committee on Finance.

By Mr. BROWNBACK (for himself and Mr. AKAKA):

S. 1055. A bill to amend title 36, United States Code, to designate the day before Thanksgiving as ''National Day of Reconciliation''; to the Committee on the Judiciary.

By Mr. CHAFEE:

S. 1056. A bill to amend the Internal Revenue Code of 1986 to improve tax equity for the Highway Trust Fund and to reduce the number of separate taxes deposited into the Highway Trust Fund, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself, Mr. GRAHAM, Mr. HATCH, Mr. CONRAD, Mr. NICKLES, Mr. KERREY, Mr. GRAMM, Mr. BRYAN, Mr. CHAFEE, Mr. BAUCUS, Mr. MURKOWSKI, Mr. BREAUX, Mr. JEFFORDS, Mr. ROBB, Mr. COVERDELL, Mr. ROCKEFELLER, Mr. HELMS, Mr. TORRICELLI, and Mrs. HUTCHISON):

S. 1057. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1053. A bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999; to the Committee on Environment and Public Works.

CLEAN AIR ACT AMENDMENTS

Mr. BOND. Mr. President, on March 2, 1999, the United States Court of Appeals for the District of Columbia issued its decision in the Environmental Defense Fund versus Environmental Protection Agency lawsuit whereby the EDF filed suit challenging several provisions of the EPA's air quality conformity rule. The court ruled in favor of the EDF.

This decision overturned a well-established EPA rule permitting previously approved transportation projects being ''grandfathered'' into transportation air quality conformity plans. The court decision eliminates any flexibility for local authorities to proceed with projects and protect them from disruptions caused by issues often beyond their control—including changes in federal regulations and standards. In addition, the court decision impacted use of submitted budgets, non-federal project flexibility, grace periods before SIP disapprovals, and SIP safety margins.

As of April 19, the Federal Highway Administration had identified ten areas in conformity lapse where transportation projects are impacted. The areas are: Ashland, Kentucky; Memphis, Tennessee; Raleigh, North Carolina; Winston-Salem, North Carolina; Atlanta, Georgia; Monterey, California; Santa Barbara, California; Knoxville, Tennessee; Paducah, Kentucky; and South Bend, Indiana.

Many people probably thought that would be the end of the list. To give another example of why this is such an important issue—one week ago today the United States Department of Transportation determined that the Kansas City metropolitan area's conformity plan had lapsed. The Kansas and Missouri Divisions of the Federal Highway Administration halted approval of transportation projects in the region. More and more areas could be faced with this situation.

If we do not address this issue, it could potentially bring to a halt transportation improvement projects around the country—further jeopardizing the safety of the traveling public, hindering economic growth, and in my opinion, doing nothing to improve the air quality situation in any of these areas.

Mr. President, I send a bill to the desk.

Mr. President, the only thing this legislation does is amend the Clean Air Act to reinstate those EPA rules which were struck down or remanded in the Environmental Defense Fund vs. Environmental Protection Agency lawsuit. No more. No less. This legislation has zero impact on the Clean Air Act of EPA's rules.

In 1997, in the EPA's information on the final conformity rule that incorporated the 1997 changes, EPA reported the following:

> The conformity rule changes promulgated today result from the experience that EPA, the Department of Transportation, and state and local air and transportation officials have had with implementation of the rule since it was first published in November of 1993. While these changes clarify the rule and in some cases offer increased flexibility, they will not result in any negative change in health and environmental benefits.

So the EPA got together with the stakeholders, issued a rulemaking, provided the public comment period, issued a final rule, practiced for several years, and defended the position in court. I want to take this position and codify it.

Mr. President—there will be some who will argue for more or less restrictive changes to the underlying conformity provision in the Clean Air Act. Should that discussion and debate occur? Yes. I might support some of those changes. However, we have an immediate situation where transportation projects around the country are or could be impacted by the court's ruling. States and metropolitan areas across the country are needing assistance with this issue. I urge my colleagues to cosponsor and support this common sense legislation that simply takes EPA's own regulations on conformity that the court overturned and puts them into law.

Mr. President, we must address the immediate situation and then continue the debate on conformity to address further needs.

By Ms. COLLINS:

S. 1054. A bill to amend the Internal Revenue Code of 1986 to enhance various tax incentives for education; to the Committee on Finance.

SAVINGS FOR SCHOLARS ACT

Ms. COLLINS. Mr. President, I rise today to introduce legislation, the Savings for Scholars Act, to help families

save for college expenses. This bill would make education IRAs and State tuition plans more effective vehicles for families to use in saving for postsecondary education. I want to thank Senator ROTH and his staff on the Finance Committee for working with me and my staff in drafting this legislation. In the 3 years that he has chaired the Finance Committee, Senator ROTH has been a true champion for all of us who place a tremendous value on educating our nation's children and young adults.

When Congress created the education IRA 2 years ago, we took an important first step in the direction of encouraging families to save for their children's education. But, the law contains a very significant limitation—families cannot contribute more than $500 a year to these accounts. This restriction makes it difficult for a family to accumulate savings sufficient to pay the cost of a college degree. Even if parents start saving from the time their child is born, an investment in an education IRA of $500 a year, assuming an average annual return of 8 percent, will only yield about $19,000 when that child begins higher education. Today, the average cost of 4 years of higher education is about $30,000 at a public institution and about $75,000 at a private school. In short, the current limits are not nearly high enough to finance even today's college costs, much less the cost 18 years from now.

Raising the maximum contribution to $2,000 will allow a family to accumulate at least as much as the current average cost of attending a private school. This is money that many middle-class families and their children otherwise would need to borrow; it is tens of thousands of dollars in student loans that would burden graduates with a mountain of debt. Most important, raising the education IRA contribution limit would make a 4-year college education more accessible and less of a financial challenge for middle-income families.

In addition to increasing the education IRA contribution limit, this bill would make a technical change to remove a confusing inconsistently between the education IRA and the traditional IRA. The last date on which a contribution to an education IRA can be made is December 31 of any year. Traditional IRAs may receive contributions until April 15 of the year following the tax year. This bill changes the deadline for contributions to education IRAs to coincide with that of the traditional IRA. This modest change would eliminate a source of confusion that might cause a family planning to contribute to a child's IRA to inadvertently miss the deadline.

The second part of my bill deals with qualified State tuition plans. These are tax-deferred plans, administered by the individual states, that allow families to prepay college tuition or to accumulate tax-deferred savings for postsecondary education expenses. My bill makes two changes in the requirements of these plans that should make them more flexible and useful to families. The first is to require that all qualified State tuition plans allow at least three rollovers without any change in beneficiary. This change would guarantee that participants in one state's plan can transfer their assets to another state's plan. The need for this could be the result of a family moving from one state to another or of a change in a child's education plans. My bill will give greater flexibility in the choice of postsecondary education institutions to the beneficiaries of these plans.

The bill also proposes one additional change to the qualified tuition programs—a change that will make the plans more attractive to families. Under current law, the assets of a plan can be rolled over to specified members of a beneficiary's family. This allows the plan's assets to be used by a sibling if the original beneficiary cannot or does not use the plan. However, the definition of a family member does not include first cousins. Thus, a parent of a single child could not transfer the benefits to a niece or nephew if his or her child did not use the plan. Perhaps more significantly, this change would make the qualified state tuition plan more desirable for grandparents. They could be assured that a plan established for the benefit of one grandchild could be transferred to any of their grandchildren.

The final part of this bill corrects an unfair consequence of the interaction between the HOPE tax credits and the education IRA. Currently, a taxpayer is prohibited from claiming the HOPE tax credit in any year in which a withdrawal from an education IRA is made—regardless of the total amount the taxpayer spends on education. This bill allows the HOPE tax credit to be claimed to the extent that the cost of education exceeds the amount withdrawn from the IRA. It does not allow a double benefit, but it does prevent one benefit—the IRA withdrawal—from canceling another benefit. It also eliminates a potential trap for the unwary taxpayer who may accidentally claim both benefits and, as a result, incur a penalty.

Mr. President, investing in education is the surest way for us to build our country's assets for the future. We need to ensure that postsecondary education is affordable and that graduates do not accumulate crippling debts while attending school. Adopting this bill will help us to accomplish both of these goals. I urge my colleagues to support these efforts.

By Mr. BROWNBACK (for himself and Mr. AKAKA):

S. 1055. A bill to amend title 36, United States Code, to designate the day before Thanksgiving as ''National Day of Reconciliation''; to the Committee on the Judiciary.

NATIONAL DAY OF RECONCILIATION LEGISLATION

Mr. BROWNBACK. Mr. President, today, I, along with Senator AKAKA, introduce the National Day of Reconciliation Bill. In this bill, the President will issue a yearly proclamation designating the day before Thanksgiving as a ''National Day of Reconciliation.'' On this day, it is our hope that every person in the U.S. should seek out those individuals who have been alienated and pursue forgiveness and reconciliation from them. Historically, Thanksgiving is a time when we put all of our differences aside and give thanks for all that we have achieved and shared. I cannot think of a better day in which to reconcile than the day before Thanksgiving.

When considering the need for this piece of legislation, I was reminded of times when our nation was at war with itself, and the very fabric of our Constitution was held together by a few threads. The Civil War placed our democracy and national sovereignty in great jeopardy. However, Abraham Lincoln, one of our nation's greatest leaders, knew the importance of ''binding'' our nation together after civil war had ravaged our nation. It was through his wisdom and ability to forgive that he helped heal our nation's wounds. Once again, there is the absence of peace in America.

We live in a society where there is too much alienation, from one another and from God. We, in too many cases, have allowed our focus to shift from one another to ourselves. Lincoln recognized the need to reconcile with one another. He also knew that reconciliation efforts would never be successful without looking first to the divine authority.

In his second Inaugural speech, Lincoln said, ''with malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds * * * to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.''

The Rev. Dr. Martin Luther King, Jr. was yet another one of our nation's great leaders who knew the importance of focusing on a higher moral power to achieve peaceful reconciliation. Dr. King, through wisdom and sacrificial love, reconciled an entire nation with individuals who, through discrimination, were alienated from sections of our society. Dr. King said, ''It is time for all people of conscience to call upon America to return to her true home of brotherhood and peaceful pursuits. * * * We must work unceasingly to lift this nation that we love to a higher destiny, to a new plateau of compassion, to a more noble expression of humaneness.'' Mr. President, we need to restore peace in our nation, we need to restore charity for one another, and we need to return our focus to a higher moral authority.

As we look at our culture today, we see images that influence not only our

actions but the actions of young people as well. Our culture glorifies conflict, greed, and violence. It is no wonder that we see atrocities that seem impossible to imagine. It is time for our country to reconcile, and the ''National Day of Reconciliation'' will remind us of this solemn obligation.

If Americans hope to ''bind up [our] nation's wounds,'' as Lincoln suggested, we must first make the commitment in the Congress. This bill makes that commitment by calling for a ''National Day of Recognition''—a day that recognizes the need to move from alienation to reconciliation. In a ''Letter From A Birmingham Jail,'' Dr. King expressed his hope for national reconciliation. I too hope ''that the dark clouds of [misconceptions] will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.'' I urge all of my colleagues to support this much needed measure and begin to foster reconciliation throughout our country in order for us to once again be ''one nation under God.''

By Mr. CHAFEE:

S. 1056. A bill to amend the Internal Revenue Code of 1986 to improve tax equity for the Highway Trust Fund and to reduce the number of separate taxes deposited into the Highway Trust fund, and for other purposes; to the Committee on Finance.

HIGHWAY TAX EQUITY AND SIMPLIFICATION ACT OF 1999

Mr. CHAFEE. Mr. President, I am introducing today, the Highway Tax Equity and Simplification Act of 1999. This bill improves the equity among taxpayers paying into the Highway Trust Fund. Under current law, some users pay too much into the trust fund relative to the costs they impose on the nation's highway system, while other pay too little. This proposal more fairly apportions the tax burden to those who impose the greatest costs to our highway infrastructure.

In my statement today, I plan to briefly describe:

(1) Who pays too much and too little?

(2) Why the current tax structure fails?

(3) Why the current tax structure can't be just tinkered with and therefore needs radical change?

(4) A description of the plan I am introducing today.

Who pays too much and who pays too little?

If we look at the U.S. Department of Transportation's (DOT) latest cost allocation study of the highway system, it is clear that the current system does not fairly apportion the relative burden of taxes paid compared to costs imposed. At this time, I will submit for the RECORD a table which summarizes the relative burden among users based on analysis provided by the U.S. Department of Transportation.

As this table shows, some users are paying 150 percent of their share while some of the heaviest trucks are paying as low as 40 percent of their share. This is simply unfair and needs to be changed.

Another way to look at the unfairness of the current situation is to look at the per vehicle subsidies for heavy trucks that the U.S. DOT provided in their latest report to the Congress. In determining these subsidies, DOT simply subtracted what these vehicles should have paid in taxes, based on the costs they impose, from the amount of taxes they do pay. These subsidies are thousands of dollars per vehicle annually, with several above $5,000 per vehicle. At the end of my statement, I would like to enter into the RECORD a table showing a few examples of the subsidies summarized in the DOT report.

One of the reasons that the current tax structure fails so miserably at properly allocated costs is because neither the Congress nor the U.S. DOT has looked seriously at this issue for a very long time. The last significant cost allocation study was completed in 1982, more than 17 years ago. Without up-to-date analysis, it has been virtually impossible for the Congress to address this significant problem. I want to commend Secretary Slater for taking the initiative to have his Department provide an up-to-date analysis to the Congress. It is my understanding that DOT plans on keeping its analytical capability current regarding cost allocation so that the Congress doesn't have to wait every 17 years to address this issue.

Lack of good information is one of the reasons we have this unfair situation. The other reason deals more directly with basic engineering concepts. Highway pavement wear and tear imposed by a vehicle is related to two primary factors: how much you drive on the road and the weight of the vehicle.

Now, why is the weight of a vehicle so important?

It is important because pavement damage increases dramatically (actually exponentially) with weight. At this time, I will submit for the record information which shows the relationship between weight and pavement damage.

This chart shows that on a rural Interstate Highway, a single 100,000 pound standard tractor-trailer wears the equivalent of more than 1,700 automobiles. But, that truck certainly does not pay 1,700 times the amount of taxes.

On a rural arterial road, not built to Interstate standards, this dynamic is even worse, wearing the equivalent of 3,500 cars.

The problem with the current tax system is that it does not attempt to recover from trucks the dramatic pavement damage costs that are incurred as the weight of these vehicles increases. Until we address this fundamental principle, we will not have an equitable tax system.

Now, let's briefly look at each of the current taxes and how well they contribute to tax equity.

Excise Tax—Under current law, we impose a 12 percent excise tax on the purchase of new trucks. This tax raises more than $2 billion annually. However, it has no relationship to either road usage or pavement damage and therefore does not contribute to tax equity.

Tire Tax—the exist tax imposed on tires is moderately helpful for improving tax equity because it varies by miles driven and, to some extend by weight. However, it raises a relatively small amount of money (about $400 million per year or less than 5 percent of truck taxes) and therefore has a small effect on cost allocation.

Diesel Tax—currently, diesel fuel is taxed at 24 cents per gallon. Although diesel taxes paid do vary by mileage, diesel taxes do a poor job of recovering pavement damage related to the weight of the vehicle. When the weight of a truck is increased, fuel use increases only marginally. However, the pavement damage imposed by that same vehicle goes up exponentially. Increasing diesel tax rates does not resolve this fundamental problem and actually exacerbates the unfairness of the current system. I would submit for the RECORD information which illustrates the problem.

Heavy Vehicle Use Tax—this tax sounds like it might be the right place to address concerns related to weight, but it also falls well short of the mark. Even the name is deceiving. First, this tax does not vary by use. A truck that travels 10,000 miles annually and another that travels 100,000 miles pay the same tax. Secondly, although the name implies it applies to Heavy Vehicles, this tax is capped at 75,000 pounds, the point at which pavement damage goes up dramatically. I will also submit information which compares pavement damage and the Heavy Vehicle Use tax.

In summary, our review of the current taxes led me to conclude that they do a poor job of aligning taxes paid with road damage. In other words, they just can't get the job done. We need a new mechanism.

The bill I introduce today eliminates 3 of the separate taxes and replaces them with a straightforward tax that more fairly distributes the tax burden among highway users.

Specifically, the bill eliminates the tire tax, the 12 percent excise tax on new trucks, and the Heavy Vehicle Use Tax. It also eliminates the so-called ''diesel differential,'' the additional 6 cents per gallon imposed on diesel fuel compared to gasoline, which is taxed at 18.33 cents per gallon.

To replace the lost revenue from these repeals and tax reductions, and to improve the equity of the truck taxes paid, the bill establishes a new user fee, an axle-weight distance tax. This new tax varies based on the truck's axle-weight loads and the distance traveled, the exact same concepts that affect pavement damage.

The bill collects the same amount of tax revenue from trucks overall as current law, about $11 billion annually.

Overall, there are more winners than losers under this bill. The vast majority of trucks—more than 5.9 million—will see a tax reduction. This compares to roughly 1.5 million who will see an increase.

The bill also reduces double taxation on toll roads by allowing a credit against the axle-weight distance tax for travel on a toll facility such as the Oklahoma or Florida Turnpikes.

This new axle-weight tax has long been recognized in the transportation community as the best way to tax trucks. As an example, the American Association of State Highway Transportation Officials, the association representing State Transportation Departments, policy resolution on this matter finds:

> . . . truck taxes based upon a combination of the weight of vehicles and the distance they travel more equitably distribute financing responsibility proportional to costs imposed on the system than other tax alternatives.

In fact, AASHTO policy calls for substituting a weight-distance tax for the heavy vehicle use tax and all other federal user fees on trucks except for a federal fuel tax—a perfect description of the proposal we are introducing today.

Now, I would like to briefly touch upon a few areas where I expect opponents of this effort may focus.

Some may argue that this is an anti-truck proposal and will impose new costs on consumers. My response to this assertion is that overall truck taxes are held constant and most of the trucking industry benefits from this proposal. Unfortunately, this benefit is at the expense of the portion of the industry that is doing damage to our nation's roadways without paying for it, and they will probably fight hard to keep their undeserved subsidies. The trick for the rest of the industry and for all roadway users is to recognize that virtually all of these arguments are attempts to distract us from the real issue—should heavy trucks pay their fair share?

Heavy truck operators will try to argue about all sorts of ancillary items to distracts us from this fundamental issue. They will argue about tax evasion, administrative burden, additional record keeping and the like. Anything but the core issue of whether these trucks should pay their fair share.

As the Congress considers, this issue, I hope we can remain focused on this fundamental question and not be distracted by arguments that are not intended to squash efforts to address the unfair system we have today.

I urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the text of the bill, a summary of the legislation, and the materials previously cited be printed in the RECORD.

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

S. 1056

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 ''Highway Tax Equity and Simplification Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Congress should enact legislation to correct the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways;

(2) the most recent highway cost allocation study by the Department of Transportation found that owners of heavy trucks significantly underpay Federal highway user fees relative to the costs such vehicles impose on such highways, while owners of lighter trucks and cars overpay such fees;

(3) pavement wear and tear is directly correlated with axle-weight loads and distance traveled, and to the maximum extent possible, Federal highway user fees should be structured based on this fundamental fact of use and resulting cost;

(4) the current Federal highway user fee structure is not based on this fundamental fact of use and resulting cost; to the contrary—

(A) the 12-percent excise tax applied to the sales of new trucks has no significant relationship to pavement damage or road use and does the poorest job of improving tax equity,

(B) the heavy vehicle use tax does not equitably apply to heavy trucks (such tax is capped with respect to trucks weighing over 75,000 pounds) and does not vary by annual mileage, thus 2 heavy trucks traveling 10,000 miles and 100,000 miles, respectively, pay the same heavy vehicle use tax, and

(C) diesel fuel taxes do a poor job recovering pavement costs because such taxes only increase marginally with weight increases while pavement damage increases exponentially with weight, and increasing the rates for diesel fuel will not resolve this fundamental flaw;

(5) truck taxes based on a combination of the weight of vehicles and the distance such trucks travel provide greater equity than a tax based on either of these 2 factors alone; and

(6) the States generally have in place mechanisms for verifying the registered weight of trucks and the miles such trucks travel.

(b) PURPOSES.—The purposes of this Act are—

(1) to replace the heavy vehicle use tax and all other Federal highway user charges (except fuel taxes) with a Federal weight-distance tax which is designed to yield at least equal revenues for highway purposes and to provide equity among highway users; and

(2) to provide that such a tax be administered in cooperation with the States.

SEC. 3. REPEAL AND REDUCTION OF CERTAIN HIGHWAY TRUST FUND TAXES.

(a) REPEAL OF HEAVY VEHICLE USE TAX.—Subchapter D of chapter 36 of the Internal Revenue Code of 1986 (relating to tax on use of certain vehicles) is repealed.

(b) REPEAL OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—Section 4051(c) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(c) REPEAL OF TAX ON TIRES.—Section 4071(d) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(d) REDUCTION OF TAX RATE ON DIESEL FUEL TO EQUAL RATE ON GASOLINE.—Section 4081(a)(2)((A)(iii) of the Internal Revenue Code of 1986 (relating to rates of tax) is amended by striking ''24.3 cents'' and inserting ''18.3 cents''.

(e) CONFORMING AMENDMENTS.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 (relating to certain tax-free sales) is amended by striking ''October 1, 2005'' and inserting ''July 1, 2000''.

(2) Subchapter A of chapter 62 of such Code (relating to place and due date for payment of tax) is amended by striking section 6156.

(3) The table of sections for subchapter A of chapter 62 of such Code is amended by striking the item relating to section 6156.

(4) Section 9503(b)(1) of such Code (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by striking subparagraphs (B) and (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively

SEC. 4. TAX ON USE OF CERTAIN VEHICLES BASED ON WEIGHT-DISTANCE RATE.

(a) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986, as amended by section 3(a), is amended by adding at the end the following:

"Subchapter D—Tax on Use of Certain Vehicles

''Sec. 4481. Imposition of tax.

''Sec. 4482. Definitions.

''Sec. 4483. Exemptions.

''Sec. 4484. Cross references.

"SEC. 4481. IMPOSITION OF TAX.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—A tax is hereby imposed on the use of any highway motor vehicle (either in a single unit or combination configuration) which, together with the semitrailers and trailers customarily used in connection with highway vehicles of the same type as such highway motor vehicle, has a taxable gross weight of over 25,000 pounds at the rate of—

''(A) the cents per mile rate specified in the table contained in paragraph (2), or

''(B) in the case of a highway motor vehicle with a taxable gross weight in excess of the weight for the highest rate specified in such table for such vehicle, the cents per mile rate specified in paragraph (3).

''(2) RATE SPECIFIED IN TABLE.—The table contained in this paragraph is as follows:

Taxable Gross Weight in Thousands of Pounds	Cents Per Mile								
	2-axle single unit	3-axle single unit	4-axle+ single unit	3-axle combination	4-axle combination	5-axle combination	6-axle combination	7-axle combination	8-axle+ combination
Over 25 to 30	0.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Over 30 to 35	1.00	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Over 35 to 40	3.00	0.50	0.00	0.50	0.00	0.00	0.00	0.00	0.00

Taxable Gross Weight in Thousands of Pounds	Cents Per Mile								
	2-axle single unit	3-axle single unit	4-axle+ single unit	3-axle combination	4-axle combination	5-axle combination	6-axle combination	7-axle combination	8-axle+ combination
Over 40 to 45	5.00	1.50	0.50	1.00	0.00	0.00	0.00	0.00	0.00
Over 45 to 50	8.00	3.00	1.00	1.50	0.25	0.00	0.00	0.00	0.00
Over 50 to 55	12.00	6.00	2.00	2.50	0.50	0.25	0.00	0.00	0.00
Over 55 to 60	21.00	10.00	4.00	3.50	1.00	0.50	0.00	0.00	0.00
Over 60 to 65	30.00	17.00	7.00	5.00	2.50	1.00	0.25	0.00	0.00
Over 65 to 70		25.00	10.00	7.50	4.00	2.00	0.50	0.00	0.00
Over 70 to 75		33.00	14.00	11.00	5.50	3.00	1.25	0.00	0.00
Over 75 to 80		41.00	19.00	17.00	7.50	3.75	2.00	0.00	0.00
Over 80 to 85		50.00	24.00	25.00	13.00	7.00	4.00	0.50	0.00
Over 85 to 90			30.00		19.00	11.00	6.00	1.00	0.00
Over 90 to 95			36.00		25.00	15.00	8.50	1.50	0.25
Over 95 to 100			42.00			20.00	11.00	2.00	0.50
Over 100 to 105			50.00			25.00	14.00	3.50	1.00
Over 105 to 110						30.00	17.00	5.00	2.00
Over 110 to 115						35.00	20.00	7.00	3.00
Over 115 to 120							23.00	9.00	4.00
Over 120 to 125							26.00	11.00	6.00
Over 125 to 130							29.00	13.00	8.00
Over 130 to 135							32.00	15.00	10.00
Over 135 to 140							35.00	17.00	12.00
Over 140 to 145								19.00	14.00
Over 145 to 150								21.00	16.00

''(3) RATE SPECIFIED IN PARAGRAPH.—The cents per mile rate specified in this paragraph is as follows:

''(A) In the case of any single unit highway motor vehicle with 2 or more axles or any combination highway motor vehicle with 3 or 4 axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 10 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(B) In the case of any combination highway motor vehicle with 5 or 6 axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 5 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(C) In the case of any combination highway motor vehicle with 7 or more axles, the highest rate specified in the table contained in paragraph (2) for such vehicle, plus 2 cents per mile for each 5000 pounds (or fraction thereof) in excess of the taxable gross weight for such highest rate.

''(b) DETERMINATION OF NUMBER OF AXLES.—For purposes of this section—

''(1) IN GENERAL.—The total number of axles with respect to any highway motor vehicle shall be determined without regard to any variable load suspension axle, except if such axle meets the requirements of paragraph (2).

''(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are as follows:

''(A) All controls with respect to the variable load suspension axle are located outside of and inaccessible from the driver's compartment of the highway motor vehicle.

''(B) The gross axle weight rating of all such axles with respect to the highway motor vehicle shall conform to the greater of—

''(i) the expected loading of the suspension of such vehicle, or

''(ii) 9,000 pounds.

''(3) VARIABLE LOAD SUSPENSION AXLE DEFINED.—The term 'variable load suspension axle' means an axle upon which a load may be varied voluntarily while the highway motor vehicle is enroute, whether by air, hydraulic, mechanical, or any combination of such means.

''(4) TERMINATION OF EXCEPTION.—The exception under paragraph (1) shall not apply after June 30, 2004.

''(c) DETERMINATION OF MILES.—

''(1) USE OF CERTAIN TOLL FACILITIES EXCLUDED.—For purposes of this section, the number of miles any highway motor vehicle is used shall be determined without regard to the miles involved in the use of a facility described in paragraph (2).

''(2) TOLL FACILITY.—A facility is described in this paragraph if such facility is a highway, bridge, or tunnel, the use of which is subject to a toll.

''(d) BY WHOM PAID.—The tax imposed by this section shall be paid by the person in whose name the highway motor vehicle is, or is required to be, registered under the law of the State or contiguous foreign country in which such vehicle is, or is required to be, registered, or, in case the highway motor vehicle is owned by the United States, by the agency or instrumentality of the United States operating such vehicle.

''(e) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations.

''(f) PERIOD TAX IN EFFECT.—The tax imposed by this section shall apply only to use before October 1, 2005.

''SEC. 4482. DEFINITIONS.

''(a) HIGHWAY MOTOR VEHICLE.—For purposes of this subchapter, the term 'highway motor vehicle' means any motor vehicle which is a highway vehicle.

''(b) TAXABLE GROSS WEIGHT.—For purposes of this subchapter—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'taxable gross weight' means, when used with respect to any highway motor vehicle, the maximum weight at which the highway motor vehicle is legally authorized to operate under the laws of the State in which it is registered.

''(2) SPECIAL PERMITS.—If a State allows a highway motor vehicle to be operated for any period at a maximum weight which is greater than the weight determined under paragraph (1), its taxable gross weight for such period shall be such greater weight.

''(c) OTHER DEFINITIONS AND SPECIAL RULE.—For purposes of this subchapter—

''(1) STATE.—The term 'State' means a State and the District of Columbia.

''(2) USE.—The term 'use' means use in the United States on the public highways.

''SEC. 4483. EXEMPTIONS.

''(a) STATE AND LOCAL GOVERNMENT EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any highway motor vehicle by any State or any political subdivision of a State.

''(b) EXEMPTION FOR UNITED STATES.—The Secretary may authorize exemption from the tax imposed by section 4481 as to the use by the United States of any particular highway motor vehicle, or class of highway motor vehicles, if the Secretary determines that the imposition of such tax with respect to such use will cause substantial burden or expense which can be avoided by granting tax exemption and that full benefit of such exemption, if granted, will accrue to the United States.

''(c) CERTAIN TRANSIT-TYPE BUSES.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any bus which is of the transit type (rather than of the intercity type) by a person who, for the last 3 months of the preceding year (or for such other period as the Secretary may by regulations prescribe for purposes of this subsection), met the 60-percent passenger fare revenue test set forth in section 6421(b)(2) (as in effect on the day before the day of the enactment of the Energy Tax Act of 1978) as applied to the period prescribed for the purposes of this subsection.

''(d) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 2005.

''SEC. 4484. CROSS REFERENCES.

''(1) For penalties and administrative provisions applicable to this subchapter, see subtitle F.

''(2) For exemption for uses by Indian tribal governments (or their subdivisions), see section 7871.''

(b) ADMINISTRATION OF TAX.—To the maximum extent possible, the Secretary of the Treasury shall administer the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as added by this section)—

(1) in cooperation with the States and in coordination with State administrative and reporting mechanisms, and

(2) through the use of the International Registration Plan and the International Fuel Tax Agreement.

SEC. 5. COOPERATIVE TAX EVASION EFFORTS.

The Secretary of Transportation is authorized to use funds authorized for expenditure under section 143 of title 23, United States Code, and administrative funds deducted under 104(a) of such title 23, to develop automated data processing tools and other tools or processes to reduce evasion of the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as added by section 4(a)). These funds may be allocated to the Internal Revenue Service, States, or other entities.

SEC. 6. STUDY.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall conduct a study of—

(1) the tax equity of the various Federal taxes deposited into the Highway Trust Fund,

(2) any modifications to the tax rates specified in section 4481 of the Internal Revenue Code of 1986 (as added by section 4(a)) to improve tax equity, and

(3) the administration and enforcement under subsection (e) of the tax imposed by section 4481 of the Internal Revenue Code of 1986 (as so added).

(b) REPORT.—Not later than July 1, 2002, and July 1 of every fourth year thereafter, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with—

(1) recommended tax rate schedules developed under subsection (a)(2), and

(2) such recommendations as the Secretary may deem advisable to make the administration and enforcement described in subsection (a)(3) more equitable.

SEC. 7. EFFECTIVE DATE AND FLOOR STOCK REFUNDS.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect on July 1, 2000.

(b) FLOOR STOCK REFUNDS.—

(1) IN GENERAL.—If—

(A) before July 1, 2000, tax has been imposed under section 4071 or 4081 of the Internal Revenue Code of 1986 on any article, and

(B) on such date such article is held by a dealer and has not been used and is intended for sale,

there shall be credited or refunded (without interest) to the person who paid such tax (hereafter in this subsection referred to as the ''taxpayer'') an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such article had the taxable event occurred on such date.

(2) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this subsection unless—

(A) claim therefore is filed with the Secretary of the Treasury before January 1, 2001, and

(B) in any case where an article is held by a dealer (other than the taxpayer) on July 1, 2000—

(i) the dealer submits a request for refund or credit to the taxpayer before October 1, 2000, and

(ii) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(3) EXCEPTION FOR ARTICLES HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this subsection with respect to any article in retail stocks held at the place where intended to be sold at retail.

(4) DEFINITIONS.—For purposes of this subsection, the terms ''dealer'' and ''held by a dealer'' have the respective meanings given to such terms by section 6412 of such Code; except that the term ''dealer'' includes a producer.

(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 of such Code shall apply for purposes of this subsection.

HIGHWAY TAX EQUITY AND SIMPLIFICATION ACT (HTESA) OF 1999

BILL SUMMARY

The Highway Tax Equity and Simplification Act of 1999 is designed to improve the equity among taxpayers paying into the Highway Trust Fund. In doing so, it eliminates 3 of the separate taxes paid into the Highway Trust Fund and replaces them with a straightforward tax that more fairly distributes the tax burden among highway users.

TEA 21 restructured the Highway Trust Fund's budgetary treatment to ensure that transportation taxes would be spent for transportation purposes. Congress did not, however, take any steps to improve the allocation of transportation taxes among highway users. Under current law, some users pay too much into the trust fund relative to the costs they impose on the nation's highway system while others pay too little. This proposal more fairly apportions the tax burden to those who impose the greatest costs to our highway infrastructure.

SPECIFIC POINTS

Tax Simplification—3 Taxes Replaced with 1.

This bill eliminates three taxes (the 12% sales tax on new trucks, the tire tax, and the Heavy Vehicle Use Tax) and replaces it with a straightforward and fair axle-weight distance tax. The taxes that are eliminated are either poor surrogates for user impact or raise relatively small amounts of money and are duplicative of the new axle-weight distance tax.

Direct Correlation Between Taxes and Road Damage.

Pavement and bridge damage imposed by trucks is directly correlated to axle-weight loads and distance traveled. This bill recognizes this clear and direct relationship and imposes user fees based on this principle.

No Tax Increase for Trucks Overall.

The bill collects the same amount of tax revenue from trucks overall as current law. The U.S. Department of Transportation estimates that transportation taxes paid by trucks total $11 billion annually, the same as under the bill.

Overwhelming More Winner than Losers.

Under the bill, the vast majority of trucks—more than 5.9 million trucks—will see a tax reduction. This compares to roughly 1.5 million who will see an increase.

Eliminates ''Corporate Welfare'' for Heavy Trucks.

By reforming the Highway Trust Fund taxes, this legislation substantially reduces the subsidy provided to the heaviest trucks using our nation's roadways. Most heavy trucks pay less into the Highway Trust Fund than the costs they impose on roads. The heaviest trucks pay less than half of the costs of damage they inflict.

Eliminates Perverse Provisions in Current Law.

The Heavy Vehicle Use Tax (HVUT) under current law doesn't apply to ''heavy trucks''. The HVUT is capped at 75,000 pounds—meaning that ''heavy trucks'' don't pay any more in taxes as their weight increases even though the extra weight does exponentially more damage to the nation's roads and bridges.

Secondly, the HVUT has no mileage component meaning that a truck registered at 70,000 lbs traveling 10,000 miles per year pays the same HVUT tax as an identical 70,000 pound truck traveling 100,000 miles per year—not a fair or sensible result.

Administrative Burden.

Under the bill, taxes are paid according to the distance you traveled and your registered weight. The process is no more complicated than reading your odometer and your truck registration.

Current Mileage Filing Requirements for Interstate Carriers.

Under current law, all Interstate trucks are required to file with their ''base state'' mileage logs that report mileage driven in individual states. This existing requirement of the International Fuel Tax Agreement (IFTA) is more detailed than what is required for the axle-weight tax included in this bill, which only requires the aggregate total of all mileage driven.

Reduces Double Taxation on Toll Roads.

This bill reduces double taxation on toll roads by allowing a credit against the axle-weight distance tax for travel on a toll facility. (e.g., the Oklahoma Turnpike, the Pennsylvania Turnpike, Ohio Turnpike, Florida Turnpike, etc.).

Eliminates ''Diesel Differential''.

The bill also eliminates the so-called ''diesel differential'', where diesel is taxed at a higher rate than gasoline. Under this proposal, the diesel fuel tax is lowered from 24.3 cents to 18.3 cents, the same rate as gasoline.

Overall Tax Equity Still Short by $4 Billion Annually.

Proposal does not achieve perfect equity among all contributors to the Highway Trust Fund. Although the bill equalizes the relative tax burden among trucks, the trucking sector as a whole will still underpay its fair share of transportation taxes by $4 billion annually.

State Transportation Departments Support Weight-Distance Taxes.

The American Association of State Highway and Transportation Officials (AASHTO), the association representing State Transportation Departments, supports weight-distance taxes. AASHTO's policy resolution on this matter finds:

''Truck taxes based upon a combination of the weight of the vehicles and the distance they travel more equitably distribute financing responsibility proportional to costs imposed on the system than other tax alternatives.''

AASHTO policy call for substituting a weight-distance tax for the heavy vehicle use tax and all other federal user fees on trucks except for a federal fuel tax—(the HTESA proposal).

Cost allocation for cars and trucks

[Revenue to cost ratio—Current law]

Automobiles	1.0
Pickups/Vans	1.5
Single-unit trucks:	
<25,000 lbs	1.5
25,001–50,000 lbs	0.7
>50,000 lbs	0.4
Combination trucks:	
<50,000 lbs	1.5
50,000–70,000 lbs	1.0
70,001–75,000 lbs	0.9
75,001–80,000 lbs	0.8
80,001–100,000 lbs	0.5
>100,000 lbs	0.4

ANNUAL PER VEHICLE SUBSIDIES

[Comparing taxes paid to pavement costs imposed]

	5-axle semitrailer	6-axle semitrailer
Registered weight:		
90,000	−$3,864	−$2,188
100,000	−5,176	−4,985
110,000	−6,022	−7,746

PAVEMENT DAMAGE—CARS VS. TRUCKS

Underlying Principle—Pavement damage goes up dramatically with weight.

On a rural Interstate highway, a 100,000 lb standard tractor-trailer wears the equivalent of more than 1,700 cars.

On a rural arterial road, the same truck is equivalent to 3,500 cars.

DIESEL FUEL TAX

Diesel Tax meets one of the two guiding principles discussed earlier, because the amount paid by trucks varies by mileage.

However, because diesel fuel usage only rises marginally with weight increases, while pavement damage increases *exponentially*, it also is a poor mechanism to align costs and payments.

Increasing rates for diesel, as is sometimes advocated by the trucking industry in reaction to concerns about truck underpayment, will not resolve this fundamental flaw.

HEAVY VEHICLE USE TAX (HVUT)

HEAVY VEHICLE USE TAX DOESN'T LIVE UP TO ITS NAME

1. The HVUT is a poor surrogate for cost responsibility as shown by the widening gap between the red and blue lines to the right. HVUT taxes go up slightly with weight while pavement damage goes up dramatically.

2. Although the word use is in its name—this tax does not vary by use or mileage. A truck traveling 100,000 miles per year and another of the same weight traveling 10,000 per year will pay the same tax.

3. Although, the name implies it is targeted at heavy vehicles, it does not increase with truck weight. Incredibly, the tax is capped at 75,000 lbs, the point at which pavement damage goes up dramatically.

By Mr. MACK (for himself, Mr. GRAHAM, Mr. HATCH, Mr. CONRAD, Mr. NICKLES, Mr. KERREY, Mr. GRAMM, Mr. BRYAN, Mr. CHAFEE, Mr. BAUCUS, Mr. MURKOWSKI, Mr. BREAUX, Mr. JEFFORDS, Mr. ROBB, Mr. COVERDELL, Mr. ROCKEFELLER, Mr. HELMS, Mr. TORRICELLI, and Mrs. HUTCHISON):

S. 1057. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Finance.

REAL ESTATE INVESTMENT TRUST MODERNIZATION ACT OF 1999

Mr. MACK. Mr. President, today Senator BOB GRAHAM and I, along with 17 of our colleagues, are introducing legislation to modernize the tax rules that apply to real estate investment trusts (''REITs'').

This legislation is designed to remove barriers in the tax laws that impose unnecessary administrative burdens and make it more difficult for REITs to compete in an evolving marketplace. Our bill is similar to a proposal included in the President's Fiscal Year 2000 budget that permits REITs to establish a new type of subsidiary called a ''taxable REIT subsidiary'' (''TRS''). As with the President's proposal, the legislation we introduce today would permit REITs to establish a TRS to provide non-customary services to their tenants and to provide services to third parties. In return for these new rules, the TRS would be subject to a number of rules designed to prevent any income from being shifted out of the taxable subsidiary to the REIT.

Congress created REITs in 1960 to enable small investors to invest in real estate. The REIT provisions were modeled after the rules that applied to mutual funds. If a number of requirements are met, a corporation electing to be a REIT may deduct all dividends paid to its shareholders. One of the major requirements for REIT status is that REITs must distribute virtually all of their taxable income to their shareholders. Thus, unlike other C corporations that tend to retain most of their earnings, the income tax burden for REITs is shifted to the shareholder level. Unlike partnerships, REITs cannot pass losses through to their investors.

REITs are subject to a number of rules to ensure their primary focus is real estate activities. For example, at least 75% of a REIT's assets must be comprised of rental real estate, mortgages, cash items and government securities. A REIT also must satisfy two income tests. First, at least 75% of a REIT's annual gross income must consist of real property rents, mortgage interest, gain from the sale of a real estate asset and certain other real estate-related sources. Second, at least 95% of a REIT's annual gross income must be derived from the income items from the above 75% test plus other ''passive income'' sources such as dividends and any type of interest. In addition, a REIT cannot own more than 10% of the voting securities of a non-REIT corporation, and the securities of a single non-REIT corporation cannot be worth more than 5% of the REIT's assets.

Although REITs were created in 1960, they did not really become a significant part of the real estate marketplace until the 1990s—partly because the original legislation did not permit REITs to manage their own property. The Tax Reform Act of 1986 changed this, by permitting REITs to manage their own properties through the provision of ''customary services'' to tenants.

The market capitalization of REITs grew from about $13 billion at the end of 1991 to over $140 billion today. The taxes generated from REITs similarly have increased, with dividends from public REITs increasing from about $1 billion in 1991 to more than $8 billion today. While REITs remain a small portion of the entire real estate sector—in the range of 10% nationally—they account for as much as half of some sectors that require immense amounts of capital, such as shopping centers. While the REIT industry has come a long way in recent years, it continues to fulfill its original mission: permitting small investors access to attractive real estate investments. Almost 90% of REIT shareholders are individuals either investing directly or through mutual funds.

Although REITs have seen remarkable growth in the 1990s, their ability to meet new competitive pressures in the real estate sector is in question as a result of tax law limitations on their activities. These rules limit the ability of REITs to provide full services to their tenants and to third parties. In general, REITs may only provide services to their tenants which the IRS has determined to be ''customary'' in the business, meaning services already provided by the typical real estate company in the market. REITs may only provide real estate-related services to third parties through preferred stock subsidiaries which they can own but not control. REITs are thus prohibited from offering leading edge, full service options to their tenants and limited in the use of their expertise to serve third parties. This presents competitive problems for REITs as the real estate marketplace has evolved and property owners have sought to provide a range of services to their tenants and other customers.

As a result, REITs increasingly have been unable to compete with privately-held partnerships and other more exclusive forms of ownership. Today, the rules prevent REITs from offering the same types of customer services as their competitors, even as such services are becoming more central to marketing efforts. Examples abound: (1) offering concierge services to office and apartment tenants to pick up tickets or dry cleaning, to walk pets, etc.; (2) offering a branded credit card at shopping malls, with rebates to be used as store credits at stores in the mall; (3) high speed Internet hook-ups, including enhanced telecommunications services (e.g., creating and maintaining a website) offered by a landlord's partner; (4) partnering with an office supply provider to offer reduced prices on office supplies; and (5) pick-up and delivery services at self-storage rentals.

Without greater flexibility to provide competitive services to tenants and other customers, REITs will become less and less competitive with others in the real estate marketplace. REITs will have to wait for services to be deemed ''customary.'' As a practical matter, that means a REIT must wait until the IRS concludes that almost everybody else has been providing the service. If a REIT is forced to lag the market, it can be neither competitive nor provide its investors with a satisfactory return on their investment. Certainly, this is not consistent with what Congress intended when it created REITs, and when it modified the REIT rules over the years. In keeping with the Congressional mandate to provide a sensible and effective way for the average investor to benefit from ownership of income-producing real estate, REITs should be able to provide a range of services through taxable subsidiaries.

The Administration's proposed Fiscal Year 2000 Budget acknowledges this problem. The Administration proposes modernizing REIT rules to permit REITs, on a limited basis, to use taxable subsidiaries to provide the services necessary to compete in the evolving real estate marketplace. The Administration proposal is a good start, but I believe additional refinements would further promote competitiveness. The legislation that we are introducing today builds upon the Administration proposal. Our bill addresses the

appropriate needs of the REIT industry and its investors in a manner consistent with the underlying rationale for REITs and the requirements of the highly competitive, evolving real estate marketplace.

This legislation would give greater flexibility to REITs by permitting them to establish ''taxable REIT subsidiaries'' (''TRSs'') that could provide non-customary services to tenants and services to third parties. The 5% and 10% asset tests would not apply to the TRS. REITs would continue to be subject to the 75% asset tests so the value of their TRS, together with the value of other non-real estate assets, could not exceed 25% of the total value of a REIT's assets. In addition, the REIT would have to continue to satisfy the 95% and 75% income tests, with dividends or interest from a TRS to a REIT counting towards the 95% test, but not the 75% test. Accordingly, at least 75% of a REIT's gross income would continue to consist of rents, mortgage interest, real estate capital gains and the other miscellaneous real estate-related items already listed in the Code. The income a TRS would receive from both third parties and REIT tenants would be fully subject to corporate tax.

To ensure that a TRS could not inappropriately reduce its corporate tax liability by shifting income to the REIT, the bill includes a number of stringent rules that limit the relationship between the REIT and the TRS. To prevent the TRS from making excessive intra-party interest payments to its affiliated REIT, the proposal contains two safeguards. One, it would apply the current anti-earnings stripping provisions of Code section 163(j) to payments between a REIT and its TRS. This would prevent the TRS from deducting intra-party interest beyond a modest amount regulated by objective criteria in the Code. Two, a 100% excise tax would be imposed on any interest payments by a TRS to its affiliated REIT to the extent the interest rate was above a commercially-reasonable rate.

Also, to be certain that a TRS could not reduce its tax obligations by deducting rents to its affiliated REIT, our legislation would retain the current rules under which any payments to a REIT by a related party would not be considered qualified rents for purposes of the REIT gross income tests. The only exception would be when a TRS rents less than 10% of a REIT-owned property and pays rents to the REIT comparable to the rents the REIT charges to its unrelated tenants at the same property. Under this exception, any rents paid to the REIT that turn out to be above comparable rents would be subject to a 100% excise tax.

Under our bill, a 100% excise tax is also imposed on any rents a REIT charges its tenants that are inflated to disguise charges for services rendered to the tenant by its affiliated TRS. Limited exceptions would be made when: (1) the TRS charges the same amounts for its services to both REIT tenants and third parties; (2) rents for comparable space are the same regardless of whether the TRS provides a service to the tenant; and (3) the TRS recognizes income for its services at least equal to 150% of its direct costs of providing the service to an affiliated REIT's tenants.

To discourage a REIT from allocating its expenses to its TRS (which would reduce the TRS's corporate tax obligation), the proposal would impose a 100% excise tax on any improper cost allocations between a REIT and its TRS. The Treasury Department would issue guidance on proper ways to allocate such costs.

Finally, the bill proposes to eliminate the use of preferred stock subsidiaries by REITs. These subsidiaries, which have been established pursuant to IRS letter rulings since 1988, allow a REIT to provide services to third parties. While the asset test rules prevent a REIT from owning more than 10% of the voting securities of these subsidiaries, they typically own more than 95% of the value of the subsidiary. We propose to eliminate these subsidiaries by prohibiting REITs from owning more than 10% of the vote or the value in another corporation other than a TRS. REITs would be given three years to convert, tax-free, their preferred stock subsidiaries to taxable REIT subsidiaries.

In addition, the bill includes some miscellaneous changes to the REIT rules that were under consideration when Congress approved a REIT simplification package a few years ago. The first provision deals with health care property. Under current law, a REIT can conduct a trade or business using property acquired through foreclosure for 90 days after it acquired such property, if it makes a ''foreclosure property'' election. After this period, the REIT can only conduct the trade or business through an independent contractor from whom the REIT does not derive any income. A health care REIT faces special challenges in using these rules when its lease of a nursing home or other health care property expires.

To remedy these challenges and to ensure that care to patients remains uninterrupted, the proposal would make two technical changes to the REIT foreclosure rules. First, the foreclosure property rules would be extended to include leases that terminate (they already apply to leases that are breached). Second, for purposes of the foreclosure rules, a health care provider would not be disqualified as an independent contractor solely because the REIT receives rental income from the provider with respect to one or more other properties. For this purpose, other rules would be made to ensure that the terms of leases of other properties could not be manipulated to circumvent this rule.

Another provision deals with the 95% distribution rule. From 1960 through 1980, REITs and mutual funds shared a requirement to distribute at least 90% of their taxable income. Since 1980, REITs have had to distribute 95% of their taxable income. The proposal would restore the 90% distribution requirement.

Mr. President, I believe this is a major improvement in the REIT rules that preserves the original intent of Congress when it first created REITs in 1960, while permitting the industry to adapt to a changing marketplace. Most importantly, these REIT modernization rules would not expand the activities that can be conducted within the REIT, they simply give the REIT greater flexibility to establish fully-taxable subsidiaries that will enable the REIT to better serve its customers.

This legislation is supported by the American Resort Development Association, the International Council of Shopping Centers, the National Apartment Association, the National Association of Real Estate Investment Trusts, the American Seniors Housing Association, the Mortgage Bankers Association of America, the National Association of Industrial and Office Properties, the National Association of Realtors, the National Multi Housing Council, and the National Realty Committee.

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. 1057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Real Estate Investment Trust Modernization Act of 1999''.

(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.

TITLE I—TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES

SEC. 101. MODIFICATIONS TO ASSET DIVERSIFICATION TEST.

Subparagraph (B) of section 856(c)(4) is amended to read as follows:

''(B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)), and

''(ii) except with respect to a taxable REIT subsidiary and securities includible under subparagraph (A)—

''(I) not more than 5 percent of the value of its total assets is represented by securities of any 1 issuer,

''(II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any 1 issuer, and

''(III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any 1 issuer.''

SEC. 102. TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.

(a) INCOME FROM TAXABLE REIT SUBSIDIARIES NOT TREATED AS IMPERMISSIBLE TENANT SERVICE INCOME.—Clause (i) of section 856(d)(7)(C) (relating to exceptions to impermissible tenant service income) is amended by inserting ''or through a taxable REIT subsidiary of such trust'' after ''income''.

(b) CERTAIN INCOME FROM TAXABLE REIT SUBSIDIARIES NOT EXCLUDED FROM RENTS FROM REAL PROPERTY.—

(1) IN GENERAL.—Subsection (d) of section 856 (relating to rents from real property defined) is amended by adding at the end the following new paragraphs:

''(8) SPECIAL RULE FOR TAXABLE REIT SUBSIDIARIES.—For purposes of this subsection, amounts paid to a real estate investment trust by a taxable REIT subsidiary of such trust shall not be excluded from rents from real property by reason of paragraph (2)(B) if the requirements of subparagraph (A) or (B) are met.

''(A) LIMITED RENTAL EXCEPTION.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents made by the other tenants of the trust's property for comparable space.

''(B) EXCEPTION FOR CERTAIN LODGING FACILITIES.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

''(9) ELIGIBLE INDEPENDENT CONTRACTOR.—For purposes of paragraph (8)(B)—

''(A) IN GENERAL.—The term 'eligible independent contractor' means, with respect to any qualified lodging facility, any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate the facility, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

''(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility by reason of any of the following:

''(i) The taxable REIT subsidiary bears the expenses for the operation of the facility pursuant to the management agreement or other similar service contract.

''(ii) The taxable REIT subsidiary receives the revenues from the operation of such facility, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

''(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as on the later of—

''(I) January 1, 1999, or

''(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility.

''(C) RENEWALS, ETC., OF EXISTING LEASES.—For purposes of subparagraph (B)(iii)—

''(i) a lease shall be treated as in effect on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on whichever of the dates under subparagraph (B)(iii) is the latest, and

''(ii) a lease of a property entered into after whichever of the dates under subparagraph (B)(iii) is the latest shall be treated as in effect on such date if—

''(I) on such date, a lease of such property from the trust was in effect, and

''(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

''(D) QUALIFIED LODGING FACILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified lodging facility' means any lodging facility unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility.

''(ii) LODGING FACILITY.—The term 'lodging facility' means a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis.

''(iii) CUSTOMARY AMENITIES AND FACILITIES.—The term 'lodging facility' includes customary amenities and facilities operated as part of, or associated with, the lodging facility so long as such amenities and facilities are customary for other properties of a comparable size and class owned by other owners unrelated to such real estate investment trust.

''(E) OPERATE INCLUDES MANAGE.—References in this paragraph to operating a property shall be treated as including a reference to managing the property.

''(F) RELATED PERSON.—Persons shall be treated as related to each other if such persons are treated as a single employer under subsection (a) or (b) of section 52.''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 856(d)(2) is amended by inserting ''except as provided in paragraph (8),'' after ''(B)''.

SEC. 103. TAXABLE REIT SUBSIDIARY.

(a) IN GENERAL.—Section 856 is amended by adding at the end the following new subsection:

''(l) TAXABLE REIT SUBSIDIARY.—For purposes of this part—

''(1) IN GENERAL.—The term 'taxable REIT subsidiary' means, with respect to a real estate investment trust, a corporation (other than a real estate investment trust) if—

''(A) such trust directly or indirectly owns stock in such corporation, and

''(B) such trust and such corporation jointly elect that such corporation shall be treated as a taxable REIT subsidiary of such trust for purposes of this part.

Such an election, once made, shall be irrevocable unless both such trust and corporation consent to its revocation. Such election, and any revocation thereof, may be made without the consent of the Secretary.

''(2) 35 PERCENT OWNERSHIP IN ANOTHER TAXABLE REIT SUBSIDIARY.—The term 'taxable REIT subsidiary' includes, with respect to any real estate investment trust, any corporation (other than a real estate investment trust) with respect to which a taxable REIT subsidiary of such trust owns directly or indirectly—

''(A) securities possessing more than 35 percent of the total voting power of the outstanding securities of such corporation, or

''(B) securities having a value of more than 35 percent of the total value of the outstanding securities of such corporation.

The preceding sentence shall not apply to a qualified REIT subsidiary (as defined in subsection (i)(2)).

''(3) EXCEPTIONS.—The term 'taxable REIT subsidiary' shall not include—

''(A) any corporation which directly or indirectly operates or manages a lodging facility or a health care facility, and

''(B) any corporation which directly or indirectly provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which any lodging facility or health care facility is operated.

Subparagraph (B) shall not apply to rights provided to an eligible independent contractor to operate or manage a lodging facility if such rights are held by such corporation as a franchisee, licensee, or in a similar capacity and such lodging facility is either owned by such corporation or is leased to such corporation from the real estate investment trust.

''(4) DEFINITIONS.—For purposes of paragraph (3)—

''(A) LODGING FACILITY.—The term 'lodging facility' has the meaning given to such term by paragraph (9)(D)(ii).

''(B) HEALTH CARE FACILITY.—The term 'health care facility' has the meaning given to such term by subsection (e)(6)(D)(ii).''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 856(i) is amended by adding at the end the following new sentence: ''Such term shall not include a taxable REIT subsidiary.''

SEC. 104. LIMITATION ON EARNINGS STRIPPING.

Paragraph (3) of section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any interest paid or accrued (directly or indirectly) by a taxable REIT subsidiary (as defined in section 856(l)) of a real estate investment trust to such trust.''.

SEC. 105. 100 PERCENT TAX ON IMPROPERLY ALLOCATED AMOUNTS.

(a) IN GENERAL.—Subsection (b) of section 857 (relating to method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

''(7) INCOME FROM REDETERMINED RENTS, REDETERMINED DEDUCTIONS, AND EXCESS INTEREST.—

''(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of the real estate investment trust a tax equal to 100 percent of redetermined rents, redetermined deductions, and excess interest.

''(B) REDETERMINED RENTS.—

''(i) IN GENERAL.—The term 'redetermined rents' means rents from real property (as defined in subsection 856(d)) the amount of which would (but for subparagraph (E)) be reduced on distribution, apportionment, or allocation under section 482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the real estate investment trust to a tenant of such trust.

''(ii) EXCEPTION FOR CERTAIN SERVICES.—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

''(iii) EXCEPTION FOR DE MINIMIS AMOUNTS.—Clause (i) shall not apply to amounts described in section 856(d)(7)(A) with respect to

a property to the extent such amounts do not exceed the one percent threshold described in section 856(d)(7)(B) with respect to such property.

''(iv) EXCEPTION FOR COMPARABLY PRICED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

''(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust who are unrelated (within the meaning of section 856(d)(8)(F)) to such subsidiary, trust, and tenants, but

''(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

''(v) EXCEPTION FOR CERTAIN SEPARATELY CHARGED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

''(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust's property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary, and

''(II) the charge for such service from such subsidiary is separately stated.

''(vi) EXCEPTION FOR CERTAIN SERVICES BASED ON SUBSIDIARY'S INCOME FROM THE SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary's direct cost in furnishing or rendering the service.

''(vii) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms' length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

''(viii) NO INFERENCE WITH RESPECT TO RENTS NOT WITHIN EXCEPTIONS.—In determining whether rents are subject to reduction upon distribution, apportionment, or allocation under section 482 for purposes of subparagraph (B), the fact that rents from real property do not meet the requirements of clauses (ii) through (vii) shall not be taken into account; and such determination, in the case of rents not meeting such requirements, shall be made as if such clauses had not been enacted.

''(ix) NO INFERENCE AS TO WHETHER REDETERMINED RENT IS RENT FROM REAL PROPERTY.—Rent received by a real estate investment trust shall not fail to qualify as rents from real property under section 856(d) by reason of the fact that all or any portion of such rent is determined to be redetermined rent.

''(C) REDETERMINED DEDUCTIONS.—The term 'redetermined deductions' means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be increased on distribution, apportionment, or allocation under section 482 to clearly reflect income as between such subsidiary and such trust.

''(D) EXCESS INTEREST.—The term 'excess interest' means any deductions for interest payments by a taxable REIT subsidiary of a real estate investment trust to such trust to the extent that the interest payments are in excess of a rate that is commercially reasonable.

''(E) COORDINATION WITH SECTION 482.—The imposition of tax under subparagraph (A) shall be in lieu of any distribution, apportionment, or allocation under section 482.

''(F) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Until the Secretary prescribes such regulations, real estate investment trusts and their taxable REIT subsidiaries may base their allocations on any reasonable method.''.

(b) AMOUNT SUBJECT TO TAX NOT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) (relating to real estate investment trust taxable income) is amended by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (7)''.

SEC. 106. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall apply to taxable years beginning after the date of enactment of this Act.

(b) TRANSITIONAL RULES RELATED TO SECTION 101.—

(1) EXISTING ARRANGEMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by section 101 shall not apply to a real estate investment trust with respect to—

(i) securities of a corporation held directly or indirectly by such trust on April 28, 1999,

(ii) securities received by such trust (or a successor) in exchange for, or with respect to, securities described in clause (i) in a transaction in which gain or loss is not recognized, and

(iii) securities acquired directly or indirectly by such trust as part of a reorganization (as defined in section 368(a)(1) of the Internal Revenue Code of 1986) with respect to such trust if such securities are described in clause (i) or (ii) with respect to any other real estate investment trust.

(B) NEW TRADE OR BUSINESS OR SUBSTANTIAL NEW ASSETS.—Subparagraph (A) shall cease to apply to securities of a corporation as of the first day after April 28, 1999, on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than—

(i) pursuant to a binding contract in effect on such date and at all times thereafter before the acquisition of such asset,

(ii) in a transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Internal Revenue Code of 1986, or

(iii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(2) TAX-FREE CONVERSION.—If—

(A) at the time of an election for a corporation to become a taxable REIT subsidiary, the amendment made by section 101 does not apply to such corporation by reason of paragraph (1), and

(B) such election first takes effect during the 3-year period beginning on the date of the enactment of this Act,

such election shall be treated as a reorganization qualifying under section 368(a)(1)(A) of such Code.

TITLE II—HEALTH CARE REITS

SEC. 201. HEALTH CARE REITS.

(a) SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.—Subsection (e) of section 856 (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

''(A) ACQUISITION AT EXPIRATION OF LEASE.—The term 'foreclosure property' shall include any qualified health care property acquired by a real estate investment trust as the result of the termination of a lease of such property (other than a termination by reason of a default, or the imminence of a default, on the lease).

''(B) GRACE PERIOD.—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

''(i) the qualified health care property shall cease to be foreclosure property as of the close of the second taxable year after the taxable year in which such trust acquired such property, and

''(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust's interest in such qualified health care property, the Secretary may grant 1 or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the close of the 6th year after the taxable year in which such trust acquired such qualified health care property.

''(C) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property by reason of subparagraph (A) or paragraph (1), income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

''(i) any lease of property in effect on the date the real estate investment trust acquired the qualified health care property (without regard to its renewal after such date so long as such renewal is pursuant to the terms of such lease as in effect on such date), or

''(ii) any lease of property entered into after such date if—

''(I) on such date, a lease of such property from the trust was in effect, and

''(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

''(D) QUALIFIED HEALTH CARE PROPERTY.—

''(i) IN GENERAL.—The term 'qualified health care property' means any real property (including interests therein), and any personal property incident to such real property, which—

''(I) is a health care facility, or

''(II) is necessary or incidental to the use of a health care facility.

''(ii) HEALTH CARE FACILITY.—For purposes of clause (i), the term 'health care facility' means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility (as defined in section 7872(g)(4)), or other licensed facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.

TITLE III—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

SEC. 301. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

(a) DISTRIBUTION REQUIREMENT.—Clauses (i) and (ii) of section 857(a)(1)(A) (relating to requirements applicable to real estate investment trusts) are each amended by striking

''95 percent (90 percent for taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking ''95 percent (90 percent in the case of taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

TITLE IV—CLARIFICATION OF DEFINITION OF INDEPENDENT CONTRACTOR

SEC. 401. CLARIFICATION OF DEFINITION OF INDEPENDENT CONTRACTOR.

(a) IN GENERAL.—Paragraph (3) of section 856(d) (relating to independent contractor defined) is amended by adding at the end the following flush sentence:

''In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE V—MODIFICATION OF EARNINGS AND PROFITS RULES

SEC. 501. MODIFICATION OF EARNINGS AND PROFITS RULES.

(a) RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.—Subsection (c) of section 852 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply rather than the most recently accumulated earnings and profits, and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.''.

(b) CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENT.—Subparagraph (B) of section 857(d)(3) is amended by inserting before the period ''and section 858''.

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) is amended by adding at the end the following new sentence: ''If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, I am pleased to join my colleague, Senator MACK, in the introduction of the REIT Modernization Act, legislation that would modernize the tax rules that apply to real estate investment trusts (''REITs'').

REITs were created in 1960 to give small investors the ability to invest in income producing real estate. But it was not until the early part of this decade that REITs emerged as a significant factor in real estate finance. Their repid growth then contributed in a major way to the development of real estate markets. The real estate industry is experiencing change today as owners seek to maximize returns by taking greater advantage of their employee expertise and tenant base. This bill will better enable REITS to expand their services to tenants and customers.

The Administration's Fiscal Year 2000 budget includes a proposal to change the rules governing REITs. The legislation that we are introducing today is largely based on that proposal. It would permit REITs to establish taxable subsidiaries to offer services that a REIT cannot offer directly to tenants and third parties. Stringent rules are included to ensure that the subsidiary would be fully subject to taxation. Current rules designed to ensure that REIT income is primarily earned from real estate activities would continue to apply. The bill also modifies the tratment of health care facilities to ensure that patients' lives are not disrupted in the event of an expired lease, and restores the 90% distribution rule that had previously applied to REITs.

REITs play a positive role in the real estate economy that has helped to stabilize property values and provide liquidity to the market. As long as the basic limitations on REIT activities are preserved, those tax rules which impose restraints on REIT activities must be modified. In my own state of Florida, REITs have invested more than $13 billion in the Florida economy, and are an important source of investment capital that has reinvigorated real estate markets.

I want to thank Senator MACK for his leadership on this issue and I welcome the bipartisan support this measure has received from members of the Senate Finance Committee, along with others, who have joined as cosponsors of the bill. I look forward to working with them in the months ahead.

Mr. MOYNIHAN. Mr. President: I commend the efforts of my respected colleagues from Florida, Senator MACK and Senator GRAHAM, as they work to modernize the tax rules that apply to Real Estate Investment Trusts (REITs). I have worked with the REIT industry over the years and have seen it grow to be a major contributor to the strength of the real estate sector in New York and nationally.

Congress first authorized REITs in 1960 so that investors of modest means could invest in income producing real estate assets. During the last four decades, REITs have provided not only real estate ownership opportunities for individual investors, but also an important source of capital for real estate investment.

As tax policy makers we have the responsibility to make sure that tax laws governing REITs are updated to reflect the realities of a dynamic market and to maintain a proper competitive balance between real estate owned through the REIT structure and through more traditional corporate and partnership structures. But because REITs are pass-through entities, we also have a responsibility to ensure that they are not used as vehicles for sheltering corporate taxes in a manner inconsistent with Congressional intent. In fact, twice in the last Congress the Finance Committee crafted legislation, later signed into law, to stop inappropriate use of the REIT structure in the case of so-called ''stapled entities'' and liquidating subsidiaries.

The Administration has included a proposal in its FY 2000 budget that would, among other things, allow REITs to own a taxable REIT subsidiary. The legislation introduced by Senators MACK and GRAHAM builds on the Administration proposal, and would expand the permissible business activities of REITs.

The approach taken in the proposals advanced by the Administration and by Senators MACK and GRAHAM warrant consideration. I have asked my staff to review the legislation and work with the authors of the bill. It is my hope that Congress can enact REIT modernization legislation this year.

ADDITIONAL COSPONSORS

S. 201

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 201, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 247

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 247, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 335

At the request of Ms. COLLINS, the names of the Senator from Nevada (Mr. BRYAN), the Senator from Utah (Mr. HATCH), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 335, a bill to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

S. 459

At the request of Mr. BREAUX, the names of the Senator from Kentucky

(Mr. BUNNING) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 487

At the request of Mr. GRAMS, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 487, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 512

At the request of Mr. GORTON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 526

At the request of Mr. GRAHAM, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 526, a bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes.

S. 577

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Kansas (Mr. BROWNBACK) 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. 763

At the request of Mr. THURMOND, the name of the Senator from Maine (Ms. COLLINS) 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. 879

At the request of Mr. CONRAD, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 879, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements

S. 1017

At the request of Mr. MACK, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1017, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit.

S. 1034

At the request of Mr. AKAKA, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of 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.

SENATE JOINT RESOLUTION 22

At the request of Mr. JEFFORDS, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of Senate Joint Resolution 22, a joint resolution to reauthorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact

AMENDMENTS SUBMITTED

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

ALLARD (AND OTHERS) AMENDMENT NO. 351

(Ordered to lie on the table.)

Mr. ALLARD (for himself, Mr. CRAIG, Mr. HELMS, and Mr. ENZI) submitted an amendment intended to be proposed by them 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:

At the appropriate place in the bill, insert the following:

SEC. . CONSTITUTIONALITY OF MEMORIAL SERVICES AND MEMORIALS AT PUBLIC SCHOOLS.

(a) FINDINGS.—The Congress of the United States finds that the saying of a prayer, the reading of a scripture, or the performance of religious music, as part of a memorial service that is held on the campus of a public school in order to honor the memory of any person slain on that campus does not violate the First Amendment to the Constitution of the United States, and that the design and construction of any memorial that is placed on the campus of a public school in order to honor the memory of any person slain on that campus a part of which includes religious symbols, motifs, or sayings does not violate the First Amendment to the Constitution of the United States.

(b) LAWSUITS.—In any lawsuit claiming that the type of memorial or memorial service described in subsection (a) violates the Constitution of the United States—

(1) each party shall pay its own attorney's fees and costs, notwithstanding any other provision of law, and

(2) the Attorney General of the United States is authorized to provide legal assistance to the school district or other governmental entity that is defending the legality of such memorial service.

KOHL (AND OTHERS) AMENDMENT NO. 352

Mr. KOHL (for himself, Mr. HATCH, and Mr. CHAFEE) proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place in the bill, in Title ___, General Provisions, insert the following new sections:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Handgun Storage & Child Handgun Safety Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(a) To promote the safe storage and use of handguns by consumers.

(b) To prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun, unless it is under one the circumstances provided for in the Youth Handgun Safety Act.

(c) To avoid hindering industry from supplying law abiding citizens firearms for all lawful purposes, including hunting, self-defense, collecting and competitive or recreational shooting.

SEC. 3. FIREARMS SAFETY.

(a) UNLAWFUL ACTS—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under the provisions of this chapter, unless the transferee is provided with a secure gun storage or safety device, as described in section 921(a)(35) of this chapter, for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the—

''(A)(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

''(B) transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

''(C) transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

''(D) transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), provided that the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.''.

''(3) LIABILITY FOR USE.—(A) Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a civil liability action as described in this paragraph.

''(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in

any federal or State court. The term 'qualified civil liability action' means a civil action brought by any person against a person describe din subparagraph (A0 for damages resulting from the criminal or unlawful misuse of the handgun by a third party, where—

''(i) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

''(ii) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device.

''A 'qualified civil liability action' shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

(b) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

''(i) suspend for up to six months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this Act shall be construed to—

(A) create a cause of action against any federal firearms licensee or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this Act shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce paragraphs (1) and (2) of section 922(z), or to give effect to paragraph (3) of section 922(z).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

SEC. 4. 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 FEINSTEIN) AMENDMENT NO. 353

Mr. HATCH (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 254, supra; as follows:

On page 47, strike line 4 and all that follows through page 48, line 9, and insert the following:

SEC. 204. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a), in the second undesignated paragraph—

(A) by striking ''5'' and inserting ''3'';

(B) by inserting '', whether formal or informal'' after ''or more persons''; and

(C) in subparagraph (A), by inserting ''or activities'' after ''purposes'';

(2) in subsection (b), by inserting after ''10 years'' the following: ''and such person shall be subject to the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853)'';

(3) in subsection (c)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon;

(C) by adding at the end the following:

''(3) that is a violation of section 522 (relating to the recruitment of persons to participate in criminal gang activity);

''(4) that is a violation of section 844, 875, or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), or chapter 73 (relating to obstruction of justice);

''(5) that is a violation of section 1956 (relating to money laundering), to the extent that the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(6) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling); and

''(7) a conspiracy, attempt, or solicitation to commit an offense described in paragraphs (1) through (6).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3663(c)(4) of title 18, United States Code, is amended by striking ''chapter 46'' and inserting ''section 521, chapter 46,''.

On page 51, line 12, strike ''25 percent'' and insert ''40 percent''.

On page 51, line 10, strike ''75 percent'' and insert ''60 percent''.

On page 54, after line 16, add the following:

SEC. 207. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) DEFINITION OF CRIMINAL STREET GANG.—In this section, the term ''criminal street gang'' has the meaning given that term in section 521(a) of title 18, United States Code, as amended by section 204 of this Act.

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide an appropriate enhancement for any Federal offense described in section 521(c) of title 18, United States Code as amended by section 204 of this Act, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(2) FACTORS TO BE CONSIDERED.—In determining an appropriate enhancement under this section, the United States Sentencing Commission shall give great weight to the seriousness of the offense, the offender's relative position in the criminal gang, and the risk of death or serious bodily injury to any person posed by the offense.

(c) CONSTRUCTION WITH OTHER GUIDELINES.—The amendment made by subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal Sentencing Guidelines.

SEC. 208. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL GANGS.

(a) TRAVEL ACT AMENDMENT.—Section 1952 of title 18, United States Code, is amended to read as follows:

''§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

''(a) PROHIBITED CONDUCT AND PENALTIES.—

''(1) IN GENERAL.—Whoever—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

''(i) distribute the proceeds of any unlawful activity; or

''(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A);

shall be fined under this title, imprisoned not more than 10 years, or both.

''(2) CRIMES OF VIOLENCE.—Whoever—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity;

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.

''(b) DEFINITIONS.—In this section:

''(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(2) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(3) UNLAWFUL ACTIVITY.—The term 'unlawful activity' means—

''(A) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

''(B) extortion, bribery, arson, burglary if the offense involves property valued at not less than $10,000, assault with a deadly weapon, assault resulting in bodily injury, shooting at an occupied dwelling or motor vehicle, or retaliation against or intimidation of witnesses, victims, jurors, or informants, in violation of the laws of the State in which the offense is committed or of the United States;

''(C) the use of bribery, force, intimidation, or threat, directed against any person, to delay or influence the testimony of or prevent from testifying a witness in a State criminal proceeding or by any such means to cause any person to destroy, alter, or conceal a record, document, or other object, with intent to impair the object's integrity or availability for use in such a proceeding; or

''(D) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.''.

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States

Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines to provide an appropriate increase in the offense levels for traveling in interstate or foreign commerce in aid of unlawful activity.

(2) UNLAWFUL ACTIVITY DEFINED.—In this subsection, the term ''unlawful activity'' has the meaning given that term in section 1952(b) of title 18, United States Code, as amended by this section.

(3) SENTENCING ENHANCEMENT FOR RECRUITMENT ACROSS STATE LINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide an appropriate enhancement for a person who, in violating section 522 of title 18, United States Code (as added by section 207 of this Act), recruits, solicits, induces, commands, or causes another person residing in another State to be or to remain a member of a criminal street gang, or crosses a State line with the intent to recruit, solicit, induce, command, or cause another person to be or to remain a member of a criminal street gang.

SEC. 209. PROHIBITIONS RELATING TO FIREARMS.

(a) SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(iii) any act of juvenile delinquency that, if committed by an adult, would be an offense described in clause (i) or (ii);''.

(b) TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.—Section 924(h) of title 18, United States Code, is amended by inserting ''and if the transferee is a person who is under 18 years of age, imprisoned not less than 3 years,'' after ''10 years,''.

SEC. 210. CLONE PAGERS.

(a) IN GENERAL.—Section 2511(2)(h) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

''(i) to use a pen register, trap and trace device, or clone pager, as those terms are defined in chapter 206 of this title (relating to pen registers, trap and trace devices, and clone pagers); or'';

(b) EXCEPTION.—Section 3121 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register, trap and trace device, or clone pager without first obtaining a court order under section 3123 or 3129 of this title, or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).'';

(2) in subsection (b), by striking ''a pen register or a trap and trace device'' and inserting ''a pen register, trap and trace device, or clone pager''; and

(3) by striking the section heading and inserting the following:

''§ 3121. General prohibition on pen register, trap and trace device, and clone pager use; exception''.

(c) ASSISTANCE.—Section 3124 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(2) by inserting after subsection (b) the following:

''(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to use a clone pager under this chapter, a provider of electronic communication service shall furnish to such investigative or law enforcement officer all information, facilities, and technical assistance necessary to accomplish the use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court provides to the subscriber, if such assistance is directed by a court order, as provided in section 3129(b)(2) of this title.''; and

(3) by striking the section heading and inserting the following:

''§ 3124. Assistance in installation and use of a pen register, trap and trace device, or clone pager''.

(d) EMERGENCY INSTALLATIONS.—Section 3125 of title 18, United States Code, is amended—

(1) by striking ''pen register or a trap and trace device'' and ''pen register or trap and trace device'' each place they appear and inserting ''pen register, trap and trace device, or clone pager'';

(2) in subsection (a), by striking ''an order approving the installation or use is issued in accordance with section 3123 of this title'' and inserting ''an application is made for an order approving the installation or use in accordance with section 3122 or section 3128 of this title'';

(3) in subsection (b), by adding at the end the following: ''If such application for the use of a clone pager is denied, or in any other case in which the use of the clone pager is terminated without an order having been issued, an inventory shall be served as provided for in section 3129(e) of this title.''; and

(4) by striking the section heading and inserting the following:

''§ 3125. Emergency installation and use of pen register, trap and trace device, and clone pager''.

(e) REPORTS.—Section 3126 of title 18, United States Code, is amended—

(1) by striking ''pen register orders and orders for trap and trace devices'' and inserting ''orders for pen registers, trap and trace devices, and clone pagers''; and

(2) by striking the section heading and inserting the following:

''§ 3126. Reports concerning pen registers, trap and trace devices, and clone pagers''.

(f) DEFINITIONS.—Section 3127 of title 18, United States Code, is amended—

(1) in paragraph (2)—

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

(B) by striking subparagraph (B) and inserting the following:

''(B) with respect to an application for the use of a pen register or trap and trace device, a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device; or

''(C) with respect to an application for the use of a clone pager, a court of general criminal jurisdiction of a State authorized by the law of that State to issue orders authorizing the use of a clone pager;'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(7) the term 'clone pager' means a numeric display device that receives communications intended for another numeric display paging device.''.

(g) APPLICATIONS.—Chapter 206 of title 18, United States Code, is amended by adding at the end the following:

''§ 3128. Application for an order for use of a clone pager

''(a) APPLICATION.—

''(1) FEDERAL REPRESENTATIVES.—Any attorney for the Government may apply to a court of competent jurisdiction for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

''(2) STATE REPRESENTATIVES.—A State investigative or law enforcement officer may, if authorized by a State statute, apply to a court of competent jurisdiction of such State for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

''(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

''(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation;

''(2) the identity, if known, of the individual or individuals using the numeric display paging device to be cloned;

''(3) a description of the numeric display paging device to be cloned;

''(4) a description of the offense to which the information likely to be obtained by the clone pager relates;

''(5) the identity, if known, of the person who is subject of the criminal investigation; and

''(6) an affidavit or affidavits, sworn to before the court of competent jurisdiction, establishing probable cause to believe that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

''§ 3129. Issuance of an order for use of a clone pager

''(a) IN GENERAL.—Upon an application made under section 3128 of this title, the court shall enter an ex parte order authorizing the use of a clone pager within the jurisdiction of the court if the court finds that the application has established probable cause to believe that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

''(b) CONTENTS OF AN ORDER.—An order issued under this section—

''(1) shall specify—

''(A) the identity, if known, of the individual or individuals using the numeric display paging device to be cloned;

''(B) the numeric display paging device to be cloned;

''(C) the identity, if known, of the subscriber to the pager service; and

''(D) the offense to which the information likely to be obtained by the clone pager relates; and

''(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to use the clone pager under section 3124 of this title.

''(c) TIME PERIOD AND EXTENSIONS.—

''(1) IN GENERAL.—An order issued under this section shall authorize the use of a clone pager for a period not to exceed 30 days. Such 30-day period shall begin on the earlier of the day on which the investigative or law enforcement officer first begins use of the clone pager under the order or the tenth day after the order is entered.

''(2) EXTENSIONS.—Extensions of an order issued under this section may be granted, but only upon an application for an order under section 3128 of this title and upon the judicial finding required by subsection (a). An extension under this paragraph shall be for a period not to exceed 30 days.

''(3) REPORT.—Within a reasonable time after the termination of the period of a clone

pager order or any extensions thereof under this subsection, the applicant shall report to the issuing court the number of numeric pager messages acquired through the use of the clone pager during such period.

''(d) NONDISCLOSURE OF EXISTENCE OF CLONE PAGER.—An order authorizing the use of a clone pager shall direct that—

''(1) the order shall be sealed until otherwise ordered by the court; and

''(2) the person who has been ordered by the court to provide assistance to the applicant may not disclose the existence of the clone pager or the existence of the investigation to the listed subscriber, or to any other person, until otherwise ordered by the court.

''(e) NOTIFICATION.—

''(1) IN GENERAL.—Within a reasonable time, not later than 90 days after the date of termination of the period of a clone pager order or any extensions thereof, the issuing judge shall cause to be served, on the individual or individuals using the numeric display paging device that was cloned, an inventory including notice of—

''(A) the fact of the entry of the order or the application;

''(B) the date of the entry and the period of clone pager use authorized, or the denial of the application; and

''(C) whether or not information was obtained through the use of the clone pager.

''(2) POSTPONEMENT.—Upon an ex-parte showing of good cause, a court of competent jurisdiction may in its discretion postpone the serving of the notice required by this subsection.''.

(h) CLERICAL AMENDMENTS.—The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3121 and inserting the following:

''3121. General prohibition on pen register, trap and trace device, and clone pager use; exception.'';

(2) by striking the items relating to sections 3124, 3125, and 3126 and inserting the following:

''3124. Assistance in installation and use of a pen register, trap and trace device, or clone pager.

''3125. Emergency installation and use of pen register, trap and trace device, and clone pager.

''3126. Reports concerning pen registers, trap and trace devices, and clone pagers.''; and

(3) by adding at the end the following:

''3128. Application for an order for use of a clone pager.

''3129. Issuance of an order for use of a clone pager''.

(i) CONFORMING AMENDMENT.—Section 704(a) of the Communications Act of 1934 (47 U.S.C. 605(a)) is amended by striking ''chapter 119,'' and inserting ''chapters 119 and 206 of''.

Add the following at the end:

SEC. 402. CRIMINAL PROHIBITION ON DISTRIBUTION OF CERTAIN INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) UNLAWFUL CONDUCT.—Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(p) DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.—

''(1) DEFINITIONS.—In this subsection:

''(A) The term 'destructive device' has the same meaning as in section 921(a)(4).

''(B) The term 'explosive' has the same meaning as in section 844(j).

''(C) The term 'weapon of mass destruction' has the same meaning as in section 2332a(c)(2).

''(2) PROHIBITION.—It shall be unlawful for any person—

''(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

''(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.''.

(b) PENALTIES.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''person who violates any of subsections'' and inserting the following: ''person who—

''(1) violates any of subsections'';

(2) by striking the period at the end and inserting ''; and'';

(3) by adding at the end the following:

''(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.''; and

(4) in subsection (j), by striking ''and (i)'' and inserting ''(i), and (p)''.

Subtitle C—James Guelff Body Armor Act

SEC. 441. SHORT TITLE.

This subtitle may be cited as the ''James Guelff Body Armor Act of 1999''.

SEC. 442. FINDINGS.

Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor and a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,200 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

SEC. 443. DEFINITIONS.

In this subtitle:

(1) BODY ARMOR.—The term ''body armor'' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) LAW ENFORCEMENT AGENCY.—The term ''law enforcement agency'' means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

SEC. 444. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) SENTENCING ENHANCEMENT.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any offense in which the defendant used body armor.

(b) APPLICABILITY.—No amendment made to the Federal Sentencing Guidelines pursuant to this section shall apply if the Federal offense in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of any person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 445. PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.

(a) DEFINITION OF BODY ARMOR.—Section 921 of title 18, United States Code, is amended by adding at the end the following:

''(35) The term 'body armor' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.''.

(b) PROHIBITION.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 931. Prohibition on purchase, ownership, or possession of body armor by violent felons

''(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

''(1) a crime of violence (as defined in section 16); or

''(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

''(b) AFFIRMATIVE DEFENSE.—

''(1) IN GENERAL.—It shall be an affirmative defense under this section that—

''(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

''(B) the use and possession by the defendant were limited to the course of such performance.

''(2) EMPLOYER.—In this subsection, the term 'employer' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.''.

(2) CLERICAL AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''931. Prohibition on purchase, ownership, or possession of body armor by violent felons.''.

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.''.

SEC. 446. DONATION OF FEDERAL SURPLUS BODY ARMOR TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) DEFINITIONS.—In this section, the terms ''Federal agency'' and ''surplus property'' have the meanings given such terms under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) DONATION OF BODY ARMOR.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor is—

(1) in serviceable condition; and

(2) surplus property.

(c) NOTICE TO ADMINISTRATOR.—The head of a Federal agency who donates body armor under this section shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(d) DONATION BY CERTAIN OFFICERS.—

(1) DEPARTMENT OF JUSTICE.—In the administration of this section with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(A) The Administrator of the Drug Enforcement Administration.

(B) The Director of the Federal Bureau of Investigation.

(C) The Commissioner of the Immigration and Naturalization Service.

(D) The Director of the United States Marshals Service.

(2) DEPARTMENT OF THE TREASURY.—In the administration of this section with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(A) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(B) The Commissioner of Customs.

(C) The Director of the United States Secret Service.

SEC. 447. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Officer Dale Claxton of the Cortez, Colorado, Police Department was shot and killed by bullets that passed through the windshield of his police car after he stopped a stolen truck, and his life may have been saved if his police car had been equipped with bullet resistant equipment;

(2) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had access to additional bullet resistant equipment;

(3) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were feloniously killed in the line of duty;

(4) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing bullet resistant equipment, such as an armor vest, is 14 times higher than for officers wearing an armor vest;

(5) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(6) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply despite a decrease in the national crime rate, and has concluded that there is a ''public safety crisis in Indian country''.

(b) PURPOSE.—The purpose of this chapter is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with bullet resistant equipment and video cameras.

SEC. 448. MATCHING GRANT PROGRAMS FOR LAW ENFORCEMENT BULLET RESISTANT EQUIPMENT AND FOR VIDEO CAMERAS.

(a) IN GENERAL.—Part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll et seq.) is amended—

(1) by striking the part designation and part heading and inserting the following:

''PART Y—MATCHING GRANT PROGRAMS FOR LAW ENFORCEMENT

''Subpart A—Grant Program For Armor Vests'';

(2) by striking ''this part'' each place it appears and inserting ''this subpart''; and

(3) by adding at the end the following:

''Subpart B—Grant Program For Bullet Resistant Equipment

''SEC. 2511. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase bullet resistant equipment for use by State, local, and tribal law enforcement officers.

''(b) USES OF FUNDS.—Grants awarded under this section shall be—

''(1) distributed directly to the State, unit of local government, or Indian tribe; and

''(2) used for the purchase of bullet resistant equipment for law enforcement officers in the jurisdiction of the grantee.

''(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this subpart, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

''(1) has the greatest need for bullet resistant equipment based on the percentage of law enforcement officers in the department who do not have access to a vest;

''(2) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

''(3) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119).

''(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to this section except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.10 percent.

''(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

''(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

''(g) ALLOCATION OF FUNDS.—At least half of the funds available under this subpart shall be awarded to units of local government with fewer than 100,000 residents.

''SEC. 2512. APPLICATIONS.

''(a) IN GENERAL.—To request a grant under this subpart, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

''(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this subpart, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

''(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 104–119)) during a fiscal year in which it submits an application under this subpart shall not be eligible for a grant under this subpart unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of bullet resistant equipment, but did not, or does not expect to use such funds for such purpose.

''SEC. 2513. DEFINITIONS.

''In this subpart—

''(1) the term 'equipment' means windshield glass, car panels, shields, and protective gear;

''(2) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

''(3) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

(4) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

''(5) the term 'law enforcement officer' means any officer, agent, or employee of a

State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

"Subpart C—Grant Program For Video Cameras

"SEC. 2521. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase video cameras for use by State, local, and tribal law enforcement agencies in law enforcement vehicles.

''(b) USES OF FUNDS.—Grants awarded under this section shall be—

''(1) distributed directly to the State, unit of local government, or Indian tribe; and

''(2) used for the purchase of video cameras for law enforcement vehicles in the jurisdiction of the grantee.

''(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this subpart, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

''(1) has the greatest need for video cameras, based on the percentage of law enforcement officers in the department do not have access to a law enforcement vehicle equipped with a video camera;

''(2) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

''(3) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119).

''(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.10 percent.

''(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

''(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

''(g) ALLOCATION OF FUNDS.—At least half of the funds available under this subpart shall be awarded to units of local government with fewer than 100,000 residents.

"SEC. 2522. APPLICATIONS.

''(a) IN GENERAL.—To request a grant under this subpart, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

''(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this subpart, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

''(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) during a fiscal year in which it submits an application under this subpart shall not be eligible for a grant under this subpart unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of video cameras, but did not, or does not expect to use such funds for such purpose.

"SEC. 2523. DEFINITIONS.

''In this subpart—

''(1) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

''(2) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders;

''(3) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands; and

''(4) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (23) and inserting the following:

''(23) There are authorized to be appropriated to carry out part Y—

''(A) $25,000,000 for each of fiscal years 2000 through 2002 for grants under subpart A of that part;

''(B) $40,000,000 for each of fiscal years 2000 through 2002 for grants under subpart B of that part; and

''(C) $25,000,000 for each of fiscal years 2000 through 2002 for grants under subpart C of that part.''.

(c) CLERICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by striking the item relating to the part heading of part Y and inserting the following:

''PART Y—MATCHING GRANTS PROGRAMS FOR LAW ENFORCEMENT

''SUBPART A—GRANT PROGRAM FOR ARMOR VESTS''; AND

(2) by adding at the end of the matter relating to part Y the following:

''SUBPART B—GRANT PROGRAM FOR BULLET RESISTANT EQUIPMENT

''2511. Program authorized.
''2512. Applications.
''2513. Definitions.

''SUBPART C—GRANT PROGRAM FOR VIDEO CAMERAS

''2521. Program authorized.
''2522. Applications.
''2523. Definitions.''.

SEC. 449. SENSE OF CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available under subpart B or C of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by this chapter, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

SEC. 450. TECHNOLOGY DEVELOPMENT.

Section 202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended by adding at the end the following:

''(e) BULLET RESISTANT TECHNOLOGY DEVELOPMENT.—

''(1) IN GENERAL.—The Institute is authorized to—

''(A) conduct research and otherwise work to develop new bullet resistant technologies (i.e., acrylic, polymers, aluminized material, and transparent ceramics) for use in police equipment (including windshield glass, car panels, shields, and protective gear);

''(B) inventory bullet resistant technologies used in the private sector, in surplus military property, and by foreign countries;

''(C) promulgate relevant standards for, and conduct technical and operational testing and evaluation of, bullet resistant technology and equipment, and otherwise facilitate the use of that technology in police equipment.

''(2) PRIORITY.—In carrying out this subsection, the Institute shall give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with High Intensity Drug Trafficking Areas.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years 2000 through 2002.''.

SEC. 451. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

Section 2501(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll(f)) is amended—

(1) by striking ''The portion'' and inserting the following:

''(1) IN GENERAL.—Subject to paragraph (2), the portion''; and

(2) by adding at the end the following:

''(2) WAIVER.—The Director may waive, in whole or in part, the requirement of paragraph (1) in the case of fiscal hardship, as determined by the Director.''.

Subtitle D—Animal Enterprise Terrorism and Ecoterrorism

SEC. 461. ENHANCEMENT OF PENALTIES FOR ANIMAL ENTERPRISE TERRORISM.

Section 43 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A), by striking ''under this title'' and inserting ''consistent with this title or double the amount of damages, whichever is greater,''; and

(B) by striking ''one year'' and inserting ''five years''; and

(2) in subsection (b)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph (2):

''(2) EXPLOSIVES OR ARSON.—Whoever in the course of a violation of subsection (a) maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used by the animal enterprise shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.''; and

(C) in paragraph (3), as so redesignated, by striking ''under this title and'' and all that follows through the period and inserting ''under this title, imprisoned for life or for any term of years, or sentenced to death.''.

SEC. 462. NATIONAL ANIMAL TERRORISM AND ECOTERRORISM INCIDENT CLEARINGHOUSE.

(a) IN GENERAL.—The Director shall establish and maintain a national clearinghouse for information on incidents of crime and terrorism—

(1) committed against or directed at any animal enterprise;

(2) committed against or directed at any commercial activity because of the perceived impact or effect of such commercial activity on the environment; or

(3) committed against or directed at any person because of such person's perceived connection with or support of any enterprise or activity described in paragraph (1) or (2).

(b) CLEARINGHOUSE.—The clearinghouse established under subsection (a) shall—

(1) accept, collect, and maintain information on incidents described in subsection (a) that is submitted to the clearinghouse by Federal, State, and local law enforcement agencies, by law enforcement agencies of foreign countries, and by victims of such incidents;

(2) collate and index such information for purposes of cross-referencing; and

(3) upon request from a Federal, State, or local law enforcement agency, or from a law enforcement agency of a foreign country, provide such information to assist in the investigation of an incident described in subsection (a).

(c) SCOPE OF INFORMATION.—The information maintained by the clearinghouse for each incident shall, to the extent practicable, include—

(1) the date, time, and place of the incident;

(2) details of the incident;

(3) any available information on suspects or perpetrators of the incident; and

(4) any other relevant information.

(d) DESIGN OF CLEARINGHOUSE.—The clearinghouse shall be designed for maximum ease of use by participating law enforcement agencies.

(e) PUBLICITY.—The Director shall publicize the existence of the clearinghouse to law enforcement agencies by appropriate means.

(f) RESOURCES.—In establishing and maintaining the clearinghouse, the Director may—

(1) through the Attorney General, utilize the resources of any other department or agency of the Federal Government; and

(2) accept assistance and information from private organizations or individuals.

(g) COORDINATION.—The Director shall carry out the Director's responsibilities under this section in cooperation with the Director of the Bureau of Alcohol, Tobacco, and Firearms.

(h) DEFINITIONS.—In this section:

(1) The term ''animal enterprise'' has the same meaning as in section 43 of title 18, United States Code.

(2) The term ''Director'' means the Director of the Federal Bureau of Investigation.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as are necessary to carry out this section.

FEINSTEIN AMENDMENT NO. 354

Mrs. FEINSTEIN proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place, add the following:

SEC. ___. INTERSTATE SHIPMENT AND DELIVERY OF INTOXICATING LIQUORS.

(a) IN GENERAL.—Chapter 59 of title 18, United States Code, is amended—

(1) in section 1263—

(A) by inserting ''a label on the shipping container that clearly and prominently identifies the contents as alcoholic beverages, and a'' after ''accompanied by''; and

(B) by inserting ''and requiring upon delivery the signature of a person who has attained the age for the lawful purchase of intoxicating liquor in the State in which the delivery is made,'' after ''contained therein,''; and

(2) in section 1264, by inserting ''or to any person other than a person who has attained the age for the lawful purchase of intoxicating liquor in the State in which the delivery is made,'' after ''consignee,''.

(b) REVOCATION OF BASIC PERMIT.—The Director of the Bureau of Alcohol, Tobacco, and Firearms shall revoke the basic permit of any person who has been convicted of 3 or more violations of the provisions of title 18, United States Code, added by this section.

FRIST (AND OTHERS) AMENDMENT NO. 355

Mr. FRIST (for himself, Mr. ASHCROFT, Mr. HELMS, Mr. COVERDELL, Mr. ALLARD, and Mr. NICKLES) proposed an amendment to the bill, S. 254, supra; as follows:

At the appropriate place, insert the following:

Subtitle ____—School Safety

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 educational 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 chooses 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) FIREARM.—The term 'firearm' has the meaning given the term under section 921 of title 18, 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: ''Except as provided in section 615(k)(10), whenever''.

SEC. ___3. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free Schools 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(k)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(k)(10)).''.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 105–341, announces the appointment of the following individuals to the Women's Progress Commemoration Commission: Joan Doran Hedrick, of Connecticut; Lisa Perry, of New York; and Virginia Driving Hawk Sneve, of South Dakota.

SEQUENTIAL REFERRAL OF S. 1009

Mr. WARNER. Mr. President, pursuant to section 3(b) of S. Res. 400 of the 94th Congress, I request that S. 1009, the Intelligence Authorization Act for Fiscal Year 2000, which was reported out on May 11 by the Select Committee on Intelligence, be sequentially referred to the Committee on Armed

Services for a period not to exceed 30 days.

ORDERS FOR MONDAY, MAY 17, 1999

Mr. VOINOVICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on Monday, May 17. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then proceed to 1 hour of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. VOINOVICH. For the information of all Senators, it is expected that the Senate will resume debate on the juvenile justice bill on Monday afternoon. On Monday, it may be the intention of the leadership to postpone or vitiate the cloture vote with respect to Y2K, if an agreement can be reached regarding proceeding to the bill. However, until or if that vote is canceled, all Senators should be prepared to vote beginning at 9:45 on Tuesday.

Senators who have amendments on the list with respect to juvenile justice should be prepared to offer their amendments on Monday. However, no votes will occur on Monday.

As previously announced, the majority leader would like to consider the Y2K legislation later in the week, as well as the supplemental appropriations conference report and the bankruptcy reform bill. Therefore, next week, beginning Tuesday, it will be a busy week with rollcall votes throughout each day and evening, if necessary. Consequently, all Members' cooperation will be greatly appreciated.

ORDER FOR ADJOURNMENT

Mr. VOINOVICH. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess under the previous order, following the remarks of Senator BAUCUS and Senator WYDEN.

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

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

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

CHINA, WTO, AND PERMANENT NORMAL TRADING RELATIONS

Mr. BAUCUS. Mr. President, on behalf of a bipartisan group of 30 Senators, this morning I sent a letter to President Clinton expressing our view that bilateral negotiations with China over accession to the World Trade Organization should be resumed immediately and finalized quickly. After completion of an agreement that clearly advances U.S. economic interests, we are committed to granting China permanent Normal Trading Relations (NTR) status.

It is critical, especially after the events in Belgrade and Beijing over this past week, that we understand what is in America's national interest. It is in our national interest to ensure that China is incorporated into the global trade community through membership in the WTO. It is in our national interest to make sure that China follows internationally accepted trade rules. It is in our national interest to improve market access and open China's markets to American agricultural products, services, and manufactured goods. And it is in our national interest to do what we can to help anchor and sustain the economic reform process currently underway in China.

As I look at the Senators who signed this letter, I see a broad representation of our country, our society, and our economy. The nature of this group, half Democrat and half Republican, demonstrates that there is strong and broad support in the Senate for us to focus on America's long-term national economic interests in developing our trading relationship with China. We cannot, we must not, and we will not, ignore the many problem areas in the broad U.S.-China relationship, from human rights to espionage to weapons proliferation. But the message is clear that we must look closely at every aspect of this relationship in an objective way, determine what is best for us as a nation, and act accordingly.

The agreements reached during Chinese Premier Zhu Rongji's recent visit to Washington are solid. We want no back-pedaling on those understandings. We want an early resumption of the trade negotiations and a rapid conclusion. We want to bring China into the global trade community, and to do so it is necessary to grant China permanent normal trading relations status. The broad bipartisan group of Senators who signed today's letter firmly supports that.

Let me be clear about the intended recipients of the message in this letter. We want the administration to know that a core bipartisan group in the Senate is behind resumption of negotiations and conclusion of a WTO agreement, and that group will support permanent NTR status for China. We want the most senior levels of the Chinese government to know that a good WTO agreement with the United States will lead rapidly to WTO accession and to permanent NTR status. We want the American public to understand that we in the Senate are taking strong leadership in promoting the long-term economic interests of this country.

And we want the American business community to know that they have responsibilities: first, to work ceaselessly to take advantage of the concessions China will make as it enters the WTO, second, to expand exports to China that will grow jobs in the United States, and, third, to educate the public and policymakers about the importance of integrating China into the global economy.

The terms negotiated by USTR, the Department of Agriculture, and others are excellent. These are structural changes, market opening measures, and trade concessions made by China, not by the United States. We, the United States, are giving up nothing and are obtaining immeasurable possibilities for the future.

I ask unanimous consent that this bipartisan letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 14, 1999.

President WILLIAM JEFFERSON CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to encourage you to finalize bilateral negotiations over Chinese accession to the WTO. For our part, upon conclusion of a market access agreement that clearly advances our economic interests in China, we are committed to granting China permanent Normal Trading Relations status.

Despite the events of this week in Belgrade and China, it is critical that we focus on what is important to America's national interest. Incorporating China into the global trade community through WTO membership; encouraging China to follow internationally accepted trade rules; opening Chinese markets to our manufactured goods, agricultural products, and services; and helping to anchor the economic reform process underway in China, all serve our national interest. The recent events in Belgrade and Beijing are reason neither to weaken those commitments made during Premier Zhu Rongji's visit last month nor to delay conclusion of the accession process.

We look forward to working with you to ensure an early conclusion of these negotiations and China's accession to the WTO.

Sincerely,

Max Baucus, John H. Chafee, Jay Rockefeller, Don Nickles, John Breaux, Chuck Grassley, Dianne Feinstein, Ted Stevens, Tom Daschle, Frank Murkowski, Mitch McConnell, Larry Craig, Orrin Hatch, Conrad Burns, Chuck Hagel, Daniel Inouye, Patty Murray, Harry Reid, Sam Brownback, Bob Kerrey, Pat Roberts, Rod Grams, Daniel K. Akaka, George Voinovich, Ron Wyden, Jeff Bingaman, Richard H. Bryan, Gordon Smith, Slade Gorton, Craig Thomas.

RACE FOR THE CURE

Mr. BAUCUS. Mr. President, I rise today to recognize a very important event.

All over the country, women and men alike are preparing for the ''Race for the Cure,'' a 5-kilometer foot race to raise money in the fight against breast cancer. Each year, the number of participants in the race has grown. Sixteen years after its inception, the Race

for the Cure has become the largest 5–K in the world.

I believe this race is widely attended because breast cancer has affected so many people. One in 9 women and approximately 12,000 men are diagnosed with breast cancer every year. So, in some way, everyone—every man, woman, and child is affected by this disease. The Race for the Cure is important because it brings awareness to this disease that is so prevalent today.

This cause and this race are important to me for many reasons. There are several women who are very important to me who are survivors of this terrible disease. I have learned so much from these women; I have seen their courage and, believe me, I want to underscore that point—very courageous. I have seen their willingness to fight. Through them, I have learned more about the value of life.

We often take for granted the gifts that we have been given. We catch ourselves thinking about what will happen in an hour, or in a couple of days, and we forget to live for right now. The precious time that we have with our loved ones is invaluable. We take too little time with them. Through their struggles to fight breast cancer, these women have shown me the importance of a life lived well. And for that, I thank each of them.

This race is being held in over 95 cities in the United States over the next few weeks. I am proud to say that this weekend, on May 15, the Race for the Cure will be held in Helena, MT, my State's capital. Approximately 3,000 runners will participate. More important, over 300 breast cancer survivors will participate this weekend in the race for life.

Seventy-five percent of the race proceeds are used to provide mammography vouchers and grants for follow-up diagnostic tests for more than 600 women in Montana. Thirty-two health care facilities in my State participate in this program.

I extend my special thanks to the Montana Race organizers Connie Malcom and Bobbie Pomroy and the hundreds of volunteers working together to make this important event occur. Women like Jan Paulsen, a seven-year survivor who will represent my State at the National Race for the Cure here in Washington, DC, on June 5.

Congratulations to everyone involved in this important event and good luck to all!

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Y2K ACT

Mr. WYDEN. Mr. President, as the Senate prepares for a Tuesday cloture vote on the Y2K litigation reform legislation, I want to spend just a few minutes this afternoon trying to describe where I believe we are in the course of the Senate debate and all the bipartisan progress that has been made in the last few weeks on this issue. I especially emphasize the bipartisan focus that has been taking place in the Senate.

The House had a vote, as the Presiding Officer knows, this week. Regrettably, it was pretty much along partisan lines. There is certainly nothing partisan about this issue. If we have chaos early in the next century as a result of Y2K frivolous lawsuits, folks are not going to be sitting around asking whether Democrats or Republicans caused it. They are going to be saying: What was the problem? Why didn't the Congress deal with it?

Fortunately, the Senate, unlike the House, has been working in a bipartisan way to deal with this. On the Republican side, Chairman MCCAIN and Chairman HATCH, Senator GORTON, Senator BENNETT, and a variety of Senators have worked with me and Senator DODD, who is the Democratic leader on this issue and has done such a good job on the Y2K committee. And Senator FEINSTEIN has made enormous contributions. She represents California, of course, a State that has a great interest in technology issues.

The most important thing, as the Senate goes to the important Y2K debate next week, is for all of us to recognize that we have taken a completely different approach from that of the House of Representatives. There was no evidence of bipartisanship in the House last week. That has not been the case in the Senate.

I also want to make it clear, both Senate Democrats and Republicans are interested in working with the White House on this legislation. For the White House to veto a responsible Y2K bill would be like throwing a monkey wrench into the technology engine that is driving this Nation's economic prosperity.

I cannot believe the White House would want to do that. I know there are many in the White House who have ideas and suggestions and are talking to Senators of both parties. We are anxious to hear from them, because the Senate is going to move next week to this debate and now is the time for them to come forward with their practical suggestions.

As the Presiding Officer knows, this is a topic that cannot wait. There are a variety of issues before the Senate where the immediacy may not be all that crucial. This is an issue that cannot wait, because if we do not deal with it now, I personally believe what will happen is, early in the next century we really will have chaos as a result of this Y2K situation. The Senate could find itself back in a special session at that time having to deal with it. It is much better to do it now and to do it in a bipartisan way.

I want to spend a few minutes talking about how this effort to make this issue bipartisan and ensure that it is fair to both consumers and business has evolved over the last few weeks.

The legislation that is coming before the Senate early next week is the legislation that began in the Senate Commerce Committee, led in that effort by Chairman MCCAIN and Senator GORTON. Unfortunately, there was a strict party-line vote in the Senate Commerce Committee. I and others said there were a whole lot of features of that original Senate Commerce bill that were just unacceptable to us.

For example, it included language that would have provided what is called a ''reasonable effort'' sort of defense which just was not fair to the plaintiff and to the consumer, and I and others said that we could not support the bill at that time.

But after it came out of the Senate Commerce Committee, Chairman MCCAIN, to his credit, with other leaders on the Republican side of the aisle, made it clear that they wanted to work with Senator DODD, Senator FEINSTEIN, Senator KERRY, myself, and others to fashion a truly bipartisan bill. I believe that is what the Senate has before it now.

For example, the legislation which is coming before the Senate on Tuesday, which we will vote on Tuesday morning, has a sunset provision in it. We have heard all this talk on the floor of the Senate about how Y2K litigation legislation is going to be changing the tort laws and our legal system for all time, that it is going to be making these changes that are just going to last for time immemorial.

The fact of the matter is, the Y2K legislation sunsets in 2003. It is for a short period of time, and for a period of time to deal with what we think will otherwise be a variety of frivolous lawsuits and unnecessary litigation.

Second, the legislation which will be before the Senate early next week does absolutely nothing to change the tort remedies that consumers would have if they were injured as a result of a Y2K-related problem.

For example, if an individual is in an elevator that falls as a result of a computer failure, and tragically falls, say, 10 floors in an office building, and that individual is badly injured or killed, in that instance all of the existing legal remedies, all of the existing tort remedies that are now on the books, would still apply. The legislation before the Senate now would not touch in any way, not in any way, those remedies for personal injuries that would come about as a result of a Y2K failure.

So those two consumer protections—the sunset provision and ensuring that tort remedies are available to injured consumers—are in place and there to protect the public, and it is important that the Senate know that as we go to the upcoming Tuesday vote.

Third, the legislation which is before the Senate now eliminates the new and vague Federal defense, ''reasonable efforts,'' which was what was in the original Commerce Committee legislation. We think that was simply too mushy, too vague. It has been eliminated.

Fourth, after the legislation left the Commerce Committee, there were concerns about a new preemptive Federal standard for establishing punitive damages. Now, under the legislation before the Senate, the current standards as set out in our various States are going to prevail.

Fourth, after the legislation left the committee, we restored punitive damages in the most important cases. If a defendant is acting in bad faith, is engaged in egregious conduct that is offensive to consumers, all of the opportunities for punitive damages will lie. Also, if the defendant is insolvent, there will be a chance for the plaintiff to be made whole in those kinds of instances as well.

So the principle of joint liability for defendants in these key areas is in fact kept in place.

Next, we restore liability for directors and officers when they make misleading statements and withhold information regarding any actual or potential Y2K problem.

So all of that was essentially in the changes which Senator MCCAIN and I brought to the Senate several weeks ago. We thought that that showed a good-faith effort to work with all sides, to work with the technology community, to work with consumer organizations. We consulted with the organizations representing trial lawyers. We thought it reflected a good balance.

After that effort, Senator DODD, the Democratic leader on the Y2K issue, presented a number of other very, very good suggestions, and those have been added as well.

So the Senate now has a Y2K reform bill in front of it where there have been 10 major changes made since this legislation left the Commerce Committee, changes that Senator MCCAIN and I agreed to, that we thought did the job. Senator DODD came forward with some other additional and excellent changes. And Senator MCCAIN, to his credit and effort to be bipartisan, accepted those as well.

So we have now, I think, addressed what has been the original concern of a number of Senators. We keep in place, for example, the States' standards with respect to evidence in these cases. There was a concern by some Senators that somehow this legislation had raised the bar in terms of the plaintiff having to meet higher standards of evidence in order to make their case. We kept the current State evidentiary standards.

So now in fact our standards with respect to evidence track the language in the securities litigation reform bill that was passed and signed into law as well as the 1992 Y2K Information Readiness Disclosure Act. So it is clear that there is precedent for the evidentiary standards we are using in this legislation.

These are major changes. They were put together by a bipartisan group and together, I think, reflect the kind of legislation that the Senate ought to pass and I think will pass when we get an opportunity to vote on the legislation on the merits.

I will also tell you that this makes the Senate bill a very, very different bill from the legislation the House of Representatives enacted a few days ago. The House legislation in fact had a vague reasonable-efforts defense. We got rid of that after it came out of the Senate Commerce Committee. Senator MCCAIN and I and Senator FEINSTEIN and others looked at the legislation. We got rid of that. We said it is too vague, it is not fair to the plaintiff or the consumer. The House kept it earlier in the week.

The House legislation did not have a sunset date in it. Our legislation does. It says this is going to be for a short time window, until 2003.

A number of other changes which we think are not fair to the plaintiff or the consumer were areas that the House was unwilling to touch. On the directors and officers, they do not take the position that we take. They would limit liability for directors and officers. They do not take the position that we take on proportionate liability. And in fact they do have a higher evidentiary standard for the plaintiff and the consumer than we do.

So the fact is, the Senate will be voting on a very, very different bill. I am hopeful that the Senate will strongly endorse our approach, which we think is fair to both plaintiffs and defendants.

There have been other ideas floated in the last couple of days. I will wrap up just for a few minutes by talking about them, because I think if you look at what is being floated now, our legislation again falls right into the balanced, centrist kind of approach the Senate ought to be taking. I am going to wrap up just by briefly discussing some of these other ideas which have been circulated in the last couple of days.

There are some who would like to limit the legislation only to commercial laws. This would deny the consumer the chance to get a Y2K problem fixed in a timely manner. That is what we do in our legislation. But some who would limit the legislation only to commercial laws would force those who are least able to afford attorneys to go out and have to hire them. Under our bill, the consumer tells the manufacturer or the vendor how they want the problem fixed and they would be able to get the job done in 90 days or less.

I do not think the consumer wants to spend months and even years waiting in line after all the other frivolous lawsuits go forward before theirs. I think people want to get their problems solved and want to get them solved quickly. The fact is, under our legislation, if the consumer, if the plaintiff, is not treated fairly, if the consumers do not believe they get a fair shake, they can go out and file suit on the very first day—the very first day—and be in a position to have their issue aired immediately.

Some of the other proposals that have been offered would offer no protection for small business from punitive damages. Without some protection, a small business could be facing an avalanche of lawsuits. Putting a small business out of business is, in my view, an odd way to try to fix the Y2K problem. But what Senator DODD did, with the valuable additions that he made, was the kind of approach that I think really does protect the small business and deal with the issue of small businesses and punitive damages responsibly. Unlimited joint liability, and we have heard some who have advocated that, would declare open season on anybody in the wholesale or in the retail chain. You do that, and there is absolutely no protection for the small business mainstream retailer.

Now, what has been interesting is that some who have opposed the efforts that our bipartisan group has made on the Y2K issue have said that we are against small business and that small business does not get a fair shake under our legislation.

The fact of the matter is that hundreds of small business organizations have endorsed the bipartisan legislation that is before the Senate. I think the idea of having unlimited joint liability really would be inequitable to the small business. Certainly, we ought to make sure those small businesses that are most vulnerable get a fair shake.

Other approaches just do not offer the incentives to business that we think are necessary to help fix the Y2K problem. They just force the consumer into the courtroom, really give businesses no reason to help mitigate the Y2K situation.

This isn't a partisan issue. It affects every computer system that uses date information. Every piece of hardware, every piece of an operating support system, and every software program that uses date-related information may be affected. It is not a design flaw.

There has somehow been spread across the country the notion that all of this stems from design flaws in our computer systems. It was an engineering trade-off. To get more space on a disk and in memory, the precision of century indicators was abandoned. It is hard for all of us to believe today that disk and memory space used to be at a premium, but it was. In the early 1960s, for example, computer memory cost as much as $1 million for what today can be purchased for less than $100. No computer programmer thought that the programs written then would still be running in the year 2000, but they are.

The trade-off became the industry standard, and computers cannot work at all without industry standards. Those standards are the means by which programs and systems exchange information.

I guess you could try to solve the Y2K problem by just dumping all the old layers of computer code that have been accumulated in the last few decades, but that is not a realistic way to proceed. Everybody involved, from CEOs to all of the people doing basic programming, need to continue the painstaking process of making sure that all systems are Y2K compliant. Our goal ought to be to bring every information technology system into Y2K compliance as soon as possible. That ought to be our principal focus and, at the same time, we ought to make sure, as our legislation does, that there is a good safety net in place.

I am very hopeful that the Senate will pass this legislation. We all know that the economic good times that we have seen recently are being driven by technology. I have said repeatedly that if there is a veto of a bipartisan, responsible Y2K bill, that really would be like throwing a monkey wrench into the technology engine that is driving our Nation's prosperity. There is no other way to put it. We have to get a good bipartisan Y2K reform bill on the President's desk. We need to do it now.

I am hopeful that the White House will work with us constructively in the days ahead. I think the changes that have been made since this legislation originally came out of the Senate Commerce Committee do the job. I can tell you, having heard from Senator MCCAIN and Senator HATCH and Senator DODD and Senator FEINSTEIN, we are open to other ideas and suggestions as well. But we have to get this legislation moving. We have to get it signed. It is too important.

I hope our colleagues get a little bit of R&R over the weekend. This has been a long week with the juvenile justice legislation. That bill and Y2K and other subjects are coming up next week, which will be hectic as well. I am very hopeful our colleagues will support the bipartisan Y2K bill that we will have before us Tuesday at 9:45.

Mr. President, I yield the floor.

RECESS UNTIL MONDAY, MAY 17, 1999

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until Monday, May 17, 1999.

Thereupon, the Senate, at 3:29 p.m., recessed until Monday, May 17, 1999, at 12 noon.