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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SUSAN M. COLLINS, a Senator from the State of Maine.

REVISED NOTICE

If the 106th Congress, 1st Session, adjourns sine die on or before November 17, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on December 2, 1999, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through December 1. The final issue will be dated December 2, 1999, and will be delivered on Friday, December 3, 1999.

If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

NOTICE

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MICHAEL F. DiMARIO, *Public Printer.*

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

PRAYER

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

Gracious God, we thank You for the impact of women on American history. We praise You for our founding Pilgrim Foremothers and the role they had in establishing our Nation, for the strategic role of women in the battle for our independence, for the incredible courage of women who helped push back the frontier, for the suffragettes who fought for the right to vote and the place of women in our society, for the dynamic women who have given crucial leadership in each period of our history.

Today, Gracious God, we give You thanks for the women who serve here in the Senate: for the outstanding women Senators, for women who serve as officers of the Senate, for women who serve in strategic positions in the ongoing work of the Senate, and for the many women throughout the Senate family who glorify You in their loyalty and in their excellence.

Our prayer today, Gracious Lord, is that the role of women in the Senate would exemplify to the American people the importance of the leadership of women in every level of our society.

Thank You, Gracious God. In Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 10, 1999.

TO THE SENATE: Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SUSAN M. COLLINS, a Senator from the State of Maine, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Ms. COLLINS thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

WOMEN IN THE SENATE

Mr. LOTT. Madam President, perhaps my colleagues have already noticed that the Senate seems to be extraordinarily well organized and effective today and there is a reason for that. With apologies from the Chaplain and the majority leader, I think we should note that a significant milestone in the 210-year course of the Senate's history is taking place. Never before has a team composed entirely of women Members and staff opened the day's proceedings. Today's remarkable occasion reminds Members how much the Senate's collective face has changed and improved in recent years.

The Senate has benefited from the service of 27 female Senators since the Honorable Rebecca Felton of Georgia first held that position on November 21, 1922, and particularly since 1932, when Hattie Caraway of Arkansas became the first woman elected to the Senate. While Senator Felton served only 2 days, Ms. Caraway's service continued until 1945, and she became the first woman to chair a Senate Committee.

Another pioneering woman Senator was Margaret Chase Smith of Maine, and the Presiding Officer today, Senator COLLINS, also hails from that State of Maine. Mrs. Smith joined the Senate in 1949 and served until 1973. During her distinguished career, she openly criticized the tactics of fellow Senator Joseph McCarthy in a 1950 speech entitled ''A Declaration of Conscience,'' and became a Presidential candidate in 1964—partially, I believe, because of that famous speech.

Following in these formidable steps was Nancy Landon Kassebaum, now the wife of former Senator and majority leader, Howard Baker of Tennessee. Her nearly 20-year career in the Senate became a model for many women to come. My first few months as majority leader involved a lot of issues but one of them is the now famous Kassebaum-Kennedy bill with regard to portable health issues. She was determined that before she left the Senate she was going to leave an indelible mark, and she did for many reasons but for that piece of legislation in particular.

In January 1993 as the Senators of the 103rd Congress took the oath of office, an unprecedented six women assumed their place on the floor. Since that time, the number of women Senators has grown to nine.

In recent years, the role of women officers has continued to grow, as well. In 1985, Jo-Anne Coe became the first woman to serve as Secretary of the Senate. In 1991, Martha Pope became the first female Sergeant at Arms. In 1995, Elizabeth Letchworth became the first Secretary of the majority for the Republicans and presently still holds that position. Currently, women serve as: Assistant Secretary (Sharon Zelaska), Deputy Sergeant at Arms (Loretta Symms), Assistant Parliamentarian (Elizabeth MacDonough), Assistant Journal Clerk (Myra Baran), Assistant Legislative Clerk (Kathie Alvarez), Bill Clerk (Mary Anne Clarkson), Assistant Secretary for the Minority (Lula Davis), and Republican Floor Assistant (Laura Martin). They all do a fantastic job, and we appreciate their service so much. They have been involved in a lot of activities in the last year, some of it they would just as soon have been able to miss, but they have done a great job every time they have been called upon.

Over the years, the Senate has changed as an ever-increasing number of women ran for and were elected to public office. Since the end of World War II, there has been a steady increase in the number of women serving this institution as legislative clerks and other appointed officials. This is a historic day and a long time in coming—too long. I am proud it happened under my watch.

To the women in the Chamber today and all of those who serve elsewhere in the Senate, let me take a moment to say thank you and extend my personal best wishes to all of our leaders, women officers of the Senate, and remind people just how much we appreciate their hard work and dedication.

SCHEDULE

Mr. LOTT. Madam President, today the Senate will resume consideration of the bankruptcy reform legislation with up to 4 hours of debate on the Hatch amendment No. 2771 regarding drugs. I must say to my colleagues, this bill is moving very slowly. The Democratic leader and I, TOM DASCHLE, have agreed we would let the amendments go forward and let the Members have an opportunity to work their will, but we also want to get this important legislation passed; our intent is to get it done today. As with other bills, we are going to stick with this. If I have to file cloture to bring it to conclusion, I will do that. I have avoided doing that because I want to show good faith and trust that Senators will stick to the issue and find a way to complete the legislation. We cannot leave it on the sidetrack indefinitely or have it tie up the Senate's time much longer because we have a number of bills we need to pass today, tonight, Friday, or whenever we are going to wrap up this session.

Following the use or yielding back of that debate time on amendment No. 2771, the Senate will proceed to at least three stacked rollcall votes beginning with the Hatch amendment, to be followed with votes on the nominations of Carol Moseley-Braun and Linda Morgan. Those votes are expected to occur between 12 and 1 p.m. at the latest. I hope it can actually occur earlier because we do have some conflicts of which we are trying to be cognizant.

Senators who have amendments pending to the bill or amendments they expect to offer are encouraged to work with the bill's managers so those amendments can be disposed of in a timely manner. I hope a large number of them will be accepted or withdrawn. Senators can expect votes to occur

throughout today's session and into the evening.

For the information of all Senators, progress has been made on the appropriations bills. It is hoped the Senate can vote on the remaining appropriations today or early next week. I realize that doesn't please a lot of Senators, but while I think great progress has been made, and I did have occasion to talk to the President a few minutes ago, I think now our biggest problem is just the physical ability to get the paperwork done and the House vote, and then have it come to the Senate and complete action.

However, the Senate has been known to act with lightning speed when it makes up its mind. I hope we can do that this time.

Thanks again to the women officers of the Senate for the work they do and for being here today. I hope we can keep Members in place the rest of the day and we can wrap this up by sundown.

I yield the floor.

RESERVATION OF LEADER TIME

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

BANKRUPTCY REFORM ACT OF 1999

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 625 which the clerk will report.

The bill clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

Pending:

Kohl amendment No. 2516, to limit the value of certain real or personal property a debtor may elect to exempt under State or local law.

Sessions amendment No. 2518 (to amendment No. 2516), to limit the value of certain real or personal property a debtor may elect to exempt under State or local law.

Feingold amendment No. 2522, to provide for the expenses of long term care.

Hatch/Torricelli amendment No. 1729, to provide for domestic support obligations.

Leahy amendment No. 2529, to save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns.

Wellstone amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Feinstein amendment No. 1696, to limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21.

Feinstein amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency.

Schumer/Durbin amendment No. 2759, with respect to national standards and homeowner home maintenance costs.

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Schumer amendment No. 2764, to provide for greater accuracy in certain means testing.

Schumer amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses.

Dodd amendment No. 2531, to protect certain education savings.

Dodd Modified amendment No. 2532, to provide for greater protection of children.

Dodd amendment No. 2753, to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress.

Hatch/Dodd/Gregg amendment No. 2536, to protect certain education savings.

Feingold amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Schumer/Santorum amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts.

Durbin amendment No. 2659, to modify certain provisions relating to pre-bankruptcy financial counseling.

Durbin amendment No. 2661, to establish parameters for presuming that the filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa, Mr. GRASSLEY, is recognized to call up amendment No. 2771 on which there shall be 4 hours of debate equally divided.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. ASHCROFT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. ASHCROFT. Madam President, I rise today to speak in support of the amendment offered by Senator HATCH, Senator ABRAHAM, and myself.

This amendment contains the text of S. 486—

AMENDMENT NO. 2771

(Purpose: Relating to methamphetamine and other controlled substances)

The ACTING PRESIDENT pro tempore. If the Senator will suspend, the amendment needs to be offered and the time is under the control of the Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent that I may have 5 seconds for a unanimous consent request after the amendment is offered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. HATCH, for himself, Mr. ASHCROFT, and Mr. ABRAHAM, proposes an amendment numbered 2771.

Mr. GRASSLEY. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD of Friday, November 5, 1999, under ''Amendments Submitted.'')

Mr. GRASSLEY. Madam President, I would like to have the Senator from Minnesota have the floor to make a unanimous consent request.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I thank my colleague from Iowa. I ask unanimous consent that following the votes, we move to the Kohl amendment, but if there is not agreement to do so, we then move to my amendment No. 2752 which deals with a merger moratorium.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Without objection, it is so ordered.

Mr. WELLSTONE. I thank my colleague from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. I yield the floor.

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

Mr. ASHCROFT. I thank the Chair.

I am pleased to have this opportunity to speak in support of an amendment offered by Senator HATCH and by Senator ABRAHAM and by me. This amendment contains the text of S. 486, the Methamphetamine Antiproliferation Act of 1999. It is a comprehensive antimethamphetamine bill that I am grateful to have the opportunity of saying is built upon what we called DEFEAT Meth legislation that I introduced earlier this year. It reflects a tremendous amount of truly bipartisan work by the members of the Judiciary Committee cooperating to address a threat which was once thought to have been very localized but is a threat now that is literally reaching from sea to sea.

The reason for the level of bipartisan effort, of course, in crafting this bill is the recognition by all involved that it is needed to combat one of the fastest growing threats to America, the explosive problem of methamphetamine. When I say explosive, I do not just refer to the fact that those cooking or producing methamphetamines are using dangerous chemicals that often result in explosions and house fires. It has exploded in terms of growth across our culture, and we need to curtail it.

Today we are blessed and privileged to live in a period of great national prosperity, but with prosperity sometimes comes apathy or complacency. Unfortunately, this is the perfect breeding ground for drug abuse. Worse still, apathy and complacency not only foster drug abuse, they hamper our society's ability to combat drug abuse and other social ills. We have not been combating drug abuse effectively enough as a culture, and for that reason we have been working on this measure to increase and elevate our effectiveness against this most dangerous of drugs.

As I have noted many times before, under this administration we have been backsliding in the war against drugs. Marijuana use by 8th graders has increased 176 percent since 1992, and cocaine and heroin use among 10th graders has more than doubled in the last 7 years. And now we need to add to these failings the burgeoning epidemic of methamphetamines.

Methamphetamines have had their roots on the west coast and for a long time in other parts of the country, but the epidemic has now exploded in middle America. Meth in the 1990s is what cocaine was in the 1980s and heroin was in the 1970s. It is currently the largest drug threat we face in my home State of Missouri. Unfortunately, it may be coming soon to a city or town near you. If you wanted to design a drug to have the worst possible effect on your community, you would probably design methamphetamine. It is highly addictive, highly destructive, cheap, and it is easy to manufacture.

To give you an idea of the scope of the problem, in 1992 law enforcement seized 2 clandestine meth labs in my home State of Missouri; by 1994, there were 14 seizures; by 1998, there were 679 clandestine meth lab seizures in the State of Missouri alone.

When we talk about a clandestine meth lab, we are talking about a place where people are making or manufacturing methamphetamines. Based on the figures collected so far this year, however, the number will jump again this year to over 800 meth labs to be seized in the State of Missouri.

Let us put that in perspective: 2 in 1992, 800 in 1999. By any definition, this is a problem that commands our attention. And with this growth have come all kinds of difficult challenges and problems. As meth use has increased, domestic abuse, child abuse, burglaries, and meth-related murders have also increased. From 1992 to 1998, meth-related emergency room incidents increased 63 percent.

What is most unacceptable is that meth is ensnaring our children. In 1997, the percentage of 12th graders who used meth was double the 1992 level. In recent conversations I have had with local law enforcement officers in Missouri, they estimate that as many as 10 percent of high school students know the recipe for methamphetamines. In fact, one need only log onto the Internet to find scores of web sites giving detailed instructions about how to set up your own meth lab or production facility. This is unacceptable.

We in the Congress have taken these indicators seriously. In the past two appropriations cycles, we have appropriated $11 million and then $24.5 million for the drug enforcement administration to train local law enforcement officials in the interdiction, finding, discovering, and then cleaning up of methamphetamine labs.

Despite these appropriations, the meth problem continues to grow. I believe it is time we dedicate more resources to stopping this scourge once and for all. So that is why I am so committed to passing S. 486, the Methamphetamine Antiproliferation Act of 1999, as part of this bill.

This amendment provides the necessary weapons to fight the growing meth problem in this country, including the authorization of $5.5 million for DEA programs to train State and local law enforcement in techniques used in meth investigation. There is $9.5 million for hiring new Drug Enforcement Administration agents to assist State and local law enforcement in small and midsized communities. There is $15 million for school and community-based meth abuse and addiction prevention programs; $10 million for the treatment of meth addicts; and $15 million to the Office of the National Drug Control Policy to combat trafficking of meth in designated high-intensity drug trafficking areas which have had great success in Missouri and the Midwest in bringing attention to, focus upon, and eradication of the methamphetamine problem.

This bill also amends the sentencing guidelines by increasing the mandatory minimum sentences for manufacturing meth and significantly increasing mandatory minimum sentences if the offense created a risk of harm to the life of a minor or an incompetent.

As I have traveled across my own State of Missouri, I have learned about cases where methamphetamines were being produced in the presence of children—children contaminated chemically by the processes and the byproducts of meth production. It is time we make a clear statement that we will not sacrifice our children on the altar of methamphetamine production. We must have serious increased, mandatory minimum sentences for putting at risk the life of a child in the creation and development of methamphetamines.

Furthermore, the amendment includes meth paraphernalia in the Federal list of illegal paraphernalia.

For a long time, drug paraphernalia relating to other serious drug scourges has been outlawed. The maintenance or development of, and the utilization of paraphernalia in those settings has been inappropriate and wrong. Now we are going to add meth paraphernalia to that Federal list of illegal paraphernalia.

By focusing on reducing the supply through interdiction and punishment, we will make some progress, but that progress is not enough. The amendment authorizes substantial resources for education and prevention targeted specifically at the problem of meth. As I said earlier, law enforcement in Missouri tells me 10 percent of the high school students know the recipe for meth. I want 100 percent of the high school students to know that meth is the recipe for disaster.

Meth presents us with a formidable challenge. We have faced other challenges in the past, and we can face this challenge as well. In fact, the history of America is one of meeting challenges and surpassing people's highest expectations. Meth is no exception. All it will take is that we marshal our will and we channel the great, indomitable American spirit. If we focus our energy on this problem, we can add substantially to the safety and to the health and to the future and opportunities for our young people. Through legislative efforts like this amendment, we will meet this new meth challenge and defeat it, and I urge Members of this body to work hard to make sure this effort to defeat meth becomes a part of the law.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Utah.

Mr. WELLSTONE. If my colleague will yield for 1 second, I ask unanimous consent that following the Senator from Utah and the Senator from Vermont, I may then speak on this amendment.

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

Mr. HATCH. Mr. President, I rise to offer an amendment on behalf of myself, Senators ASHCROFT, ABRAHAM, HUTCHINSON, HELMS, GRAMS, and ALLARD that contains new and responsible measures aimed primarily at curbing the manufacturing, trafficking, and abuse of methamphetamine, a destructive drug that is sweeping across our country. We must act now to stop this plague before it destroys the lives of many of our fellow citizens.

I hope that the administration will take advantage of this legislation and finally begin, in its seventh year, to take serious steps to enforce our drug laws. Sadly, the Clinton-Gore administration has failed miserably at keeping drugs away from our youth. The administration recently boasted that reported illicit drug use by children 12 to 17 years of age is down this year. What the administration is trying to conceal, however, is that, since it took office, drug use among this same group of children more than doubled. Even with the current dip, the rate is still nearly twice what it was when President Clinton and Vice-President GORE took office. America's history of fighting illegal drugs has been long and tiring, but with so many Americans' lives being ruined by this drug, now is not the time to give up—it is a time to fight smarter and harder.

This amendment will provide law enforcement with several effective tools, including proven prevention and treatment programs, that will help us turn the tide of proliferation of methamphetamine use. A significant portion of this amendment reflects language that was passed unanimously in the Judiciary Committee earlier this year. This language, which enjoyed the sponsorship of Senators LEAHY, ASHCROFT, FEINSTEIN, DEWINE, BIDEN, GRASSLEY, THURMOND, and KOHL, represented a bipartisan effort to combat methamphetamine manufacturing and trafficking in America.

Methamphetamine, also known on the streets as ''meth,'' ''speed,'' ''crank,'' ''ice,'' and ''crystal meth,'' is a highly toxic and addictive stimulant that severely affects the central nervous system, induces uncontrollabe, violent behavior and extreme psychiatric and psychological symptoms, and eventually leads some of its abusers to suicide or even murder. Methamphetamine, first popularized by outlaw biker gangs in the late 1970's, is now being manufactured in makeshift laboratories across the country by criminals who are determined to undermine our drug laws and profit from the addiction of others.

So what can we do about the problem? Three years ago, I authored, and Congress passed, the Methamphetamine Control Act of 1996. This legislation, which also enjoyed bipartisan support, aimed at curbing the diversion of commonly used precursor chemicals and mandated strict reporting requirements on their sale. This law has allowed the DEA, along with the help of industry, to stop large quantities of precursor chemicals from being purchased in the United States and being used to manufacture methamphetamine. But, as the methamphetamine problem continues to grow, more can and should be done to help law enforcement uncover, arrest, and hold accountable those who produce this drug.

The methamphetamine threat differs in kind from the threat of other illegal drugs because methamphetamine can be made from readily available and legal chemicals, and because it poses serious danagers to both human life and the environment. According to a report prepared by the Community Epidemiology Work Group, which is part of the National Institute on Drug Abuse, methamphetamine abuse levels ''remain high . . . and there is strong evidence to suggest this drug will continue to be a problem in west coast areas and to spread to other areas of the United States.'' The reasons given for this ominous prediction are that methamphetamine can be produced easily in small, clandestine laboratories, and that the chemicals used to make methamphetamine are readily available.

This threat is real and immediate, and the numbers are telling. According to the Drug Enforcement Administration—DEA, the number of labs cleaned up by the administration has almost doubled each year since 1995. Last year, more than 5,500 amphetamine and methamphetamine labs were seized by DEA and State and local law enforcement officials, and millions of dollars were spent on cleaning up the pollutants and toxins created and left behind by operators of these labs. In Utah alone, there were 266 lab seizures last year, a number which elevated Utah to the unenviable position of being ranked third in the Nation for highest per capita clandestine lab seizures.

The problem with the high number of manufacturing labs is compounded by the fact that the chemicals and substances utilized in the manufacturing process are unstable, volatile, and highly combustible. The smallest amounts of these chemicals, when mixed improperly, can cause explosions and fires. And of course, most of those operating methamphetamine labs are not scientists, but rather unskilled criminals, who are completely apathetic to the destruction that is inherent in the manufacturing process. It is even more frightening when you consider that many of these labs are found in residences, motels, trailers, and even automobiles, and many are operated in the presence of children.

I will never forget the tragedy of the three young children who were burned to death when a methamphetamine lab, operated by their mother in a trailer home in California, exploded and caught fire, as reported in an article:

''Meth Madness: Home deaths ruled felony murder,'' in the San Diego Union Tribune, 11/30/96. I honestly do not know which is worse: using methamphetamine or manufacturing it. Either way, methamphetamine is killing our kids.

Another problem we face is that it doesn't take a lot of ingenuity or resources to manufacture methamphetamine. This drug is manufactured from readily available and legal substances, and there are countless Internet web sites that provide detailed instructions for making methamphetamine. Anyone who has access to the Internet has access to the recipe for this deadly drug. In fact, one pro-drug Internet site contains more than 70 links to sites that provide detailed information on how to manufacture illicit drugs, including methamphetamine.

Let me take a moment to highlight some of the provisions of this amendment that will assist Federal, State, and local law enforcement in preventing the proliferation of methamphetamine manufacturing in America.

This amendment will bolster the DEA's ability to combat the manufacturing and trafficking of methamphetamine, by authorizing the creation of satellite offices and the hiring of additional agents to assist State and local law enforcement officials. More than any other drug, methamphetamine manufacturers and traffickers operate in small towns and rural areas. Unfortunately, rural law enforcement agencies often are overwhelmed and in dire need of the DEA's expertise in conducting methamphetamine investigations. In addition, this amendment will assist State and local officials in handling the dangerous toxic waste left behind by methamphetamine labs.

Another important section of the bill will help prevent the manufacture of methamphetamine by prohibiting the dissemination of drug recipes on the Internet. As mentioned earlier, there are hundreds of sites on the Internet that describe how to manufacture methamphetamine. These step-by-step instructions will be illegal under this bill if the person posting the information or the person receiving the information intends to engage in activity that violates our drug laws.

In 1992, Congress passed a law that made it illegal for anyone to sell or offer for sale drug paraphernalia. This law resulted in the closing of numerous so-called ''head shops.'' Unfortunately, now some merchants sell illegal drug paraphernalia on the Internet. This bill will amend the anti-drug paraphernalia statute to clarify that the ban includes Internet advertising for the sale of controlled substances and drug paraphernalia. The provision will also prohibit a web site that does not sell drug paraphernalia from allowing other sites that do from advertising on its web site.

This amendment contains many references to the drug amphetamine, a lesser-known, but no-less dangerous drug. Other than for a slight difference in potency, amphetamine is manufactured, sold, and used in the same manner as methamphetamine. And, amphetamine labs pose the same dangers as methamphetamine labs. Indeed, every law enforcement officer with whom I have spoken agreed that the penalties for amphetamine should be the same as those for methamphetamine. For these reasons, this amendment seeks to equalize the punishment for manufacturing and trafficking the two drugs.

To counter the dangers that manufacturing drugs like methamphetamine inflict on human life and on the environment, this amendment imposes stiffer penalties on manufacturers of all illegal drugs when their actions create a substantial risk of harm to human life or to the environment. The inherent dangers of killing innocent bystanders and contaminating the environment warrant a punitive penalty that will deter criminals from engaging in the activity.

This amendment also seeks to keep all drugs away from children and to punish severely those who prey on our children, especially while at school away from their parents. Indeed, studies indicate that drug use goes hand in hand with poor academic performance. To this end, this amendment would increase the penalties for distributing illegal drugs to minors and for distributing illegal drugs near schools and

other locations frequented by juveniles. The amendment also would require school districts that receive Federal funds to have policies expelling students who bring drugs on school grounds either in felonious quantities or with an intent to distribute in the same manner as students who bring firearms to school. Additionally, this amendment would allow school districts to use Federal education funds to provide compensation and services to elementary and secondary school students who are victims of school violence as defined by state law.

While we know that vigorous law enforcement measures are necessary to combat the scourge of illegal drugs, we also recognize that we must act to prevent our youth from ever starting down the path of drug abuse. We also must find ways to treat those who have become trapped in addiction. For these reasons, the amendment contains several significant prevention and treatment provisions.

Arguably, the most important treatment provision in this amendment offers an innovative approach to how opiate-addicted patients can seek and obtain treatment. As science and medicine continue to make significant strides in developing drugs that promise to make treatment more effective, we must pave the way to ensure that these drugs can be prescribed in an effective manner and in an appropriate treatment setting. Indeed, this provision does exactly this, by fostering a decentralized system of treating heroin addicts with the new generation of anti-addiction medications that are under development.

By cutting the existing redtape that serves as a substantial disincentive for qualified physicians to treat drug addicts, this amendment acts as a spur for private sector pharmaceutical firms, working in close partnership with academic and government researchers and the drug abuse treatment community, to develop the next generation of anti-addiction medications for opiate addicts. This new system to treat heroin addicts can also act as a model that can be expanded in the future, as anti-addictive medications are developed, to encompass the treatment of other forms of drug addiction.

I want to commend Senators LEVIN, BIDEN, and MOYNIHAN who have worked tirelessly with me in the best spirit of bipartisanship to bring about not just this measure but also to bring about the day in the future that this new treatment paradigm becomes the norm for treating patients addicted to drugs. I also want to recognize the efforts of the experts at the Departments of Justice and Health and Human Services for providing their views on this measure.

Learning how to treat drug addiction is an essential component in America's battle to conquer drug abuse. I am proud to have worked with my colleagues in creating this new approach that undoubtedly will improve the ability for many to obtain successful treatment.

I also support the provision of this amendment that contains the Powder Cocaine Sentencing Act of 1999. This measure strengthens Federal law by increasing the penalties against powder cocaine dealers by reducing from 500 to 50 grams the amount of powder cocaine a person must be convicted of distributing in order to receive a mandatory 5-year minimum sentence in Federal prison. By increasing the penalty for powder cocaine offenses, this measure fairly and effectively reduces the sentencing disparity between powder and crack cocaine.

It is important to our criminal justice system that the disparity in sentences between powder and crack cocaine be reduced. Many people whom I respect, including law enforcement officials and academics, believe that the harsher penalties for crack cocaine generally unfairly affect minority Americans and the poor. Senator SESSIONS, whom I admire a great deal, was an accomplished Federal prosecutor for 12 years. He believes passionately that Congress should reduce the disparity in sentences between powder and crack cocaine. While my own solution for reducing the disparity differs somewhat from that suggested by Senator SESSIONS, he offers a prominent example of an experienced prosecutor who believes that this disparity should be reduced.

This legislation will reduce the differential between the quantity of powder and crack cocaine required to trigger a 5-year mandatory minimum sentence from 100 to 1 to 10 to 1—the same ratio proposed by the administration. But this legislation will accomplish that goal—not by making sentences for crack cocaine dealers more lenient—but rather by increasing sentences for powder cocaine dealers. We should not reduce the Federal penalties for crack cocaine dealers. It would send absolutely the wrong message to the American people, especially given the disturbing increase in teenage drug use during much of the Clinton administration.

This measure is the right approach at the right time. I commend Senator ABRAHAM for his tireless efforts in this matter. Reducing the disparity between crack and powder cocaine will help maintain the confidence of all Americans in the Federal criminal justice system and will provide more appropriate punishment for powder cocaine violations.

The amendment I have offered also contains a provision that requires the FBI to prepare a report assessing the threat posed by President Clinton's grant of clemency to FALN and Los Macheteros terrorists. As is now well known, the grant of clemency freed terrorists belonging to groups that openly advocate a war against the United States and its citizens. And, the FALN and Los Macheteros—including the clemency recipients—have actively waged such a war by, among other acts, planting more than 130 bombs in public places, including shopping malls and restaurants. Those bombs killed several people, maimed others, and destroyed property worth millions of dollars.

Over the past several months, the Judiciary Committee has sought answers to the many questions raised by the President's clemency grant. Unfortunately, we have been repeatedly stymied by this administration's decision to deploy Executive privilege as a shield against public accountability. Despite this stonewalling, the committee's investigation has led to the troubling conclusion that the release of these individuals may well have increased the risk of domestic terrorism posed by the FALN and Los Macheteros. This amendment insures that the FBI can fully assess this risk, and that the Congress and the American people are fully apprised of the FBI's findings.

In conclusion, I believe that this amendment contains many tools essential to our struggle against illegal drug manufacturing and use. We can defeat those who make and sell illicit drugs, and we must fight this plague for the sake of our children and grandchildren. Drug use is a poisonous, nationwide epidemic; it is a battle we must fight until we have succeeded. I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Vermont.

Mr. HATCH. Will the Senator yield for a moment?

Mr. LEAHY. Of course.

Mr. HATCH. Mr. President, I ask unanimous consent that Senators HUTCHINSON, HELMS, ALLARD, and GRAMS be added as original cosponsors of the Hatch-Ashcroft-Abraham drug amendment.

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

Mr. LEAHY. With the distinguished Senator from Utah and the distinguished Senator from Iowa here, I ask unanimous consent to be able to proceed not on the amendment but on the bill for certainly not to exceed 12 minutes, just to let everybody know where we are.

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

Mr. LEAHY. I understand this time is not coming out of the time of either side, just so people understand.

Mr. President, yesterday we made some progress on the bill and were able to clear 22 amendments to improve it. Those were amendments offered by both Democrats and Republicans. Senator TORRICELLI, the ranking member of the appropriate subcommittee, and I have been working in good faith with Senator GRASSLEY, the chairman of the appropriate subcommittee, and Senator HATCH, the chairman of the full committee, to clear amendments. We will try to make some more progress on amendments today.

I thank the Senator from Iowa and the Senator from Utah for their willingness to accept my amendment to provide that the expenses needed to protect debtors and their families from domestic violence is properly considered in bankruptcy proceedings. Domestic violence remains a serious problem in our society. We need to do all we can to protect victims and potential victims of domestic violence.

Some of the other amendments we accepted are also quite important. For example, we improved the bill by accepting an amendment offered by Senators GRASSLEY, TORRICELLI, SPECTER, FEINGOLD, and BIDEN, giving bankruptcy judges the discretion to waive the $175 filing fee for chapter 7 cases for debtors whose annual income is less than 125 percent of the poverty level. Bankruptcy is the only civil proceeding that in forma pauperis filing status is not permitted. This amendment corrects that anomaly.

We also accepted a Feingold-Specter amendment which improves the bill by striking the requirement that a debtor's attorney must pay a trustee's attorney's fees if the debtor is not ''substantially justified'' in filing for chapter 7. The bill's current requirement that a debtor's attorney must pay a trustee's attorneys' fees could chill eligible debtors from filing chapter 7 because they could fear they would have to pay future attorney's fees. This is something we had tried to correct when the committee considered the bill. I am glad we have finally done so.

I commend Senators who came to the floor on Friday and Monday and yesterday to offer their amendments. Despite only 4 hours of debate on Friday, and 4 hours on Monday, and, of course, yesterday we had our party caucuses, and we had extended debate on two nongermane, nonrelevant amendments on other matters, Senators from both sides of the aisle have offered 49 amendments to improve the bill. And we disposed of 27 of those so far in this debate.

I hope all Senators with amendments will continue to come to the floor today to offer their relevant amendments.

But unfortunately, while we continue to make progress on the underlying bill in some regards, the Senate's two votes rejecting important amendments offered by Senators DURBIN and DODD were missed opportunities to improve the bill.

Senator DURBIN's amendment would have allowed us to confront predatory lending practices. Senator DODD's would have provided some restraint on the virtually unrestrained solicitation of young people by the credit card industry.

I spoke earlier about the Austin Powers credit card campaign. Kids going into the movie theater to see ''Austin Powers'' were given a chance to get a credit card with a long credit line and get a free Coke, too, if they wanted, but they could also end up with 10-, 25- and almost 30-percent interest payments. I think many who got that suddenly found it was the most expensive soft drink they ever got at a movie.

These are the practices on which we ought to put some limits. It does not help when the credit card companies come here crying crocodile tears that these children they have given credit cards to suddenly actually used them and have run up huge debts, or the people who have been given unrestrained credit cards actually use them and have run up huge debts. So I commend Senators DURBIN and DODD for their amendments. We actually should have accepted both of them.

Most importantly, yesterday the Senate took several actions that will make it much harder to enact bankruptcy reform legislation. The Senate rejected the Kennedy amendment to provide a real minimum-wage increase and, on a virtually party-line vote, chose to adopt an amendment that includes special interest tax breaks that are not paid for, under the guise of being a real increase in the minimum wage, when in fact it is not.

The President has now promised to veto the bill if it reaches his desk in this form. He noted that the Republican majority used its amendment ''as a cynical tool to advance special interest tax breaks,'' which it was.

The Senate's actions yesterday in these regards were both unfortunate and unwise.

I ask unanimous consent that this morning's editorial from the Washington Post about the bankruptcy bill and the Senate's action yesterday be printed in the RECORD.

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

[From the Washington Post, November 10, 1999]

WHAT BANKRUPTCY BILL?

The Senate spent much of yesterday debating and coming to wrong conclusions on the minimum wage and tax cuts. It intended then to debate propositions having to do with school aid, agribusiness, drug policy and the future of East Timor. Under an agreement between the parties, the results of these deliberations were to be attached as amendments or political ornaments, take your pick, to an underlying bill that would significantly tighten bankruptcy law. But very little debate seemed likely on the bill itself, and that is wrong. Aside perhaps from the minimum wage, the underlying bill is more important than the ornamentation. In several respects it is defective and has the potential to do serious harm.

The question in bankruptcy law is always the same: how to achieve a balance between society's interests in seeing that people pay their debts and the need to prevent debtors from being permanently ruined by them. The strong economy in recent years, together with competition in the credit card industry, has produced a sharp increase in consumer use of credit. There has been a related spike, now perhaps subsiding, in bankruptcies. The bill seeks to make sure that people don't take undue advantage of the bankruptcy laws—that those who can reasonably be expected to pay at least a part of their debts aren't excused entirely. That's plainly fair, and there seems to be broad agreement that the law need some toughening. But critics, including the administration and a number of civil rights groups, believe the legislation tilts too far.

There are multiple issues, but basically the administration would make it easier for people at or below the median income to qualify for the kind of bankruptcy in which most debts are excused, and harder for creditors to dislodge them. The administration would also like to impose additional disclosure and other requirements on credit card companies, whose blandishments it believes are partly responsible for the current problem.

But the House already has passed by a veto-proof 313 to 108 an even tougher bankruptcy bill, and the complexity of the issues together with the impatience of the Senate leaves the administration in a weak position. The Senate yesterday voted along party lines for a slower minimum wage increase than the president wants, together with a costly and regressive tax cut. He says he'll veto a bankruptcy bill to which those are attached, as, at least in the case of the tax cut, he should. What he'll do if eventually the bankruptcy bill is sent to him separately is unclear.

What Congress should do, before it sends him the bill, is make sure that in the name of financial responsibility it doesn't unduly squeeze people who, because of job loss, family breakup, medical bills, etc. can't help themselves. It isn't clear that in the episodic legislative process thus far that balance has been achieved.

Mr. LEAHY. In addition to those provisions adopted yesterday, I want to raise again the question of the costs and the burdens of this bill. We have not talked here about the costs of this bill. But according to the Congressional Budget Office—and this is what everybody watching who is interested in this debate ought to stop and ask themselves: Is this an improvement in our bankruptcy laws or are the taxpayers going to pay for it?

According to the Congressional Budget Office, the bill reported by the Judiciary Committee will cost hundreds of millions of dollars. The cost to the Federal Government, estimated by CBO, is at least $218 million over the next 5 years.

Much of the cost will be borne by our bankruptcy and Federal courts without any provision to assist them in fulfilling the mandates of this bill. Dockets are already overcrowded in our bankruptcy courts. We are not providing new judges. We are now suddenly telling those bankruptcy judges and Federal judges to carry an even heavier burden, but we will not give them additional resources. As a practical matter, somebody is going to have to pay. We are going to have to pay because the courts will get so clogged, the reaction will be to improve that, and we will have to pay for that.

We have to ask, who are the principal beneficiaries? Right now, they are the companies that make up the credit industry. I searched high and low in the bill for the provisions by which these companies are asked to pay for these mandates that benefit them or even contribute to the costs and burdens of the bill, a bill that they support. If

they are getting these huge benefits, are they required to pay anything for them? They are not. I can find no provisions by which credit card companies and others who expect to receive a multibillion-dollar windfall from this bill will have to pay the added costs of this measure.

Investing a couple hundred million of taxpayers' money to make several billion dollars for the credit card industry might seem to be a good business investment but not if the taxpayers have to pick up the bill to hand over a multibillion-dollar benefit to the credit card companies.

In addition to these costs to the Federal Government, there are the additional mandates imposed on the private sector. We keep saying how we want to keep Government off the back of the private sector. In fact, CBO estimates the private sector mandates imposed by just two sections of the bill will result in annual increased costs of between $280 million and $940 million a year. Are we willing to tell the private sector that with this bill we are, in effect, putting a tax on them of $280 million to $940 million a year, which over 5 years will amount to between $1.4 billion and $4.7 billion to be borne by the private sector? If we vote for this bill, are we going to tell them we just gave that kind of a tax increase to them?

The CBO estimate explains these costs are likely to be borne by the bankruptcy debtors, thereby ''reducing the pool of funds available to creditors.'' You pay at the beginning or you pay in the end, but you are going to pay.

So all in all, this amounts to a bill of an estimated cost over 5 years of $5 billion to be borne by taxpayers and debtors so the credit industry can pocket another $5 billion. Not a bad day's work by the credit industry lobbyists but not a good result for the American people. They are going to be happy if they get the American taxpayers to give them $5 billion just like that. They ought to be awfully happy.

I asked last Friday that those who are proposing this bill to come forward and answer the simple question I posed then: What language in the bill guarantees that any savings from this bill will be passed on to consumers? I continue to ask whether credit card interest rates will be reduced by any savings created by this bill. Certainly the 25- to 26- and 27-percent interest rates ought to be reduced. I continue to ask whether credit fees will be reduced by any savings generated by provisions of this bill. I continue to ask how the $400 per American family the proponents of the bill estimate will be saved by provisions of this bill are going to get to these families. Everybody says we are saving money for the American families. So far all I see is a $5 billion transfer from those American families to the credit card industry.

I haven't heard or seen any answers to those basic questions. I think those who say this is going to benefit the American public ought to be more specific. CBO doesn't see it that way. They see a great transfer from the American public to one industry. For all that I can see, any savings generated by this bill will be gobbled up in windfall profits for the credit industry, without any guarantee of benefits for working people, and with a $1 billion per year out-of-pocket cost to taxpayers and those in the bankruptcy system.

Mr. President, I understand time will now go back on the amendment. I think we had a unanimous consent request at this point that when we went back on the bill, the Senator from Minnesota was going to be recognized.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I understand my colleague from Michigan has wanted to propound a unanimous consent request.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, apparently a UC had been entered into which had set in order speakers through Senator WELLSTONE. I know Senator ALLARD and I have been here for some time. I noticed Senator KENNEDY has joined us. We were hoping we might come up with another UC which would ensure continuing order in terms of the speakers; ideally, the order in which we have been here. If that is possible, I would appreciate it. Therefore, that leads me to propose that following the speech of Senator WELLSTONE, if we might then proceed in an order in which I would be allowed to speak next, followed by Senator ALLARD, followed by Senator KENNEDY, if that is possible. If it is not, we would be open to adjusting that. I am not sure how.

Mr. KENNEDY. Reserving the right to object, I prefer not to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. What was the general time? I was just trying to conclude. I was going to be probably 10 or 15 minutes. If I thought that the two Senators will be finished shortly after 11, that is fine.

Mr. ABRAHAM. Mr. President, I have no idea how long the Senator from Minnesota will be speaking. I will be speaking approximately 15 minutes.

Mr. ALLARD. I anticipate somewhere around 7 or 8 minutes for my remarks.

Mr. KENNEDY. That would be fine.

The PRESIDING OFFICER. Is there objection to the request?

Mr. LEAHY. Reserving the right to object, and I shall not, I want to make sure I understand. Senator WELLSTONE, Senator ABRAHAM, Senator ALLARD, and then Senator KENNEDY, and then, perhaps after that, we would go back and forth. The Senator from Vermont is going to want to speak on the amendment at some point, too.

The PRESIDING OFFICER. Does the Senator from Vermont wish to add himself to the sequence?

Mr. LEAHY. Why don't I add myself after the Senator from Massachusetts. I assure the Senator from Iowa, if he wishes to speak at that point, I will yield first to him.

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

Mr. ABRAHAM. I have no objection to that.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I have listened to my colleagues discuss this amendment. I want to zero in on what is the poison pill provision of this amendment—no pun intended.

The cocaine provision in the Republican drug amendment to the bankruptcy bill would raise powder cocaine penalties to unacceptably high levels, forcing jail overcrowding without offering any concrete solutions to drug addiction. That is the fundamental problem. In short, as much affection as I have for my colleague from Michigan and others, I think this provision is a disaster.

The authors say they want to fix racial disparities in crack sentencing by establishing tougher sentences for low-end powder cocaine offenders. In practice, this is going to make the disparities worse. That is the problem. This provision capitalizes upon the common misperception that powder cocaine is principally a ''white drug.'' It seeks to neutralize complaints of racism in the heavy sentences meted out almost exclusively to African American defendants for crack cocaine offenses. In reality, this provision will only worsen the problem of gross overrepresentation of minorities in prison for drug offenses. To the existing flood of young minority males serving draconian sentences for nonviolent low-level crack offenses, it will simply do the same for minor powder cocaine offenses.

Only low-end cocaine defendants will have their sentences changed under the Republican proposal. The sentence for a participant in a 50-gram powder transaction will more than double from 27 months to 5 years. Further, the Sentencing Commission's mandate will require it to make comparable increases for lesser quantities. Yet the Commission has documented that as with crack, such low-level street dealers—and these are the ones who are going to be affected by this—of powder cocaine are ''primarily poor, minority youth, generally under the age of 18.'' And overall, minorities constitute over three-quarters of all current powder defendants. They also found that over half of the Federal powder defendants are couriers or mules or lookouts—categories with the lowest income and lowest culpability and the highest representation of minorities. This amendment doesn't go after the kingpins. This amendment, again, is going to have a disproportionate impact on minorities, on kids, on the young and on the poor.

I use this as an example. I am not trying to pick on the students. College

students at Yale or Harvard who suffer from substance abuse or sell cocaine out of their dorm rooms will not go to jail under this provision. I have no doubt about that. Instead, the vast majority will once again be low-income African American and Hispanic males.

I want to read from a statement before the Judiciary Committee—this is not my argument—from 27 former U.S. attorneys who now sit as judges on the Federal court:

> Having regularly reviewed presentence reports in cases involving powder and crack cocaine, we can attest to the fact that there is generally no consistent, meaningful difference in the type of individuals involved. At the lower levels, the steerers, lookouts, and street-sellers are generally impoverished individuals with limited education whose involvement with crack rather than powder cocaine is more a result of demand than a conscious choice to sell one type of drug rather than another. Indeed, in some cases, a person who is selling crack one day is selling powder cocaine the next.

By raising powder cocaine penalties, the amendment reduces the gulf in sentencing between the two drugs, but it doesn't solve the underlying problem. The real problem is that crack penalties are way out of proportion to those of other drugs. You are basically trying to argue that two wrongs make a right, and they don't. Reducing the trigger quantity for a 5-year mandatory minimum sentence for powder cocaine makes the penalties for both forms of cocaine disproportionately severe compared to other drugs. The same U.S. attorneys say they ''disagree with those who suggest that the disparity in treatment of powder and crack cocaine should be remedied by altering penalties relating to powder cocaine.''

I emphasize this in the former U.S. attorneys' quote:

> The penalties for powder cocaine . . . are severe and should not be increased.

Mr. President, we need to stop and ask ourselves, what are we doing here? If the trigger amount for powder is lowered, almost 10,000 addicts and small-time drug users will be added to the prison population over the next 10 years. That is what we are doing with this amendment. The Bureau of Prisons will have to build six new prisons just to house these people. This will be at a cost to taxpayers of approximately $2 billion. In the next 20 years, the cost will escalate to over $5 billion, and in 30 years it will be $10.6 billion.

Haven't we learned yet that jails and prisons are not the sole answer? There are more than 1.5 million people incarcerated in State and Federal prisons and local jails around the country. Another 100,000 young people are confined in juvenile institutions. These numbers have tripled in the past two decades. On any given day, one out of every three African American men in their twenties is either in prison, in jail, on probation, or on parole. I remember reading in the paper that there are more African American men in their twenties—far more—in the State of California in prison than are in college.

We have one of the largest prison populations in the world. If more prisons were the sole solution to the problems of drugs and crime, then we should be among the least addicted, safest countries on Earth.

Being ''tough on drugs'' makes for a great stump speech, but we also ought to be smart, and we need to be smart. A landmark study of cocaine markets by the conservative Rand Corporation found that, dollar for dollar, providing treatment for cocaine users is 10 times more effective than drug interdiction schemes. A recent study by the Substance Abuse and Mental Health Services Administration, SAMHSA, has indicated that 48 percent of the need for drug treatment, not including alcohol abuse, is unmet in the United States—48 percent of the need is unmet. Surely, if we can find an endless supply of funding for housing offenders and building new prisons, then we must be able to rectify this shortsighted lack of treatment.

Let me simply talk a moment about this disease of alcohol and drug addiction which costs our Nation $246 billion annually—almost $1,000 for every man, woman, and child. There is so much new evidence, so many studies, so much good science work, and we are so far behind the curve. Why aren't we looking at the evidence, the data, the research, and the work that is being done? This disease is treatable. Yet our Nation has an alcohol and drug treatment gap that is 50 percent nationally, 60 percent for women, and 80 percent for youth.

Are you ready for this? Since we are now going to throw yet even more of these kids—primarily Hispanic and African American—in jail and prison, access to youth drug treatment is particularly low, with only one in five adolescents able to access drug or alcohol treatment services. We don't provide the funding for the services or for the treatment, and now we have an amendment that basically will assure that even more of these kids will be locked up—without even dealing with the root of the problem.

I have a piece of legislation—and Congressman RAMSTAD from Minnesota has the same legislation on the House side—which says that, at the very minimum, we ought to stop this discrimination and say to the insurance companies that we ought to be treating this disease the same way we treat other physical illnesses because right now, in all too many of these policies, if you are struggling with addiction, you don't get any treatment. We are just saying we are not even mandating it. We are just saying, for gosh sakes, please stop the discrimination, deal with this brain disease, provide some coverage for treatment.

There are all these men and women in the recovery community who can testify about how, when they had access to treatment, they were able to rebuild their lives. They are now members of the recovery community; they work; they are successful; they contribute to their families, and they contribute to their communities.

What do we have here? We have an amendment that does nothing more than imprison more of these kids and doesn't do a darn thing about getting at the root of the problem. It does nothing about the lack of treatment for these kids. This is a huge mistake.

There is one other provision that is now part of this amendment, which is quite unbelievable, at least in my view. As a part of this amendment, my colleagues on the other side of the aisle have included a provision that says if a child attends a title I school and becomes a victim of violence on school grounds, the district may use the Federal education funds, including IDEA, title I, and other money, to provide the child with a voucher to attend a private school or to provide transfer costs for the child to attend another public school.

Well, now, look, I don't know exactly when this provision was even put in this amendment. It wasn't part of the original amendment I had a chance to see earlier. But I am a little bit skeptical. I think what my colleagues have done is taken a reality—and, God knows, I wish this reality didn't exist in our country, which is too much violence in children's lives, including too much violence in their schools—and then used that as a reason to once again get authorization and funding for vouchers.

If for some of these children you were able to transfer money to private schools, what about the 90 percent of children in America who attend public schools, not to mention the fact that the amount of money these kids get to transfer to a private school wouldn't cover anywhere the cost of the private school? And the vast majority of these children are low income. What about the rest of our kids in our schools?

I say this by way of conclusion. I will be especially brief because I don't believe my colleagues on the other side of the aisle want to hear this, and I don't even think they want to debate it.

Have you expanded funding for Safe and Drug-Free Schools? No.

Are you willing to support essential and sensible gun control, and drug treatment and drug prevention programs? No.

Were you willing—I have this amendment—to dramatically expand the number of counselors in our schools to provide help and support to kids? No.

Were you willing to support legislation that would deal with the reality of children who have witnessed violence in their homes? They have seen their mother beaten up over and over again, have trouble in school, sometimes themselves overly aggressive, sometimes themselves getting in trouble. That amendment passed the Senate. It was taken out in conference committee by the Republicans. Do you support that? No.

Are you willing to dramatically increase funding for afterschool programs? Law enforcement communities tell us it is so important in getting to a lot of kids who are at risk and who might commit some of this violence or might themselves be victims of this violence. Have you been willing? No.

Have you been willing to invest in rebuilding rotting schools? A lot of kids who live in tough neighborhoods who go to tough schools, when they walk into the schools and they see how decrepit they are, say to themselves, you know what, this country doesn't give a damn about us. They devalue themselves and they get into trouble. Have we made any investment here? No.

Have you been willing to increase the amount of funding we put into title I? In my State of Minnesota, in the cities of St. Paul and Minneapolis, after you get to schools that are 60 percent low-income schools, then you go to schools that get 50 or 55 percent, and they don't get any of those funds because they have run out of money and because the title I money reaches, at best, about 30 percent of the kids in the country who need additional help. No.

I have to say to my colleagues on the other side of the aisle that I would love to debate somebody on this. It strikes me that this is disingenuous at best.

You talk about the violence kids experience in our schools. And then you say, therefore, we will now use this as an excuse to try to push through a voucher plan. Yet on 10 different things that you could support that would reduce the violence in children's lives in our public schools, you are not willing to invest one more cent. It is a weak argument you make.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I appreciate having the opportunity to speak on this amendment. I yield myself such time as I might require at this point. I believe it will be probably 15 minutes.

Mr. President, I rise in support of this amendment which, in my judgment, will help protect our children and our neighborhoods from the scourge of drugs and drug-related violence.

This amendment contains a number of provisions that are critical to our war on drugs.

It includes a package of provisions aimed at fighting the production and distribution of methamphetamines.

Authored by Senators ASHCROFT, HATCH, and GRASSLEY, these provisions include additional money to hire additional personnel, including almost $10 million for additional DEA agents to assist state and local law enforcement.

Also included is a provision raising penalties for offenses involving methamphetamines, including production of methamphetamine precursors.

And the amendment includes additional funding for prevention and treatment programs.

Contrary to some of the positions and assertions made, in fact, this amendment includes significant increases in those funding proposals.

The amendment also enhances penalties for drug distribution to minors and in or near schools. Also to protect our schools, the amendment provides incentives for schools to develop policies expelling students who bring drugs on school grounds and school choice for victims of school violence.

Mr. President, today I want to focus in particular on the amendment's provisions concerning sentences for powder cocaine dealers. These provisions are drawn from legislation I introduced earlier this year along with Senator ALLARD and quite a few other Senators. As the father of three young children, I am deeply disturbed by the trend for almost all of the last 7 years in teenage drug use. This represents a reversal, really, of the decade long progress we had been making in the war on drugs.

In 1997, 9.4 percent of teens reported recent use of marijuana, up 180 percent from 1992. The percentage of teens using cocaine tripled during those same years. And most disturbing of all, the greatest increases took place among our youngest teens. For example, the percentage of 12 and 13 year olds using cocaine increased 100 percent from 1992 to 1996, compared with a 58 percent increase among 17- and 18-year-olds. This spells trouble for our children. Increased drug use means increased danger of every social pathology we know.

This trend may finally have been arrested for most drugs. In 1998, the Monitoring the Future Study, prepared annually by the University of Michigan, showed improvements—although very modest ones—in levels of teenage drug use. All three grades studies—8th, 10th, and 12th—showed some decline in the proportion of students reporting any illegal drug use during the previous 12 months. Equally important, use by 8th graders, who started the upward trend in use at the beginning of this decade, declined for the second year in a row.

We also are finding heartening news in our war on violent crime. The FBI now reports that, since 1991, the number of homicides committed in the United States has dropped by 31 percent. Also since 1991, the number of robberies has fallen 32 percent. According to the Bureau of Justice Statistics, robberies fell a stunning 17 percent in 1997 alone.

This is good news, Mr. President. And there is widespread agreement among experts in the field that the principal cause of this decline in violent crime is our success in curbing the crack cocaine epidemic and the violent gang activities that accompany that epidemic.

The New York Times recently reported on a conference of criminologists held in New Orleans. Experts at the conference agreed that the rise and fall in violent crime during the 1980s and 1990s closely paralleled the rise and fall of the crack epidemic.

At the same time, there is a warning signal here. The most recent ''Monitoring the Future'' Study also showed an increase in the use of cocaine in all three grades studied. Use of both crack and powder cocaine within the past 30 days likewise rose in all three grades, except for powder cocaine in the 12th grade, where it did not fall but at least held steady. This is in contrast to the study's finding that the use of other drugs by kids may finally be leveling off, albeit at unacceptably high levels. Yet surprisingly, despite these developments, in last year's Ten-Year Plan for a National Drug Control Strategy, the administration proposed making sentences for crack dealers 5 times more lenient than they are today.

We have already heard the case made by the preceding speaker—and I suspect successive speakers on the other side of the aisle will be likewise making the case—that by somehow making crack sentences more lenient, notwithstanding the clear evidence that as we have gotten tough on crack cocaine dealers, the spread of crack cocaine and incidental crime related to crack cocaine addiction has been going down. This is a strikingly bad idea, and one that this Congress should emphatically reject.

The President's principal explanation for the proposal to lower crack sentences is that the move was recommended by the U.S. Sentencing Commission to address the disparity in treatment between crack and powder dealers. I agree we should reduce this disparity, which produces the unjust result that people higher on the drug chain get lighter sentences than those at the bottom. But going easier on crack peddlers—the dealers who infest our school yards and playgrounds—is not the solution. Crack is cheap and highly addictive. Tough crack sentences have encouraged many dealers to turn in their superiors in exchange for leniency. Lowering these sentences will remove that incentive and undermine our prosecutors, making them less effective at protecting our children and our neighborhoods.

No, there is a better way to bring crack and powder cocaine sentences more in line. Instead of lowering sentences for crack dealers, we should instead raise sentences for powder dealers. Doing so will accomplish every legitimate policy objective that can be advanced by the President's proposal—except greater leniency for these individuals, which in my view is not a legitimate policy objective. Raising sentences for powder dealers is accordingly what this amendment proposes to do. Specifically, it changes the quantity of powder cocaine necessary to trigger a mandatory 5-year minimum sentence from 500 grams to 50 grams, and makes a similar change in the amount necessary to trigger a mandatory 10-year sentence. The effect of this will be to raise sentences substantially for those who deal in powder cocaine, a change that I think is entirely justified.

Even without taking into account the differential treatment of crack, powder sentences are currently too low. Powder is the raw material for crack. Yet sentences for powder dealers were set before the crack epidemic, without accounting for powder's role in causing it. It is also one of the drugs the use of which continues to increase, not only among teenagers but also among adults.

Moreover, we occasionally see a large powder supplier get a lower sentence than the low-level crack dealer who resold some powder in crack form simply because the powder dealer took the precaution of selling his product only in powder form. That is plainly an unjust result and one that our legal system should not countenance.

By making the changes in the quantity triggers for mandatory minimums I have described, our amendment will reduce the differential between the amount of powder and crack required to trigger a mandatory minimum sentence from 100 to 1, the current differential, to 10 to 1. That is the exact same ratio proposed by the administration in their proposal. But our proposal in this amendment will accomplish that goal not by making crack dealers' sentences more lenient but, rather, by toughening sentences for powder cocaine dealers.

Now the administration has charged—and we have heard a comment about this on the floor today; I suspect we will hear more—that the proposal we are offering is nevertheless the wrong way to proceed on account of its allegedly racially disparate impact. In my judgment, if the sentencing structure being proposed is in fact desirable on its merits, that is a dubious basis on which to evaluate the merits of this proposal or, for that matter, the administration's.

Since the administration has made this charge, I think it is important to understand it is not true. In fact, if our proposal is enacted, overall the percentage of cocaine dealers sentenced to tough, mandatory minimum sentences should be less disproportionately African American than it is under current law. This is because under current law and under the administration's proposal, persons convicted of dealing between 100 and 250 grams of powder are not subject to mandatory sentences. Under the proposal, they are contained in our amendment.

According to the Sentencing Commission statistics in the most recent year for which they were collected, for fiscal year 1996 the percentage of non-Hispanic whites in that group, 38.9 percent, was higher than the percentage of members in any other racial category. Therefore, imposing mandatory minimum sentences on this group of people would accordingly reduce the racially disparate impact of current law. Thus, the sentencing outcome under our proposal should have a less racially disparate impact than the current proposal which is in place in law.

By contrast, the administration's proposal to change the triggers for mandatory minimums for crack dealers is highly likely to increase the percentage of individuals sentenced to mandatory minimums for dealing cocaine who are African American. Had the administration's proposal been in effect during fiscal year 1996, the proportion of individuals sentenced to a mandatory 5-year minimum sentence who are African American would have increased—not decreased—increased slightly from 82.8 percent to 85.2 percent. Thus, contrary to the administration's charge, the proposal contained in this amendment will actually decrease the racially disparate effect of mandatory sentences on cocaine dealers.

On the other hand, what is not true of our proposal and is true of the administration's proposal is to change the quantity trigger for crack dealers. Their proposal will increase the racially disparate impact of mandatory minimum sentences for cocaine dealing compared to current law.

All that being said, I would like to get away from these numbers and talk about some of the contacts I have had with people in my State who are the victims of these drug dealers. Despite the disparity reduction justification given for the President's proposal, I have not found anyone in my State—any parents, regardless of their race, whose children have been touched by a crack cocaine dealer—who don't want to see the person responsible suffer serious consequences, no matter who the crack dealer was. Their families are already suffering consequences; their schoolyards are suffering consequences; their neighborhoods are suffering consequences. They believe that the people behind it, whether it is the peddler in the schoolyard or the kingpin selling the powder cocaine, ought to suffer the consequences, as well.

Reverend Eugene F. Rivers II, co-chair of the National Ten Point Leadership Foundation in inner city Boston, says:

> To confuse the concerns of crack dealers with the broader interests of the black community is at best inane and at worst immoral. Those who are straining to live in inner-city neighborhoods that are mostly adversely affected by the plight of crack and who witness crack's consequences first hand want crack dealers taken off the streets for the longest period of time possible.

We owe it to the thousands upon thousands of families struggling to protect their children from the scourge of drugs and drug violence. That means staying tough on those who peddle drugs and sending a clear message to our young people that we will not tolerate crack dealers in our neighborhoods or powder dealers who supply the crack dealers.

President Clinton had it right 3 years ago when he agreed with this Congress in rejecting an earlier Sentencing Commission plan to lower sentences for crack dealers. Back then, President Clinton said:

> We have to send a constant message to our children that drugs are illegal, drugs are dangerous, drugs may cost your life, and the penalties for drug dealing are severe.

Unfortunately, President Clinton's new plan to reduce sentences for crack dealers does not live up to that obligation. It sends our kids exactly the wrong message, and it does not do any favor to anybody except drug peddlers. In contrast, the approach taken by our amendment is faithful to this obligation. It achieves a reduction in the disparity between crack and powder cocaine sentencing in the right way, through legislation making sentences for powder cocaine dealers a lot tougher.

At this crucial time, we may be making real progress in winning the war on drugs and violent crime in part because we have sent the message that crack gang membership is no way to live and that society will come down very hard on those spreading this pernicious drug. At the same time, our kids remain all too exposed to dangerous drugs, far more exposed than we can probably imagine.

In light of these two trends, it would be, in my opinion, catastrophic to let any drug dealer think that the cost of doing business is going down. This is especially no time for lowering sentences for dealing in crack, a pernicious drug that brought our cities great danger, violence, and grief. It will be nearly impossible, in my judgment, to succeed in discouraging our kids from using drugs if they hear we are lowering sentences for any category of drug dealers.

By adopting this amendment, we can send our kids the right message: We will not tolerate crack dealers in our neighbors, and we will make the sentences on powdered cocaine dealers a lot tougher. Success in the drug war depends upon all the efforts of parents, schools, churches, the medical communities, and local law enforcement community leaders. There is no doubt about that. They are doing a great job in the drug fight. The Federal Government must do its part, too. We must provide needed resources, and we must reinforce the message that drugs aren't acceptable and that drug dealers belong in prison for a long time. Our kids deserve no less. That is why I urge my colleagues to support this amendment.

To address a couple of the points that were made by previous speakers, first, we have to concern ourselves not just with costs that are attendant to incarcerating crack cocaine dealers but with the costs that are brought about when those crack cocaine dealers are running wild in our communities. The notion that there are no costs involved when these folks remain on the streets, in our playgrounds and neighborhoods, addicting children, precipitating violence when the crack gangs are busy in their communities, is to miss, I think, a very vital part of this debate.

The costs of addiction are significant. Who exactly are the targets of the addiction? Very often, they are, themselves, members of minority communities. I don't think we are doing a

favor to the minority communities of this country if we allow the schoolyards in those communities to be infested with crack cocaine dealers. The key is, Do we want to rid our communities of drug dealers? In my judgment, that certainly ought to be our objective. That is what we have tried to do in this amendment, not just with the sections relating to powder cocaine sentences, for the dealers of powder cocaine, but the other provisions of the legislation. I am proud to be a cosponsor.

I hope my colleagues understand when they cast their vote on this issue, the question is very simple: Do you think it is time for powder cocaine dealers to serve tougher sentences for drug kingpins to go to jail for a longer time or don't you? That is what is at stake. If you believe in tougher sentences for powder cocaine dealers, we ask for your support for this amendment. If you believe in getting tougher on methamphetamines, we ask for your support for this amendment. If you believe we should devote more resources to drug treatment programs, then you should vote for this amendment. But don't be fooled by claims that somehow or another we are doing anybody a favor by not moving forward in this area, and by letting drug dealers continue to infest our schoolyards. That is not doing any favors to anybody. I hope our colleagues will join us and support this amendment.

I yield the floor to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise today to discuss the section of this amendment that addresses mandatory sentencing guidelines for handling powder cocaine. I thank my colleague from Michigan, Senator ABRAHAM, for his leadership on this particular issue. We have been working on this issue for well over 2 years. I know it is important to him. It is extremely important to me. I think he made a great statement, great argument for why we need to toughen penalties on drug dealers.

One of our colleagues who spoke earlier suggested perhaps we were not spending enough money on prevention and education and treatment. I have, in the meantime, pulled out a chart that shows how much money we have spent over the last 10 years in drug treatment and prevention and research. I would like to go over that for a moment for Members of the Senate.

Over the last 10 years, we have spent more than $20 billion on drug abuse treatment. We have spent more than $15 billion on drug abuse prevention. And we have spent, in addition to that, more than $1 billion in prevention research and more than $1.5 billion in treatment research.

We certainly have not been ignoring the treatment and prevention of drug addiction. The fact is, it is complicated. It needs to be part of the formula, as far as I am concerned. But if we do not recognize loopholes we have in the current law that allows drug dealers to continue to carry on their business at an extreme cost to society, I think we are ignoring our responsibilities, trying to address part of the drug problem. That means we have to have tougher penalties.

Currently, there is a vast discrepancy between minimum sentencing guidelines for those caught dealing cocaine in the form of crack and those dealing it in the form of powder. Under current law, a dealer can be sentenced to 5 years for peddling 5 grams of crack cocaine. If you look on the chart, we have symbolized the amount of 5 grams of crack cocaine. In order to receive a similar sentence, a dealer would have to be caught with 500 grams of powder cocaine. That creates a tremendous loophole. What happens with our drug dealers is they will bring in powder cocaine and just before they put it out on the street for consumption by individuals, it is converted over to crack cocaine. That loophole encourages drug dealers to then import more powder cocaine. That is why I think it is so important we pass this particular portion of the amendment.

I have met with many different law enforcement organizations to look into this discrepancy. One effect of this discrepancy is what statistics show to be a racial bias in the sentencing guidelines. Mr. President, 90 percent of those convicted for dealing crack are African Americans. The majority of dealers caught with powder cocaine are white—58 percent of powder users are white. It is ridiculous that those who dabble with powder cocaine for all intents and purposes are protected by our sentencing parameters. Drug smugglers and drug dealers know about this caveat in sentencing and they do everything they can to take advantage of it.

Cocaine is largely transported in powder form and only converted to crack at the time of sale. This loophole in the current law actually reduces the long-term risks to dealers and smugglers. Drug enforcement detectives I have met with have confirmed the going price for 5 grams of powder and 5 grams of crack are typically equal now on the street. That varies considerably, but that apparently is the price right now. Why should we continue to support this disparity when we can solve it today? I believe one way to effectively decrease crime in America is to punish criminals through more rigorous sentencing, particularly when we are providing the amount of dollars we are today for drug prevention and drug treatment and research on drug prevention and research on drug treatment.

In order to receive a minimum sentence of 5 years, a criminal would only need to be caught with 50 grams of powder cocaine instead of the current 500. This amendment also stiffens the penalty for carrying a large quantity of powder cocaine. To receive a minimum sentence of 10 years, a criminal would only have to be caught with 500 grams of powder cocaine, instead of the current standard of 5 kilograms.

Henry Salano, the former U.S. Attorney for the District of Colorado, has endorsed this effort saying:

> There is a strong rationale for equalizing the powder cocaine penalties and the crack cocaine penalties. The law enforcement community learned years ago the strong sentences meted out to crack cocaine dealers has had a significant deterrent effect on the production and distribution of crack. [These] proposed penalties for powder cocaine will likewise restrict the flow of powder cocaine in this country.

This comes from an individual who in the past has been on the front line, has been on the firing line, has been dealing with this from a hands-on position because of his position with law enforcement.

We must show criminals that any activity involving illegal drugs will not be tolerated. There is a direct correlation between drug use and crime. Cocaine plays a major role in this connection. A Department of Justice study in 1998 discovered the drug most commonly detected among all arrestees, from 1990 to 1998, was cocaine. Cocaine use poses a direct threat to the safety of our society. Let's stop treating those who use and deal powder cocaine as if they were special criminals. I ask all my colleagues to join me and end this inequality in cocaine spending.

I ask my colleagues to consider the issues in this particular amendment. I think we are taking generally the right steps in addressing our drug problem. Obviously, we are not doing it just on penalties, but we are doing it in all areas—treatment and prevention. This is an important loophole we must close. I ask my colleagues to join me in voting for this amendment and supporting this effort.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, there has been focus on different provisions of the amendment before us. I want to address two of those in my remarks.

One of those provisions is, if a child attends a title I school and becomes the victim of a violent criminal offense, including drug-related violence, while in or on the public school grounds, the school district may use the title I funds or any other Federal funds, including IDEA funds, to provide a voucher for a child to attend a private or religious school or pay the cost to transfer the child to another public school.

In title I, we are basically talking about $500. I do not know how one expects to pay tuition to a school for about $500. A variety of technical

issues and questions are raised. It, obviously, is creating a sense of expectation by those who put this proposal forward.

Nonetheless, on the issue of the value of the measure, even if it did have sufficient funds to do what it intends, it will not make the schools any safer and will not improve student achievement. We should support violence and crime prevention programs in and around public schools, not divert precious resources to private schools. Therefore, we should further invest in programs such as the Safe and Drug-Free Schools and Communities Act, afterschool programs, community crime prevention activities, encourage parent and community involvement, and help communities and schools ensure that all children are safe all the time.

We all know that juvenile delinquent crime peaks in the hours between 3 and 8 p.m. A recent study of gang crimes by juveniles in Orange County, CA, shows that 60 percent of all juvenile gang crimes occur on schooldays and peaks immediately after school dismissal. We know afterschool programs reduce youth crime.

The Baltimore City Police Department saw a 44-percent drop in the risk of children becoming victims of crime after opening an afterschool program in a high-crime area. A study of the Goodnow Police Athletic League Center in northeast Baltimore found juvenile arrests dropped by 10 percent, the number of armed robberies dropped from 14 to 7, assault with handguns were eliminated, and other assaults decreased from 32 to 20 from 1995 to 1998.

This demonstrates how we can deal with the problems of violence in communities, violence around schools, even violence within the schools. We ought to be focusing on what works and supporting those efforts, rather than having an untried, untested program that shows on the face of it very little difference in safety and security for children in schools.

In addition to improved youth behavior and safety, quality afterschool programs also lead to better academic achievement by students. At the Beech Street School in Manchester, NH, the afterschool program has helped improve reading and math scores of students. In reading, the percentage of students scoring at or above the basic level increased from 4 percent in 1994 to one-third in 1997. In math, the percentage of students scoring at the basic level increased from 29 percent to 60 percent. In addition, Manchester saved an estimated $73,000 over 3 years because students participating in the afterschool program avoided being retained in grades or being placed in special education.

This kind of investment will help keep children safe and help them achieve, and that is the right direction for education.

There are precious few public funds available, and those public funds should not be funneled to private and religious schools. Public tax dollars should be spent on public schools which educate 90 percent of the Nation's children, and the funds should not go to private schools when public schools have great needs.

We should be doing all we can to help improve public schools, academically as well as from a security point of view. We should not undermine the efforts taking place in those public schools.

This amendment will allow any Federal education funds to be used for private school vouchers, including the title I, IDEA, and Eisenhower Professional Development Program. The Eisenhower Professional Development Program is targeted to enhance math and science. Rather than enhancing math, science, and academic achievement for children in the public schools, we are drawing down on those funds to permit some students to go to other schools. It makes absolutely no sense.

Federal funds should not go to schools that can exclude children. There is no requirement for schools receiving vouchers to accept students with limited English proficiency, homeless students, or students with disciplinary problems. Precious funds should be earmarked for public schools which do not have the luxury of closing their doors to students who pose a problem.

The challenges the schools are facing today are much more complex, much more complicated than they were even a few short years ago. I was with the head mistress of the Revere School in the last week. I said: I remember visiting the school 2 years ago and they had nine different languages.

She said: How about 29 different languages now with different cultures and traditions?

They are facing more complexity in dealing with children, and it is necessary to give them support and not deplete scarce resources. They obviously should have accountability in how effectively those resources are being used, but when you talk about undermining the Eisenhower training programs for math and science or IDEA, which is funding needs for special education, and even the title I programs for disadvantaged children, it makes no sense whatsoever.

Our goal is to reform the public schools, not abandon them. Instead of draining much needed resources from public schools, we should create conditions for improvement and reform, not in a few schools but in all schools, not in a few students but in all students. Effectively, what we would be doing is abandoning a great majority of students. That is wrong.

I ask unanimous consent to have printed in the RECORD a list of the various organizations representing parents and teachers and students who are strongly opposed to the provisions.

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

ORGANIZATIONS THAT OPPOSE THE VOUCHER PROVISION IN THE DRUG AMENDMENT

American Association for Marriage and Family Therapy
American Association of University Women
American Counseling Association
American Federation of School Administrators
American Federation of Teachers
Council for Exceptional Children
Council of Chief State School Officers
Federal Advocacy for California Education
International Reading Association
National Association for Bilingual Education
National Association of Elementary School Principals
National Association of Federally Impacted Schools
National Association of School Psychologists
National Association of Secondary School Principals
National Association of State Boards of Education
National Association of State Title I Directors
National Education Association
National PTA
National Science Teachers Association
New York City Board of Education
New York State Education Department
People for the American Way

Mr. KENNEDY. Mr. President, drug abuse in our Nation is a menace that threatens the security, health, and productivity of all of our citizens. Every reputable authority who has examined the problem of drug addition knows that there is no army large enough to keep all drugs from crossing our borders and no nation powerful enough to imprison all pushers and suppliers. We must use all the constitutional enforcement tools at our command to make the criminals who would profit from the degradation of our fellow citizens pay the price of their crimes.

An effective fight against drug abuse must take three approaches: law enforcement, prevention and treatment. Each of these three approaches is vital; no program can be successful unless it involves them all.

The widespread use of illegal drugs is one of the most pressing problems facing our society. Illegal drugs are killing children and destroying families. Vast profits from the sale of illegal drugs have created a new criminal underworld which promotes violence and feeds on death.

However, this amendment does not go about this problem in the right way.

By raising powder cocaine penalties, the amendment reduces the current 100 to 1 ratio between the two drugs, but it doesn't solve the underlying problem. The real problems is that crack penalties are out of proportion to the penalties for other drugs. Increasing the penalty for powder cocaine makes the penalties for both forms of cocaine disproportionately severe compared to other drugs.

Twenty-seven former U.S. attorneys who are now Federal judges say they ''disagree with those who suggest that the disparity in treatment of power and crack cocaine should be remedied by altering the penalties relating to

power cocaine. The penalties for powder cocaine, both mandatory minimum and guideline sentences, are severe and should not be increased.''

Clearly Congress is right to be concerned about excessively lenient sentences for serious offenses. but the sentencing guideline system in place today is the most effective way to limit judicial discretion. In 1984, Senator THURMOND, Senator BIDEN, I, and others, worked together to pass bipartisan sentencing reform legislation. A key reform in that legislation was the creation of the Sentencing Commission, to achieve greater fairness and uniformity in sentencing. since its creation, the Commission has developed sentencing guidelines that have eliminated the worst disparities in the sentencing process, without seriously reducing judicial discretion.

Unfortunately, actions by Congress continue to undermine the Commission's work. The guidelines system was designed to achieve greater uniformity and fairness, while retaining necessary judicial flexibility. Instead, Congress has enacted a steady stream of mandatory minimum sentences that override the guidelines and create the very disparities that the guidelines are designed to end.

A recent study by the Rand Corporation shows that ''mandatory minimums reduce cocaine consumption less per million taxpayer dollars spent than does spending the same amount on enforcement.'' On the issue of controlling drug use, drug spending, and drug-related crime, the same study found that ''treatment is more than twice as cost-effective as mandatory minimums''.

One of the important goals of sentencing is general deterrence. We should allow the Commission to do its job, and weigh the Commission's recommendations more carefully before acting to override them.

In 1995, the Sentencing Commission issued a formal recommendation to Congress to change the crack ratio to 1 to 1 at the current level of powder cocaine. Congress rejected the Sentencing Commission's recommendation in a House vote and told the Commission to come up with another solution.

Two years later, in 1997, the Sentencing Commission issued a second recommendation to Congress to lower crack penalties and raise powder cocaine penalties. Both the Department of Justice and the drug czar's office agreed with this recommendation. Yet, the Commission's recommendation continues to be rejected by Congress. Crack cocaine penalties were enacted over a decade ago without the benefit of research, hearings, or prison impact assessments. Today, we have the advantage of scientific evidence about cocaine in both forms and about the impact of crack sentencing policies.

Shame on Congress for ignoring the experts it put in place to address these issues in an informed manner. The Sentencing Commission's conclusion is clear—crack penalties are out of line, not powder cocaine penalties. Two wrongs don't make a right.

The Sentencing Commission reports that more than half of current powder cocaine defendants are at the lowest levels of the drug trade, and 86 percent are nonviolent. Increasing the penalty will add almost 10,000 addicts and small-time drug users to the prison population in the next 10 years, at a cost to taxpayers of approximately $2 billion. In the next 20 years, that cost will escalate to over $5 billion, and in 30 years it will be $10.6 billion.

This amendment will also increase the disproportionate representation of minorities in federal prison, because 68 percent of the people sentenced federally for powder cocaine offenses are non-white. Of those, 40 percent are Hispanic.

Enacting this legislation will worsen current imbalances in drug policy at significant cost. The new powder cocaine sentences will be far above those for many other more serious and violent offenses.

We know that merely talking tough is not enough. The war on crime has been declared again and again—and it has been lost over and over. It is clear that we will never succeed in defeating crime if we try to do it on the cheap. We can support our State and local police without turning any locality into a police state, and without destroying the fundamental civil liberties and constitutional guarantees that make this Nation truly free.

To combat the drug menace we need local law enforcement programs that work. It is increasingly clear that stronger law enforcement at the local level can be successful when coupled with enhanced drug treatment and education opportunities. One of the most important tools in the war against drugs is Federal assistance to increase the number of these successful local law enforcement programs, not locking up more low-level drug dealers and throwing away the key.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I consume.

First of all, on the issue of the Hatch-Abraham-Ashcroft amendment on drugs that is now before the Senate, I am very pleased that this action is being taken on this bill by the Senate because any action we can take to stiffen the laws against drug use, to discourage drug use, or anything else connected with the horrors of drug use and abuse in America is a very important thing for the Senate to be working on because drug abuse is a serious problem.

I believe the methamphetamine antiproliferation amendment that is before us will assist Federal, State, and local law enforcement officials, treatment professionals, prevention groups, and others who are on the front lines of the drug fight. So I will take a few minutes to highlight some important sections of this amendment.

In particular, I am happy to see additional resources in this legislation for training programs for State and local law enforcement officials. That is because methamphetamine is a new challenge for law enforcement. Of course, this methamphetamine problem is spreading across America. It may just be a California and Midwest issue right now, but it will not be long before it will be an issue all over the United States because, unlike other drugs that have to be imported, meth can be produced here in the United States with recipes available off the Internet. It can be made from chemicals available at your local drugstore.

These home-grown laboratories contain chemicals and chemical combinations that are hazardous both to the environment and to the people. They are potentially explosive. Even in my State of Iowa, some people have been injured in the process of making drugs. Most importantly, when it comes to law enforcement or for an individual who is violating the law by making methamphetamines, the disposal of this laboratory requires specialized handling.

We have all heard these horror stories about the dangers methamphetamine labs pose to both the manufacturers and to the people in the neighborhood. Because of the smell associated with it, you find a lot of this going on in the really rural parts of our States. So what this means is, the local county sheriff has more risk. Because of this, there is a need for training and for more equipment to clean up these labs.

This amendment provides for additional training opportunities for State and local law enforcement in techniques used in meth investigations. It supports training in handling meth manufacturing chemicals and chemical waste from meth production.

In addition, this amendment provides for additional DEA agents to assist State and local law enforcement in small and midsized communities in all phases of drug investigations, including foreign language assistance, investigative assistance, and drug prevention assistance. I am pleased to see the proposal Representative MATT SALMON and I have worked on to encourage Government web sites to include anti-drug information in this legislation. This is the second provision of this bill about which I am very happy. Positive antidrug messages are an affordable and creative way to especially reach the young audience. Funding is needed for research to discover chemical agents that can be added to anhydrous ammonia to make it unusable for meth manufacture. This is a long-term solution that has the potential to be very beneficial. The authorized funding provided for in this bill will allow continued and expanded research to find an appropriate additive to ensure anhydrous ammonia can not be misused.

In the agricultural regions of the United States, a nitrogen additive to

the soil is used to get a greater amount of productivity. That is involved with the raising of corn in the Midwest, as an example. Anhydrous ammonia is a source of nitrogen that farmers knife into the ground. We have seen these clandestine methamphetamine laboratories steal the anhydrous ammonia to use it in manufacturing methamphetamine. It is very dangerous to steal anhydrous ammonia. We have even had people hurt by that. But it is a cheap way to get some of the ingredients for this product.

So what we want to do, through this research—and Iowa State University is involved in this research—is to have a chemical agent that can be added to anhydrous ammonia so if a person steals it from the tanks that are around the countryside during the period of time when farmers are putting it on in the spring of the year, it won't do the manufacturer of methamphetamine any good because it would not be able to be used at that point—if such a chemical additive can be made.

A vital part of this bill, then, is the growing problem of this theft of anhydrous ammonia. States have even adopted tougher laws to combat the theft of anhydrous ammonia. But because these are separate State laws—the laws are not uniform —this has encouraged thieves to steal anhydrous in one State and transport it to an adjoining State with lesser penalties where it is used for the manufacture of methamphetamine. A Federal statute, as provided for in this amendment, will provide a strong deterrent to thieves who cross State lines to avoid stiffer penalties back home.

Last night, the Senator from Connecticut, Mr. DODD, and the Senator from Louisiana, Ms. LANDRIEU, came to the floor to offer an amendment which would essentially gut this entire bill. In the process, they made some statements about the bill which, with all due respect to my very capable colleagues, are very inaccurate statements and analyses of this legislation. I would like to clear the air today on some points they made. I will hit three points they made: First, their analysis of my means test in this bankruptcy reform legislation; second, what is the proper definition of household goods; and, third, their judgment of the antifraud provisions, which would prohibit loading up on debt right before bankruptcy. I will respond to each of these points. This will not take me long, for those colleagues who are waiting to speak.

First, the means test we now have in this bill is very flexible. Some of my colleagues would say it is too flexible. The means test says if a debtor in chapter 7 can pay $15,000 or 25 percent of his or her debts over a 5-year period after deducting living expenses and certain other types of expenses, such as child support, then that debtor in bankruptcy may have to repay some portion of the debts owed. Paying some portion of debts owed is very legitimate because the signal we are trying to send in this bill is, no longer will anybody get off scot-free if they have the ability to pay.

If a bankrupt is in some sort of unique or special situation, the means test in this bill allows that person to explain his or her situation to the judge or to the trustee and actually get out of paying these debts.

Again, a lot of my colleagues say, why would you have a provision like that in this bill? If somebody has special circumstances or not, if they owe, they ought to pay. Well, it is an attempt to make changes that are dramatically different, even with these compromises, than what we have had as a law of the land since 1978.

If there are these special expenses which are both reasonable and necessary, and this reduces repayment ability, then, as I said, the debtor doesn't have to repay his or her debt. That is a simple process that everyone can understand. Somehow that has been interpreted by some people in this body as not actually doing what the bill says, or they are reading the bill a different way. I want to clear this up. The way we determine living expenses in the bill is to use a very simple template established by the Internal Revenue Service for repayment plans involved in back taxes.

I am going to read from a chart. This study was done by the General Accounting Office. It noted, in this June 1999 report to Congress about bankruptcy reform, that the template we use as a basis for this legislation, to allow the debtor to declare necessary living expenses, does include child care expenses, dependent care expenses, health care expenses, and other expenses which are necessary living expenses.

Right here is where it says: Other necessary expenses. I want this very clear, that this legislation allows, as you can see, child care, dependent care, health care, payroll deductions, on and on, life insurance. Let anybody tell me on the floor of this body that this is not a flexible test to accommodate very extraordinary circumstances or very regular circumstances.

So the suggestion last night that the bill is unfair because it doesn't allow for child care expenses or these other expenses associated with raising children is misplaced. According to the General Accounting Office, the Internal Revenue Service living standards—and these standards are the basis for the court to decide the ability to repay—in the bill now provide that any —I emphasize any—necessary expense can be taken into account. So, again, how much more flexible can we get? The only living expenses not allowed under our bill are very unnecessary and unreasonable expenses. The only people who oppose the means test, as currently written, are people who want deadbeats looking to stiff their creditors to dine on fancy meals or live in extravagant homes and take posh vacations. And there is no reason why we have a $40 billion bankruptcy problem in this country, and that honest people in this country, a family of four are paying $400 a year more in additional costs for the goods and services they buy to make up for deadbeats who aren't paying, and that we have to put up with still other people who have the capability of paying to live high on the hog.

I think what is really behind the effort is the desire to have a means test which, quite frankly, doesn't do anything. Why have the bill at all? We could continue to go on under the 1978 law, where we doubled the number of bankruptcies in the last 6 or 7 years, from 700,000 to 1.4 million—an irresponsible public policy. Before I ever introduced this bill, I made numerous compromises to make the means test flexible, as I have said—more flexible, in fact. Some of the changes have even been suggested by this Democrat administration. They were suggested at the end of the last Congress when a bill that passed here 97–1 didn't get through. This bill has incorporated some of those. It is a compromise bill. I have taken heat from my side of the aisle for that.

Mr. LEAHY. Will the Senator yield before he goes on to his next point?

Mr. GRASSLEY. Yes.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from Alabama, Mr. SESSIONS, be recognized after the Senator from Iowa is finished, and then the Senator from Nebraska, Mr. KERREY, and then the Senator from New Jersey, Mr. TORRICELLI, and that I be recognized at a later time.

Mr. GRASSLEY. Reserving the right to object, and I won't.

Mr. LEAHY. It will be on my time.

Mr. GRASSLEY. Is this within the timeframes we already have under the agreement?

Mr. LEAHY. Yes. The Senator from Alabama, the Senator from Nebraska, and the Senator from New Jersey will be recognized.

Mr. TORRICELLI. If the Senator will yield, what is the time agreement already?

Mr. GRASSLEY. Two hours equally divided. Would the Chair please tell us how much time is left?

The PRESIDING OFFICER. The agreement was 4 hours equally divided. The Senator from Iowa has 48 minutes 47 seconds. The Senator from Vermont has 89 minutes 45 seconds.

Mr. TORRICELLI. That seems more than adequate to me.

Mr. LEAHY. I ask my colleagues to give a little bit of time for the Senator from Vermont who is going to want to speak somewhere in there.

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

Mr. GRASSLEY. Mr. President, before I make my final point, and then yield the floor—hopefully, the Senator from Vermont will hear this—I hope we can get some agreement on both sides

to yield back some time when the present speakers are done speaking.

The issue of household goods is where I left off when the Senator from Vermont asked me to yield for a minute. On this next statement, I might surprise Senator DODD and some of my colleagues, but I do somewhat agree with what was said last night. Under the bankruptcy code, household goods can't be seized by creditors. The point, as I understand it, from the Senator from Connecticut, is that perhaps the definition of household goods in the bill now could be loosened up so creditors can't get certain essential household items. I do see merit in this point. If the Senator from Connecticut were to modify his amendment just to deal with household goods, I would be pleased to work with him on that to get the bill accepted. But right now, the amendment of the Senator from Connecticut does much more than just deal with the household goods issue. I simply can't accept the other changes he has suggested.

Finally, last night, the Senator from Louisiana raised some criticism of the provision of the bill that fights fraud. Here is the problem we must address in doing bankruptcy reform: Some people load up on debts on the eve of declaring bankruptcy and then, of course, what they try to do to wipe those debts away by getting a discharge. Obviously, this is a type of fraud that Congress needs to protect against for the honest consumers who are paying that additional $400 per year. The bill now says debts for luxury items purchased within 90 days of bankruptcy in excess of $250 and also cash advances on credit cards made within 70 days in excess of $750 are presumed to be nondischargeable.

Now, again, this is very flexible on its face. Under the bill now, you can't buy $249 worth of luxury items such as caviar the day before you declare bankruptcy and still walk away scot-free. Under the bill now, you can get $749 worth of cash advances minutes before you declare bankruptcy and still walk away scot-free.

The question we have to answer is, How much more fraud do we want to tolerate in this bill? Haven't we tolerated enough in this bipartisan compromise, which I thank the Senator from New Jersey for working so hard with me on to get it put together? So we go to the amendment offered last night. This would allow $1,000 worth of fraud. In my view, that is way off base. So if you want to crack down on out and out fraud, you should support this bill Senator TORRICELLI and I have introduced. If you want to make it easier for crooks to game the bankruptcy system and to get a free ride at everybody else's expense, then you should support the amendment that was offered last night.

Well, obviously, unless the Senator from Connecticut would modify his amendment to limit it to household goods, I oppose that amendment, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Under the unanimous consent agreement, I am to speak at this time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SESSIONS. Mr. President, I thank Senator GRASSLEY for his leadership in the effort against drugs. I am a strong believer that this legislation that focuses on methamphetamine is focusing on critical issues that are important to America. We do have a spreading of methamphetamine around the country, and I am inclined to believe that increased penalties, and certainly a lot of other things involved in that legislation, is good. It has also been made a part of this legislation—efforts to change the current law with regard to crack cocaine and powder cocaine.

Complaints have been made that crack cocaine penalties are 100 times more tough than powder sentences, and that this is, in fact, not fair—a point with which I tend to agree. I prosecuted drug cases for 15 years. Every year since the sentencing guidelines were imposed, until 1992, I prosecuted drug cases. I understand how it plays out in a courtroom. The proposal that is made a part of Senator GRASSLEY's amendment is the Hatch-Ashcroft-Abraham drug amendment, I guess it is. That proposal is designed to narrow the gap, saying that crack cocaine ought not to have 100 times more severe penalty than powder cocaine.

An argument has been made that crack cocaine is more utilized in the African American community and, therefore, it has a disparity and a racial impact, and that we ought to look at this. Few would doubt that crack is a more dangerous drug than powder cocaine. It is smoked, it goes directly into the lungs, directly into the blood system, and directly to the brain.

There are intense highs achieved at once. Some people, they say, are addicted the first time they try crack cocaine. It is a dangerous drug. Powder is normally sniffed through the nose. It is easy to receive through the nostrils, into the membranes, into the blood system, and it is not quite as intense as crack. It does not cause addiction nearly so quickly. So there is a difference.

The idea of a 10-to-1 ratio is a movement in the right direction.

But my reluctance at this point with this legislation is simply this: I believe it is time for us to look at the drug guidelines and the penalties we are imposing. This legislation would have no impact on the current crack guidelines but would raise the powder guidelines.

We are talking about 50 grams of powder cocaine which you could virtually hold in one hand—50 grams of powder cocaine, 5 years without parole; 5 grams of crack, which could easily be held in one hand, is 5 years without parole in the Federal system. That is what we are talking about—Federal law, Federal penalties, not States which can have their own sentences in any way they want.

I say to the Chair that, as a prosecutor, I took the enforcement of law seriously. We had one of the highest average sentences in the United States. I think one year we had the highest average sentence imposed in the United States in drug cases. We were honest in how we presented the case: This is the way it worked; this is what the law is.

You charge an individual with selling crack cocaine, and normally the case doesn't just go down on the fact that he is caught with 25, 30, or 40 grams. Normally, you are prosecuting in Federal court an organization of drug dealers. You would bring in the underling who worked for that leader. You would ask him how long he had been out on this street corner or selling from this crack house. Then they say a year. How much has he sold over that year? Pretty soon, the amount goes up to kilograms, 1,000 grams, multikilograms of crack have been distributed, and that person is looking at literally 30 years, 20 years, or life without parole.

I have seen sentences in Federal court of quite a number of young men and women to life without parole, and others 30 years, 25 years, or 20 years without parole. I believe strong sentences are effective. I believe they allow the law enforcement community to break the back of an illegal ring such as a drug ring.

I don't want to go into any significant reduction in sentences, but I think it is time for us to evaluate whether or not we are approaching the drug penalties in the appropriate way. The judges are concerned. Judges think this minimum mandatory which has the effect of driving up all of the sentencing guidelines is too tough.

General Barry McCaffrey has questioned the crack and powder cocaine laws as proposed in this amendment. He believes there is a better approach to it. I think it is time for us to consider that. I believe we have had these guidelines in effect for quite some time now—well over a decade. I believe we ought to look at it, have some hearings, and study it.

I didn't want to, by voting for this amendment, suggest I was comfortable with these guidelines. In fact, my inclination would be not to vote for the amendment for that reason.

I simply think the best way to reduce drug trafficking by law enforcement is to have more prosecutions. It is less important—I did this as a prosecutor for 17 years. I chaired the U.S. Attorneys Committee for the United States here in Washington on drug abuse and drug issues. I am a full and total believer in the sentencing guidelines, the tough Federal laws that are out there.

But if you ask me, my personal view is that I would prefer to have 10 people caught and sentenced to 7 years in jail rather than 5 people caught and sentenced to 14 years in jail. The best way

for us to improve our pressure from the law enforcement end on drug trafficking in America is to increase prosecutions and investigations. Whether they serve 7 years, 9 years, 12 years, or 6 years is less important than people who are out dealing drugs who know they are going to get caught and they are going to have a big time sentence to serve, and it is without parole.

Make no mistake about it, in State systems they normally serve a third of the time. This Congress a number of years ago, in a great piece of legislation, passed honesty in sentencing that says you serve what the judge gives you; and not only that, but you have to serve the sentence that the sentencing guidelines call for.

Based on the amount of drugs literally when the case hits a judge's sentencing docket and the judge looks at it, it may be the difference between 18 and 21 years. If he likes a defendant and feels sorry for him, he gives him 18 years. If he doesn't like him, he gives him 21 years. That is about all the discretion he has.

I am not sure we ought not to take time now to reevaluate that to make sure we are properly sentencing and we are using our resources of incarceration wisely. What is it, $20,000 a year, to keep somebody in prison? Wouldn't it be better to drive down drug use by intensive prosecutions across the board, letting the drug dealer know he is soon going to be caught and will serve a significant amount of time, than just taking a few people and sending them off for 30 years without parole? I believe that would be a better policy. I am prepared to consider that. I am prepared to work with General McCaffrey and Attorney General Reno and others in an open and fair way.

I do not believe we ought to eliminate the sentencing guidelines. I do not believe we ought to eliminate mandatory minimum sentences for certain amounts of drugs. I believe that is appropriate. I don't believe we ought to retreat from a tough law enforcement presence with regard to illegal drug use.

Just this morning, Senator COVERDELL hosted with General McCaffrey a breakfast for the Attorney General of Mexico. I was able to sit at his table and share thoughts about what we can do as two nations to improve our war against drugs. Mexico is in a crisis perhaps bigger than they realize. As the power of that illegal drug empire grows, the harder and harder it is for that country to contain it. They have to, not because we pressure them, out of their own self-interest save that country from being corrupted and destabilized by a powerful, wealthy drug empire. I hope we can encourage that and work together to assist with that.

We in the United States need to continue our effective efforts over the years to do education, prevention, treatment, prosecution, and incarceration of drug dealers. If we continue that effort and the interdiction effort, I believe we can bring drug use down. Everybody in this country will benefit from that.

I wanted to share my thoughts on this. I hope to be able to vote for this amendment. But I am not sure I can. I believe we need to seriously evaluate the sentencing guidelines and the mandatory sentences for drug use in America to make sure they are rational, that they are effectuating our effort as much as they possibly can to reduce drug use and illegal distribution of drugs in America.

I thank the Chair.

Mr. KERREY. Mr. President, I rise to speak in favor of the bankruptcy bill. I have supported a number of amendments to it. I believe this bill does achieve a balance between society's interest of people paying their debts and preventing debtors from being permanently ruined.

Senator GRASSLEY and Senator TORRICELLI have made a good-faith effort to strike that balance. I am an original cosponsor of the bill. I supported some reasonable changes that will improve the bill. If those changes are adopted by a majority of the Senate, I intend to support final passage of what I consider to be a very important piece of legislation that will make certain people don't take undue advantage of the bankruptcy laws, especially those who can reasonably be expected to pay at least part of their debts. These individuals are not excused entirely. That is, in essence, what Senator GRASSLEY and Senator TORRICELLI have attempted to do. I believe they have struck a fair balance and gotten that done.

I understand this is the last legislative vehicle heading, hopefully, toward the President's signature.

I want to speak about the methamphetamine amendment that has been offered that we will vote on relatively soon. Staff has advised me I should vote for it, that I should not be seen as being weak on fighting the battle against methamphetamines. I have come to the floor and I wish the author of this amendment were on the floor to ask him, why shouldn't I be angry that this amendment has been converted from a good piece of legislation that would provide additional resources, that would give additional resources to our DEA agents to enable law enforcement to fight in Nebraska the battle against methamphetamines? That is what we are trying to do.

I have worked with almost every single sheriff, almost every single law enforcement officer—whether chief of police or the head of our highway patrol—trying to win this battle, and we are not winning it. We have the juvenile justice bill tied up in conference; why don't we pass it? Because we can't reach agreement on how to regulate gun ownership. It provides additional resources to win this battle, to enable us to say we are doing all we can to keep our kids safe against a drug that will destroy their lives.

What do we have before the Senate? An amendment that has a school voucher proposal in it. I hear from my judges, from my law enforcement officers, that the net effect of the changes in the penalties on crack and powder cocaine, to increase the penalty to the mandatory minimum on powder cocaine, will be we divert more resources from fighting the battle on dealers and high-level drug usage to fighting the battle against those individuals using cocaine occasionally or on a one-time basis. We will be arresting and putting college kids in jail. That is what we will be doing.

I am angry we have interfered with a good faith effort. The underlying provisions of this methamphetamine bill I find to be attractive with the urgency of this problem. In Nebraska, we started this 5 or 6 years ago when the problem of methamphetamine first came to light. We devoted more resources as part of the HIDTA—High Intensity Drug Trafficking Area—effort, part of the multiagency effort. Law enforcement people say they are starting to get this under control; they are making more arrests; they are putting people away. The tougher penalties in here I support because we need to have tougher penalties in place. They say they are getting the job done, but all of a sudden we are playing politics with it again.

I favor the underlying methamphetamine effort that is in this amendment. But to attach a school voucher proposal to it and additional mandatory minimums that will redirect resources away from the real serious problems in my community is offensive to me personally. Not only will I vote against it, I intend to write a letter to every law enforcement officer in Nebraska and say to them, they also should be angry. We haven't passed the Juvenile Justice Act. We are not providing resources necessary to solve this problem, and we are playing politics, worst of all, trying to seek advantage, trying to put an amendment up that is difficult to vote against.

It won't be difficult for me to vote against this amendment. I am sad that is what I have to do because we are playing politics rather than trying to actually provide our law enforcement officers with the resources they need to solve what has become in Nebraska one of my most difficult law enforcement problems to solve.

I yield the floor.

Mr. KERRY. Mr. President, I am opposed to amendment No. 2771 to S. 625, the bankruptcy bill, because it contains a provision allowing school districts to use funds from any federal education program to provide a school voucher to any student attending a Title I school that has been the victim of a violent crime on school grounds. I believe that providing vouchers to students to attend private or parochial schools is a wrong-headed policy notion that would do nothing to improve the education system that 90% American

children depend upon. Further, the HATCH amendment attempts to relieve only those students against whom a violent crime has been committed, but does nothing to improve school safety for students remaining in the public schools.

Federal funding must be focused on improving educational excellence in our nation's public schools. Money provided by the federal government to state and local education agencies is critical to increasing student achievement and improving teacher quality. A disservice to the public school system is done with this money is directed to private or parochial schools. School reform should not translate into an abandonment of our nation's public schools.

I agree with Mr. HATCH in that there is a crisis of violence and disruption undermining too many classrooms. Last year 6,000 children were expelled from public schools and there were 4,000 cases of rape or sexual battery reported. Parents, students, and educators know that serious school reform will only succeed in a safe and orderly learning environment. But Mr. President, my solution for stemming the tide of violence differs radically from that of Mr. HATCH. Instead of abandoning the public schools, the legislation that Mr. SMITH of Oregon and I introduced would establish a competitive grant program for school districts to create ''Second Chance Schools.'' In order to receive the funds, school districts would need to have in place district-wide discipline codes which use clear language with specific examples of behaviors that will result in disciplinary action and have every student and parent sign the code. Additionally, schools could use the funds to promote effective classroom management; provide training for school staff and administrators in enforcement of the code; implement programs to modify student behavior including hiring school counselors; and establish high quality alternative placements for chronically disruptive and violent students that include a continuum of alternatives from meeting with behavior management specialists, to short-term in-school crisis centers, to medium duration in-school suspension rooms, to off-campus alternatives. Schools could implement a range of interventions including short-term in-school crisis centers, medium duration in-school suspension rooms, and off-campus alternatives. Mr. President, I advocate a solution to the problem of violence in our schools that would help troubled students and ensure those students do not act out again, in their schools, in their homes, or in their communities.

Mr. President, I also oppose this amendment because it would require local school officials to determine whether a student has committed a drug felony on school property. Administrators and educators in this country's public schools are not trained or well-suited to perform the job of law enforcement officers. Their job is to establish policies regulating drugs, alcohol, and tobacco on school grounds, but the business of suspected drug felonies should clearly be handled by law enforcement officers.

Mr. GRAMS. Mr. President, I rise today in strong support of the amendment offered by Senators HATCH and ASHCROFT that will help to reduce drug abuse and illegal narcotics trafficking throughout the United States. I am proud to be a cosponsor of this important legislation.

I am very concerned about the rate of illegal drug abuse across the nation. According to the Office of National Drug Control Policy, there are over 13 million current users of any illicit drug among those aged 12 or over, and 4 million chronic drug users in America.

These national statistics are similar to drug abuse patterns in my home state of Minnesota. The 1998 Minnesota Student Survey conducted by the Minnesota Department of Children, Families and Learning and the Minnesota Department of Human Services revealed increased marijuana use in each age group studied—sixth graders, ninth graders, and high school seniors—over the past three years. In 1998, 30 percent of Minnesota seniors surveyed reported using marijuana in the previous year.

In addition, the high volume of illegal methamphetamine trafficking and production in Minnesota has placed enormous strain upon the resources of federal, state and local law enforcement agencies investigating the abuse of this deadly substance. In recent years, the number of methamphetamine treatment admissions to treatment centers and ''meth'' arrests of juveniles and adults has increased dramatically throughout our communities. Methamphetamine has become the drug of choice throughout Minnesota and is closely associated with increased crime and gang violence.

I am also troubled by the large number of national drug trafficking organizations that have established operations in Minnesota. The alarming rate of meth production and trafficking in my state has been caused by independent organizations that run clandestine laboratories in apartment complexes, farms, motel rooms and residences with inexpensive, over-the-counter materials. The secretive nature of the manufacturing process involves toxic chemicals, and frequently results in fires, damaging explosions, and destruction to our environment. Meth trafficking in both Minnesota and the United States has severely threatened the health and safety of our citizens, and crippled our national movement against drug abuse.

For these reasons, I am pleased that the amendment offered by Senators HATCH and ASHCROFT includes the major provisions of legislation that I have recently cosponsored, the ''DEFEAT Meth Act'' introduced by Senator ASHCROFT. This amendment will increase penalties for meth crimes, provide additional federal assistance to local law enforcement agencies to investigate and prosecute meth trafficking, implement community-based methamphetamine treatment and prevention programs, and safely cleanup illegal meth labs.

In my view, any proposal to combat illegal meth trafficking should also provide added security to our nation's farmers and farm businesses who must protect their farms from the theft of anhydrous ammonia, a crop fertilizer which is often used as an ingredient in the illegal manufacture of methamphetamine. Importantly, this amendment makes it illegal to steal anhuydrous ammonia or to transport stolen anhudrous ammonia across state lines if a person knows that this product will be used to illegally manufacture a controlled substance such as methamphetamine.

As someone working to secure High Intensity Drug Trafficking Area designation for the State of Minnesota, I am also very pleased that this proposal provides additional resources to investigate and prosecute meth production and trafficking in HIDTA regions throughout the country. This program administered by the nation's drug czar is a critical component of our federal drug control strategy.

The Hatch-Ashcroft amendment also toughens federal policy toward powder cocaine dealers, building upon the ''Powder Cocaine Sentencing Act of 1999'' which I have supported throughout this Congress. As my colleagues know, the current law provides that a dealer must distribute 500 grams of powder cocaine to qualify for a 5-year mandatory minimum prison sentence, and distribute 5 grams of crack cocaine to qualify for that offense. These sentencing guidelines result in a 100-to-1 quantity ratio between powder and more severe crack cocaine distribution sentences.

The Hatch-Ashcroft amendment represents a fair and effective approach toward federal cocaine sentencing policy. Rather than make federal crack cocaine sentences more lenient, this amendment would reduce from 500 to 50 grams the amount of powder cocaine a person must be convicted of distributing before receiving a mandatory five-year sentence. This legislation would adjust the current 100-to-1 quantity ratio to 10-to-1 by toughening powder cocaine sentences with reducing crack cocaine sentences.

I share the concern of parents and families regarding the violence which is occurring at an alarming rate at our nation's schools. Our children should be provided with the opportunity to learn in a safe and drug-free environment. We should make it clear that drug offenders will not be allowed to prey upon the innocence of young people and students.

In my view, the Hatch-Ashcroft amendment will help local school districts stop the flow of illegal drugs into our classrooms. Specifically, this proposal increases the mandatory minimum penalties for distribution of

drugs to minors and for distribution of illegal drugs near schools and other locations frequented by juveniles. The amendment also requires school districts that receive federal funds to have expulsion policies for students who bring large quantities of drugs on school grounds. This is consistent with the current law which requires similar policies for students who bring firearms to school.

I understand the concerns expressed by some Members of Congress, federal judges, and the public regarding the fairness of mandatory minimum sentences. However, I believe mandatory minimum sentences for certain drug offenses is an important part of our national drug control policy and contributes to safer schools, work places, and communities.

Mr. President, the sale, manufacture and distribution of illegal drugs is one of the most difficult challenges facing our country. Drug abuse is a daily threat to the lives of young people and the health and safety of our communities. I believe a strong national anti-drug massage should include the proposals contained within this amendment. Passage of this proposal will provide greater protection to Americans from drug offenders, and drug-related crime and violence.

Mr. BINGAMAN. Mr. President, I rise today to express my deep disappointment concerning amendment 2771 to the Bankruptcy bill that we are voting on today. Earlier this year, I was an original cosponsor of S. 562, the methamphetamine bill introduced by Senator HARKIN, to implement a coordinated effort to combat methamphetamine abuse. I am very concerned about the abuse of methamphetamine in my home state of New Mexico, and I am very concerned about the rise in meth labs in my state. That is why I wholeheartedly supported the provisions aimed at: (1) combating the spread of methamphetamine; (2) treating abusers of meth; (3) developing prevention programs; and (4) researching meth. I was glad to see that Senator HATCH accepted the treatment, prevention and research provisions that were in S. 562 when drafting this amendment.

Meth is a highly addictive drug and I have supported efforts to stop the spread of meth in our rural communities. I support tougher penalties for meth lab operators and traffickers. I support resources to law enforcement to cover the cost of dismantling toxic meth labs.

However, because of the provision added to this amendment at the last minute, concerning school vouchers, I am unable to vote for an otherwise good meth bill. I regret that the drafters of this amendment felt it necessary to politicize this bill with issues like school vouchers that are unrelated to the methamphetamine issue. These attempts to undermine the bipartisan support for this meth bill are unfortunate.

While I support providing resources to law enforcement to battle the methamphetamine epidemic and have been a strong advocate for ways to improve school security, I cannot support the use of federal funds to send students to private or parochial schools under a legislative provision riddled with problems.

The provision allowing schools to use federal funds to send a student to a private school, including a religious school, if they become a victim of a violent crime on school grounds, will do nothing to make our schools safer and will only divert crucial funding from our public school system. In addition, the language is overly broad. If a student is injured on school grounds, at any time, the student will be entitled to attend the school of his or her choice anywhere in the state. This provision would allow the child who gets into a fight following a weekend basketball game to enroll in a private school—free of charge. The amendment would even allow federal funds to be used to transport the student to the private schools, even though federal funds could not be used to transport a student to a public school within the student's current school district.

Instead of pushing an overly broad voucher proposal which will damage our schools rather than improve them, we should focus on supporting violence and crime prevention programs for our youth. We should support community crime prevention activities that encourage parent and community involvement, and help communities and schools ensure that all children are safe all the time. For example, the juvenile crime bill—that has been sitting in Conference since this summer—properly addresses school safety in a comprehensive manner. My Republican colleagues have blocked final passage of that bill.

In addition, we should invest in initiatives such as the Safe and Drug-free Schools and after-school programs, since we know that most juvenile crimes occur between 3:00 and 8:00 p.m. As my colleague Senator HARKIN pointed out, the Republican leadership passed a bill that allocates only 50% of the amount that the President requested for this purpose.

Instead of draining much-needed resources from public schools, we should create conditions for improvement and reform—not in a few schools, but in all schools; not for a few students, but for all students.

By attaching these voucher provisions and issues unrelated to meth and the underlying bankruptcy bill, this entire amendment has been poisoned. If the Majority Leader was serious about passing a meth bill to aid law enforcement and reduce meth abuse, he could have offered a meth bill as a free-standing bill. However, by offering it as a non-germane amendment to the bankruptcy bill, this meth bill has little chance of surviving a bankruptcy conference committee and is a shallow attempt to help the groups fighting the spread of drugs in our states. Like many of my colleagues here today, I am angry that the poison pill, added to this meth bill at the final hour, converted a good piece of legislation into a bill that I cannot vote for.

Mr. DODD. Mr. President, I rise today to express my strong concerns about the provision of this amendment which authorizes vouchers for private schools.

Nearly all year we have had an ongoing debate over education. We have discussed funding, flexibility, accountability and numerous other issues. And each side has claimed they were on the side of the angels—the children and the schools—in these debates.

But in these last few weeks the masks have finally slipped off—Halloween is over and today we can see what direction my colleagues on the other side want to take education in this country.

In appropriations, they are fighting hard, very hard, against a national commitment to reduce class size. We all, even my colleagues on the other side, know, through research and from the voices of teachers and parents across the country, that class size is a key barrier to achievement particularly in the early grades. Too many children in a class overwhelm even the best teacher—discipline issues, control, noise and lack of focus define these classes of 25–30 children. But no, the Republicans claim they just will not accept a continued federal focus in this area.

On this bill, they will offer one amendment to block grant teacher training and professional development programs and reduce accountability in the critical area of improving teacher quality.

And they have slipped into this ''drug'' amendment a major voucher program for private schools.

Vouchers, block grants, and no class size—their position on education is clear.

They are not for improving public schools for all children. They are not for parents or students or teachers. They instead are for their own special interests—they are for private schools, not neighborhood schools; for state bureaucracy, not a focus on class size; for revenue sharing, not accountability.

This commitment to a few rather than all of our children is no where more clear than in the provision before us authorizing private vouchers.

Our universal system of public education is one of the very cornerstones of our nation, our democracy and our culture.

In every community, public schools are where America comes together in its rich diversity. For generations, educating the rich, poor, black, white, first-generation Americans—be they Irish, English, Japanese or Mexican-Americans—and all Americans has been the charge and challenge of our public schools. It is clearly not the

easiest task. But its importance cannot be undervalued.

These efforts are essential to our democracy which relies on an educated citizenry, to our communities which require understanding of diversity to function, and to our economy which thrives on highly educated and trained workers. Education—public education—is also the door to economic opportunity for all citizens individually.

However, voucher proposals, like the one before us today, fundamentally undermine this ideal of public education.

Supporters of these programs never argue they will serve all children. They simply argue it is a way for some children to get out of public schools.

I do not argue that our public schools do not face challenges—violence, disinvestment and declining revenues plague some of our schools, just as they do many other community institutions.

And our schools are not ignoring these problems—even with limited resources.

Many are digging themselves out of these problems to offer real hope and opportunities to students. James Comer in Connecticut has led a revolution in public schools across the country by supporting parents and improving education through community involvement and reinvestment in the schools. Public magnet and charter schools are flourishing offering students innovative curriculum and new choices within the public school system. School safety programs, violence prevention curriculum and character education initiatives are making real gains in the struggle against violence in our schools and larger communities.

And these reform efforts are beginning to show results. Our schools are getting better. Student achievement is up in math, science and reading. The reach of technology has spread to nearly all of our schools. The dropout rate continues to decline.

We clearly have a ways to go before all our schools are models of excellence, but our goal must be to lend a hand in these critical efforts, not withdraw our support for the schools that educate 90 percent of all students in America—public schools.

And there is no question about it, private school vouchers will divert much needed dollars away from public schools. Our dollars are limited. We must focus them on improving opportunities for all children by improving the system that serves all children—the public schools.

Proponents of private school choice argue that vouchers will open up new educational opportunities to low-income families and their children. In fact, vouchers offer private schools, not parent's choice. The private schools will pick and choose students, as they do now. Few will choose to serve students with low test scores, with disabilities or with discipline problems. Vouchers will not come close to covering the cost of tuition at the vast majority of private schools.

There are also important accountability issues. Private institutions can fold in mid-year as nearly half a dozen have done in Milwaukee leaving taxpayers to pick up these pieces—only the pieces are children's lives and educations.

Our public schools are not just about any one child; they are about all children and all of us. I do not have any children, but I pay property taxes and do so happily to support the education of the children I am counting on to be tomorrow's workers, thinkers, leaders, teachers and taxpayers.

Our future is dependent on nurturing and developing the potential of every child to its fullest. Investing in our public schools is the best way to reach this goal.

I urge my colleagues to join me in defeating this amendment.

Mr. MCCONNELL. Mr. President, the scourge of illegal drugs is one of the greatest problems facing our nation today. We have all heard stories about the wreckage of crime and shattered lives that drugs leave in their wake. Tragically, after years of steady progress in the war on drugs we have seen a reversal in hopeful trend lines under the current administration. I believe that the Ashcroft-Hatch-Abraham amendment can be an important step towards reducing the trend of increased drug use and putting our nation back on the road to victory in the war on drugs.

I am pleased that this legislation takes special aim at methamphetamines. In recent years, ''meth'' as it is called, has emerged as the leading illegal drug of choice, replacing cocaine as the most popularly used drug. In some ways ''meth'' is even worse than cocaine. It is cheap, easy to produce, highly addictive, and it kills. This drug is proving especially devastating in rural America. In my State of Kentucky, ''meth'' labs have been springing up like a deadly cancer in our communities. The methamphetamines produced in these labs are addicting adults and children at an alarming rate. We need to do something to combat this threat to our families and communities.

This antidrug legislation contains some important provisions to strengthen the war on drugs. The increased sentences for methamphetamines related offenses will send a clear message to dealers, producers, and users that we will not tolerate the problems they are bringing to our communities. This legislation also directs the DEA to mount a comprehensive offensive against this drug. Finally, it will provide additional resources for hard hit areas—especially those in rural America—that are struggling with the rising tide of ''meth'' production and use. The legislation will help these areas combat methamphetamine trafficking and implement abuse prevention efforts.

Mr. President, methamphetamine production and use has become a very serious problem in our country. It is time that Congress took aim at this issue. I support this legislation and urge all of my colleagues to do likewise.

Mr. KYL. Mr. President. I rise in support of the Republican crime amendment (#2771) to the Bankruptcy Reform Act of 1999. This amendment takes a multi-faceted approach to combating the problem of drugs. However, I am particularly pleased with the methamphetamine component of the amendment, which will help my own state of Arizona combat a veritable meth epidemic.

Arizona law enforcement continues to seize a record number of meth labs. Meth lab seizures are up to 30 percent over last year, with over 400 labs projected to be dismantled by the end of this fiscal year. An average of 26 labs per month are seized—that's almost one lab per day.

Meth usage is up, I am sad to report. Phoenix has the second highest rate for meth emergency-room admissions in the United States, according to the Drug Abuse Warning Network (DAWN). Phoenix also has the second highest percent of arrestees testing positive for meth in the U.S. according to the Arrestee Drug Abuse Monitoring program (ADAM).

Meth prosecutions are up, as well. The number of meth cases prosecuted by the Maricopa County Attorney's office in the first five months of this year was equal to all of the cases prosecuted during 1990.

This amendment provides a well-balanced approach to tackling meth by not only increasing penalties for certain meth-related crimes but also providing money to law enforcement (DEA and HIDTAs) for training, personnel, and meth lab cleanups, and providing money for prevention. The amendment also pays special attention to the anti-meth needs of rural communities by providing funding so the DEA can assist rural law enforcement in meth investigations. Many rural counties in my state cannot afford the latest and safest equipment, so they use old and unsafe equipment. Limited personnel and expansive terrain hinder meth-lab seizures. For example, Mohave County law enforcement seized about one lab per week last year and could have seized double that if they had the resources.

Because of Arizona's meth problem, I have fought for additional funding for Arizona law enforcement. Last year, I secured $1 million for Arizona law enforcement to use for equipment, personnel, and training in order to combat meth. This was in direct response to a field hearing I held in Phoenix highlighting the problem of meth and meth labs. During the hearing I heard from urban and rural law enforcement on the dangers posed by meth labs as well as their drain on resources.

I support this amendment because it will give law enforcement the resources needed to combat the problem of meth in my state.

Mr. HUTCHINSON. Mr. President, I rise in support of Senate amendment 2771 to S. 625 because it will provide additional federal resources to combat the dramatic increase in the production, use and distribution of methamphetamine which I believe must be stopped.

Methamphetamine is particularly insidious because it is highly addictive, cheap, easy to produce and distribute, popular with youth, and tends to make its users paranoid and violent. Thus, crimes like burglaries, theft, shoplifting, robberies, and murder can be traced to methamphetamine use. In fact, the prosecuting attorney of my home county, Benton County, Arkansas, estimates that 70% of the felony court docket is directly or indirectly related to methamphetamine. Another, often-forgotten but tragic problem which accompanies methamphetamine use is child abuse. Children of methamphetamine users have specific problems associated with their parents' drug addictions: medical, environmental, and educational neglect; malnutrition; and sometimes physical abuse. According to child welfare workers, parents who use meth are more likely to physically abuse their children than parents who use other drugs.

Methamphetamine is a serious and growing problem in my home state of Arkansas because the state of Arkansas possesses many of the characteristics which allow drug trafficking to flourish: it is sparsely populated with remote areas; it suffers from a high rate of poverty and joblessness and a low per capita income; it has a large population of illegal immigrants; and it has two major interstate highways which facilitate the transportation of drugs to Oklahoma City, Kansas City, Memphis, St. Louis, and throughout the rest of the nation.

The rapid increase and magnitude of the methamphetamine problem is illustrated in my home state's experience. In 1995, the Arkansas State Police seized 24 methamphetamine labs; in 1996, the number of labs seized more than tripled to 95, then more than tripled again to 242 in 1997, and doubled again to 434 labs in 1998. Recently, the DEA identified Arkansas as one of the top three methamphetamine-producing states in the nation, based on per-capita figures. The growth of the methamphetamine problem in my home state is also seen by the increase in the amount spent to clean up clandestine lab sites, which is one of the most dangerous activities law enforcement officers must undertake. In 1998, $567,000 was spent on clandestine lab cleanups associated with federal agencies in Arkansas whereas five years before, only $71,000 was expended.

I support this amendment because it provides an additional $15 million a year to the Office of National Drug Control Policy to facilitate the hiring of federal, state, and local enforcement personnel to combat methamphetamine trafficking in designated HIDTAs. It is my hope that such an increase will result in the designation of additional HIDTAs in areas, like my home state, where the greatest increase in the methamphetamine problem is occurring. I also support this amendment because of the additional $9.5 million it provides to enable the DEA to hire new agents to help state and local enforcement officials in the small and mid-sized towns with limited resources where methamphetamine is so often found to conduct more methamphetamine investigations. This amendment also will provide an additional $5.5 million for the DEA to train state and local law enforcement officials in one of their most dangerous duties, the cleanup of methamphetamine labs.

Finally, I wish to commend and thank Senators HATCH, ASHCROFT, GRASSLEY, and my other colleagues who have worked so tirelessly on this bill and to address the methamphetamine problem and urge my colleagues to pass this amendment.

Mr. FEINGOLD. Mr. President, I rise today to oppose the drug amendment to the bankruptcy reform bill introduced by my distinguished colleague from Utah, Senator HATCH.

S. 486, the Methamphetamine Anti-Proliferation Act of 1999, has been drastically altered to give us the amendment we are now debating. I was a proud cosponsor of that bipartisan bill. It would provide needed law enforcement training and resources to combat meth, as well as prevention and treatment resources for meth users, to my state, Wisconsin, and all states in the Midwest that have been overrun by this horrible drug. The Judiciary Committee explored the extent of the meth problem and the urgent need for federal resources and support to fight the spread of meth. Hearings and a mark-up of the Methamphetamine Anti-Proliferation Act were held. The bill was reported out of the Judiciary Committee only after extensive negotiations between members from both sides of the aisle.

Now, as we debate bankruptcy reform, I am greatly troubled to see that this well-crafted bill has been contorted into a bill with all sorts of provisions that have nothing to do with methamphetamine and are bad policy, pure and simple. First, the bill has been saddled with the Powder Cocaine Sentencing Act. The powder cocaine bill is objectionable because it raises powder cocaine penalties to extremely high levels—ensuring further prison overcrowding without offering any concrete effort to promote cocaine use prevention and treatment. The powder cocaine bill has been attached to this amendment, even though it has not been considered by the Judiciary Committee. The Committee hasn't even had a hearing this year on the bill. Second, the drug amendment is bad policy because it includes a voucher provision that would provide federal funding for some children to attend private school at taxpayer expense, without providing any resources to improve the overall quality of education for the children who remain in our public schools.

As a result, I cannot support the drug amendment to the bankruptcy reform bill. I want to be clear. I am committed to fighting the spread of meth in Wisconsin and across the country. But I cannot support an amendment that will do harm to our nation's schools and to our effort to punish cocaine offenders fairly. If the drug amendment passes, I urge the conferees on this bill to remove the troubling provisions relating to powder cocaine and school vouchers.

I yield the floor.

AMENDMENT NO. 2655

(Purpose: To provide for enhanced consumer credit protection, and for other purposes)

Mr. TORRICELLI. Mr. President, I ask unanimous consent to set the pending amendment aside and call to the floor amendment No. 2655, and that the Senate then return to the pending business.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself, Mr. GRASSLEY, Mr. BIDEN, and Mr. LEAHY, proposes an amendment numbered 2655.

Mr. TORRICELLI. 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 the RECORD of Friday, November 5, 1999, under ''Amendments Submitted.'')

Mr. TORRICELLI. Mr. President, at the outset of this debate for bankruptcy reform, I made clear my own feelings that, as important as I thought it was to reform the bankruptcy laws, in fairness, the legislation needed to be balanced by addressing some of the abuses in the credit industry.

In recent days, Senators DURBIN and DODD have come to the floor with their own variations to protect consumers and the credit industry's own excesses. Those amendments have not been successful.

I offer what I believe is a balanced and is clearly a bipartisan effort to include some consumer protection in this legislation. It is not based on a theory of government intervention or restriction on credit. It is based on the theory of giving consumers information to make their own judgments. I offer this amendment with Senator GRASSLEY, who has been both accommodating and has offered leadership in fair consumer protection, with Senator LEAHY and Senator BIDEN.

As I outline the amendment, I think it will be clear we borrowed heavily from ideas offered by Senators GRASSLEY, BIDEN, and LEAHY but also consumer protection initiatives in part

previously offered by Senator SCHUMER, Senator REED, Senator HATCH, and Senator GRAMM. That is why it is all inclusive and why it is balanced.

There has been a great deal of attention on the rise of consumer bankruptcy in recent years. The numbers bear some repeating. Since 1980, there has been a 350-percent increase in bankruptcy filings. Indeed, there are many reasons for it. Part of the crushing debt forcing millions of Americans into bankruptcy clearly is the availability of credit. In the last 23 years, the debt burden by American families has quadrupled. Twenty percent of families earning less than $10,000 have consumer debt that is more than 40 percent of their income.

As this chart indicates, consumer bankruptcies and consumer credit debt are nearly identically tracking each other. One cannot separate the rise in bankruptcies from the level of consumer debt. They are one and the same problem.

Therefore, as certainly as we deal with other reasons for the abuse of bankruptcies, we must at least deal in part with this issue of availability of credit and whether consumers are fully informed.

In 1975, total household debt was 24 percent of aggregate household income. Today, the number is more than 100 percent. That bears repeating: Household income and household debt have now matched each other in an extraordinary and dangerous statistic. Certainly, one of the factors that has led to this radical rise in household debt is the amount of solicitation of consumer credit card debt, which include both aggressive and dubious solicitation techniques.

In 1998, the credit industry sent out more than 3.5 billion solicitations. That is 41 mailings for every American household; 14 credit solicitations for every man, woman, and child in America. This does not simply represent aggressive marketing for Americans with high incomes who can afford this increase in credit; it includes high school and college students, a situation so serious, as Senator DODD pointed out yesterday on the floor of the Senate, that 450 colleges and universities have banned the marketing of credit cards on their campuses; so serious that credit card debt is a leading reason for college students dropping out of school.

I recognize the problem. Our amendment does not restrict access to credit, as many Senators would not support that. There is no mandatory control. All we are doing is simply ensuring that before people with low income or students incur this debt, they at least know the consequences of the debt they are accepting. If this is true for students, it is equally true for low-income people. Just in this decade, Americans below the poverty line have doubled their credit usage. Indeed, that is one of the reasons credit card debt now accounts for 31 percent of all consumer debt, putting not only students but low-income people on a treadmill from which they will never, ever escape.

Yet I recognize why many Senators would never accept restricting access to credit because the availability of credit to low-income people, even to students, in a free economy is part of how they make investments, make their own judgments. The answer is not to restrict credit to poor people or working people or students. The Senate has rejected that technique, and I do not offer it today. I offer full disclosure. Full disclosure means the 55 to 60 million households in America that carry a credit card balance on average, month to month, of $7,000, which incurs interest and fees of $1,000 a year, will understand the consequences of that debt before and during incurring that debt. Too few consumers understand making only the minimum payment means their balance will grow and they may never, in a reasonable amount of time, have that debt paid.

Specifically, what are we asking under this amendment? First, we are requiring a warning as appears on this chart which, in my own office, has modestly been dubbed ''the Torricelli warning.'' It has provisions in it specifically that will warn that, with a balance of $1,000 and 17-percent interest, if the consumer pays only the minimum payment, it will take 88 months to pay off the balance. Here is that warning:

Minimum payment warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2-percent minimum monthly payment on a balance of $1,000 at an interest rate of 17 percent would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance making only the minimum payments, call this toll-free number.

First, in this Torricelli warning, we put a 1–800 number that is available for people to call to get the specifics of how long it will take to pay down your account. That is one.

No. 2, we will require creditors to disclose that interest on loans secured by a dwelling is tax deductible only to the value of the property because too many consumers are being told if they secure their debt with their real estate, it is tax deductible, only then to find if they have a debt beyond the value of the property, it is not tax deductible. We want full disclosure of this fact.

This is based on an amendment previously offered by Senator REED. It has great merit. I have included it in this amendment that I offer with Senator GRASSLEY and others of my colleagues.

No. 3, we require that with credit solicitations containing an introductory or teaser rate, which is so popular, the date at which the introductory rate will expire must be clearly and conspicuously disclosed, so people understand these low interest rates will expire and when they expire, so they can make an informed judgment as consumers. This is based on legislation previously offered by Senator SCHUMER. I think it is invaluable.

No. 4, we require that disclosure of the standard truth-in-lending information now required for paper solicitations also be required for Internet solicitations. What we are already requiring on paper solicitations we simply apply to the Internet. This is also based on an amendment offered in committee by Senator SCHUMER. I think it is extremely valuable.

No. 5, we require prominent disclosure of the date on which a late fee will be charged and the amount of the fee. If people are subjecting themselves to late fees, that fact and what the fee would be must be disclosed in the amendment Senator GRASSLEY and I are offering. This, as well, is based on something Senator SCHUMER has done in the past, and we are very grateful for his valuable contribution to it.

No. 6, finally, we prohibit a creditor from terminating an account prior to its expiration date because a consumer has not incurred finance charges. To me, this is the most outrageous of the abuses of the credit industry. A person uses their credit card, they pay off the balance in full, therefore not availing themselves of the credit that could be used, and there is no interest rate because they are paying off their balance, and they are getting their credit card taken from them. We would prohibit that. Good consumers who use their credit card and do not incur any debt do not have to pay, and should not be penalized, for being responsible consumers. We prohibit that practice.

I believe, therefore, what we have done with Senator LEAHY and Senator BIDEN, under the leadership of Senator GRASSLEY, is balanced, it is fair, it is at this point the only chance in the bankruptcy bill to have real consumer protection. It is the only amendment being offered on a bipartisan basis. It is based on the very good work of Senator REED and Senator BIDEN, Senator LEAHY, Senator SCHUMER, and Senator DURBIN. I hope, based on that work, this amendment can be adopted.

I yield the floor and thank my colleagues for their contributions to this amendment.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2650

(Purpose: To control certain abuses of reaffirmations)

Mr. SESSIONS. I ask unanimous consent to call up amendment No. 2650 proposed by Senator REED and myself, and I send a modification to the desk and ask that the amendment be agreed to as modified and the motion to reconsider be agreed to and laid upon the table.

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

The amendment (No. 2650), as modified, was agreed to, as follows:

SECTION 1. REAFFIRMATION.

In S. 625, strike section 203 and section 204(a) and (c), and insert in lieu of 204 (a) the following—

''(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) In subsection (c) by striking paragraph (2) and inserting the following:

''(2) the debtor received the disclosures described in subsection (i) at or before the time the debtor signed the agreement.

(2) by inserting at the end of the section the following—

''(i)(1) The disclosures required under subsection (c) paragraph (2) of this section shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8) of this subsection, and shall be the only disclosures required in connection with the reaffirmation.

''(2) Disclosures made under this paragraph shall be made clearly and conspicuously and in writing. The terms ''Amount Reaffirmed'' and ''Annual Percentage Rate'' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases ''Before agreeing to reaffirm a debt, review these important disclosures'' and ''Summary of Reaffirmation Agreement'' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs [(2) through (7)], except that the terms ''Amount Reaffirmed'' and ''Annual Percentage Rate'' must be used where indicated.

''(3) The disclosure statement required under this paragraph shall consist of the following—

''(A) The statement: ''Part A: Before agreeing to reaffirm a debt, review these important disclosures:'';

''(B) Under the heading ''Summary of Reaffirmation Agreement'', the statement: ''This Summary is made pursuant to the requirements of the Bankruptcy Code'';

''(C) The ''Amount Reaffirmed'', using that term, which shall be the total amount which the debtor agrees to reaffirm, and the total of any other fees or cost accrued as of the date of the reaffirmation agreement.''

''(D) In conjunction with the disclosure of the ''Amount Reaffirmed'', the statements

(I) ''The amount of debt you have agreed to reaffirm''; and

(II) ''Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure.

Consult your credit agreement'';

''(E) The ''Annual Percentage Rate'', using that term, which shall be disclosed as—

''(I) if, at the time the petition is filed, the debt is open end credit as defined pursuant to the Truth in Lending act, title 15 United States Code section 1601 et. seq., then

''(aa) the annual percentage rate determined pursuant to title 15 United States Code section 1637(b)(5) and (6), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior six months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor; or to the extent this annual percentage rate is not readily available or not applicable, then

''(bb) the simple interest rate applicable to the amount reaffirmed as of the date of the agreement, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

''(cc) if the entity making the disclosure elects, to disclose the annual percentage rate under (aa) and the simple interest rate under (bb).

''(II) if, at the time the petition is filed, the debt is closed end credit as defined pursuant to the Truth in Lending Act, title 15 United States Code section 1601 et seq., then

''(aa) the annual percentage rate pursuant to title 15 United States Code section 1638(a)(4) as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor; or to the extent this annual percentage rate is not readily available or not applicable, then

''(bb) the simple interest rate applicable to the amount reaffirmed as of the date of the agreement, the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed; or

''(cc) if the entity making the disclosure elects, to disclose the annual percentage rate under (aa) and the simple interest rate under (bb).''

''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given pursuant to the Truth in Lending Act, title 15, United States Code, section 1601 et seq., by stating ''The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower than your current obligation.'';

(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security then the original amount of the loan.''

''(H) At the election of the creditor, a statement of the repayment schedule using one or a combination of the following—

''(I) by making the statement: ''Your first payment in the amount $_____ is due on _____.'', and stating the amount of the first payment and the due date of that payment in the places provided;

''(II) by making the statement: ''Your payment schedule will be:'', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

''(III) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

''(I) The following statement: ''Note: When this disclosure talks about what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'';

''(J) The following additional statements:

''Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

''1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

''2. Complete and sign part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

''3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must sign the certification in Part C.

''4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must complete and sign Part E.

''5. The original of this Disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

''6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in part D.''

''7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

''Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

''What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation just as though you hadn't filed bankruptcy, it is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor is often permitted by the agreement and/or applicable law to change the terms of the agreement in the future under certain conditions.

''Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

''What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your

state's law or in certain other circumstances, you may redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.''

''(4) The form of reaffirmation agreement required under this paragraph shall consist of the following—

''Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

Brief description of credit agreement:

Description of any changes to the credit agreement made as part of this reaffirmation agreement:

Signature:

Date:

Borrower:

Co-borrower, if also reaffirming:

Accepted by creditor:

Date of creditor acceptance:'';

''(5)(i) The declaration shall consist of the following:

''Part C: Certification by Debtor's Attorney (If Any)—I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

Signature of Debtor's Attorney:

Date:'';

(ii) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.''

''(6) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following—

''Part D: Debtor's Statement in Support of Reaffirmation Agreement.

1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'';

''(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall be signed and dated by the moving party, shall consist of the following—

''Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.) I (we), the debtor, affirm the following to be true and correct:

''I am not represented by an attorney in connection with this reaffirmation agreement.

''I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

''Therefore, I ask the court for an order approving this reaffirmation agreement.''

''(8) The court order, which may be used to approve a reaffirmation, shall consist of the following—

''Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'';

''(j) Notwithstanding any other provision of this title—

''(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

''(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

''(3) The requirements of subsections (c) and (i) shall be satisfied if disclosures required under those subsections are given in good faith.

''(k) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (i)(6) of this section is less than the scheduled payments on the reaffirmed debt. This presumption must be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. However, no agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing must be concluded before the entry of the debtor's discharge.''

SEC. 2. JUDICIAL EDUCATION.

Add at the appropriate place the following:

''( ) JUDICIAL EDUCATION.—The Director of the Administrative Office of the United States Courts, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing the act, including the requirements relating to the 707(b) means test and reaffirmations.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2771

Mr. LEAHY. Mr. President, how much time is remaining under the control of the Senator from Vermont?

The PRESIDING OFFICER. Seventy minutes 28 seconds.

Mr. LEAHY. Seven-zero?

The PRESIDING OFFICER. Seven-zero.

Mr. LEAHY. I thank the Chair and my good friend from Montana.

Mr. President, I compliment the distinguished Senator from Alabama for his comments and others who have spoken on this. He and I belong to that great fraternity which I have always considered the best fraternity—former prosecutors. I have sometimes said the best job I ever had was as a prosecutor, although I must admit, when I told the U.S. attorney of our State, Charles Tetzlaff, who is a superb U.S. attorney, I often wanted to trade with him, he said: ''Yeah, sure you do.'' In my view, it is one of the best positions one can have in government, also one that requires the most concern for the public.

I wear both hats of a Senator and also as a former prosecutor in opposing this amendment. I am not opposing the motivation of Senators who want to stop what has become a scourge of drug use in our country. When I think of the young people in this country whose lives are damaged by drugs, when I think of families who are damaged, when I think of the people who are victims of crime from those seeking money to buy drugs, I fully appreciate what a scourge it is.

Right on Capitol Hill, one of the most beautiful parts of our Nation, we have seen people suffer burglaries, muggings, thefts, and assaults by people trying to get money for drugs. It is a problem our country, probably more than any other country, has to face because we are the wealthiest nation on Earth and we, as a nation, fuel the drug trade because of all the money we put into it.

It is ironic, in a way, that we send in troops and helicopters and chemicals to countries to stem the drug production and trade from their country, when the answer, of course, is within our borders. If we worked harder stopping the demand for drugs in the United States, that drug traffic would dry up. If you could turn off the drug production in a country in Central America and could somehow hermetically seal that country, as long as there are tens of billions, even hundreds of billions, of dollars willingly spent by U.S. citizens for drugs, drug production will just take place somewhere else. It is the ultimate example of supply and demand. The supply is always going to be there. We do far too little to stop the demand.

We are not going to stop the demand by this amendment because it takes the wrong approach to combating illegal drug use in this country. The amendment would dramatically increase mandatory minimum penalties for cocaine trafficking. It would throw the principle of federalism out the window by telling local schools and school districts how they must deal with illegal drug use by students. Frankly, how my State of Vermont may want to deal with this may be far different than the State of Montana, the State of Alabama, or any other State. I have to think we know our people the best within our States and they are capable of making those decisions.

The amendment attempts to solve the unfair discrepancy between sentences for powder and crack cocaine.

There is an unfair discrepancy, and I do not think people are that far off when they say that discrepancy may have racist overtones. We should all agree the discrepancy is unfair. In solving that discrepancy between powder and crack cocaine, this amendment is going about it in precisely the wrong way by increasing the use of mandatory minimums for those who manufacture, distribute, dispense, or possess with intent to distribute powder cocaine.

Under the current law—and this is how we get into the improper and unfair discrepancy—the quantity threshold to trigger mandatory minimum penalties for crack offenders is 100 times more severe than for powder cocaine offenders. Let me put this in a different way.

If you have an offender charged with a 5-gram-crack-cocaine offense, they would be subject to the same 5-year minimum sentence that would apply to somebody who was caught with 500 grams of powder cocaine. These harsher crack sentences have resulted in a disparate impact on the African American community. African Americans constitute 12 percent of the American population but account for 40 percent of our prison population. Anybody looking at those numbers know something has gone astray. Eighty-eight percent of those convicted of crack offenses are black and, of course, crack offenses always carry the higher penalties. In 1993, the number of African American men under the control of the criminal justice system was greater than the number of African American men enrolled in college. Something has gone dramatically astray in our country.

While it is true that Federal courts have held the disparate impact caused by the crack and powder cocaine mandatory sentencing thresholds does not violate constitutional protections, the fact existing laws fall within the judicially determined boundaries of constitutional acceptability does not absolve Congress of its ongoing responsibility to implement the most just and effective ways to combat drugs in America.

Just because an act of Congress may be constitutionally acceptable does not mean it makes sense. On national highways we could probably constitutionally set a $500 fine for somebody driving 5 miles an hour over the speed limit. It would probably be upheld constitutionally, but do we have any constituents who would say it made sense? Of course not.

I have repeatedly stated my objections to the shortsighted use of mandatory minimums in the battle against illegal drugs because of the way they are applied. My objections are all the more grave when an attempt is made to increase the use of mandatory minimums through provisions placed in the middle of—what?—an amendment to a bankruptcy bill offered as the adjournment bells are almost ringing at the end of the session.

We can debate whether mandatory minimums are an appropriate tool in our critically important national fight against illegal drugs. I believe they have not made that much difference. Others would believe otherwise. In my view, simply imposing or increasing mandatory minimums undercuts and even subverts the more considered process Congress set up with the Sentencing Commission.

The Federal sentencing guidelines already provide a comprehensive mechanism to mete out fair sentences. They allow judges the discretion they need to give appropriate weight to individual circumstances. In other words, sentencing guidelines allow judges to do their jobs.

The Sentencing Commission goes through an extensive and thoughtful process to set sentence levels. For example, pursuant to our 1996 anti-meth-amphetamine law, the Sentencing Commission increased meth penalties after very careful analysis of sentencing data, especially recent sentencing data. They studied the offenses. They had information from the Drug Enforcement Agency on trafficking levels, dosage unit size, price, and drug quantity. They took all those matters into consideration. Simply increasing arbitrarily, in the middle of a bankruptcy bill, mandatory minimums goes too far in taking sentencing discretion away from judges.

Would it not make far more sense if we set this amendment aside, and at the Judiciary Committee, which certainly has jurisdiction over this issue, have real hearings and have people discuss whether it is a good idea or bad idea? Bring in drug enforcement people, bring in local authorities, bring in everybody else involved, and have a real hearing. If we simply do it because it sounds good at the moment, I think we make a mistake.

That is why I have repeatedly expressed my concerns about creating new mandatory minimum penalties, including as recently as in August, when the methamphetamine bill that has contributed many of this bill's provisions was considered by the Judiciary Committee.

The meth bill, which was reported by the Judiciary Committee, is contained in this amendment to the bankruptcy bill. It contains a provision directing the Sentencing Commission to amend the guidelines to make penalties for amphetamine offenses comparable to the offense levels for methamphetamine.

Congress recently increased mandatory minimum sentences for methamphetamine. Stiff mandatory minimum penalties were slipped into last year's omnibus appropriations bill. As a result, now methamphetamine penalties are the same as crack penalties. This amendment in the bankruptcy bill would now order the Sentencing Commission to increase penalties for amphetamine crimes by a number of base offense levels so the same penalties apply to both meth and amphetamine offenses.

So what do we get for a result? Even without the question of mandatory minimums, you are going to have dramatic increases in the penalties for amphetamine offenses.

We ought to first pass a resolution saying, we are all against illegal drug use. We live in neighborhoods. We are parents or grandparents. We walk the streets of America. We have seen the dangers of illegal drug use—all Senators, Republican and Democrat. We are all against it. That should be a given. But do we need to stand up here, the 100 of us who are suppose to represent a quarter of a billion Americans, and prove over and over and over again that we are against illegal drug usage by imposing harsher and harsher penalties, without any regard to whether spending more taxpayer money on more prisons and more prison guards is really the most cost-effective way to address this problem?

In many parts of this country we spend far more money building new prisons than we do building new schools. We spend far more money increasing the number of prison guards and on their pensions and their pay, and everything else that goes for them, than we do in hiring new science teachers or math teachers or language teachers. We ought to ask ourselves: Does this picture make that much sense?

I agree with the distinguished Senator from Alabama, Mr. SESSIONS, that we have put a misplaced emphasis on long mandatory minimum penalties as the primary tool we use to fight illegal drug trafficking. When I was a prosecutor, I must admit, there were many times I asked for a stiff penalty, when the case called for it. But I also knew enough to know that stiffer penalties by themselves are not the whole answer. There are a whole lot of other things involved. For one thing, a lot of people committing a crime do not get too concerned about the penalty if they think they are not going to get caught.

So the example I have used before is, you have two warehouses side by side. One has all kinds of alarm systems and security personnel. The other has a rusted old padlock, no lights, and nobody around it. They both are filled with, say, television sets. The penalties for breaking in and stealing those TV sets are the same, whether you break into the warehouse that has its security system, the lights, and the guards, or if you break into the one with the rusty old padlock with no guards and no lights. It does not take a criminologist to know which one is going to get broken into. Why would somebody break into one where they might get caught when they can go into the one where they assume they will not get caught? The penalties are the same, so the penalty is not the deterrent.

We have to make drug dealers feel vulnerable and make drug dealing a risky business. We do this by making

sure they are caught and prosecuted, not simply piling on lengthier prison terms with increased mandatory minimum penalties for the few on the fringes who do get caught.

These mandatory minimums also carry with them significant economic and social costs. According to the Congressional Budget Office, the annual cost of housing a Federal inmate ranges from $16,745 per year for minimum security inmates to $23,286 per year for inmates in high-security facilities.

Mr. President, you and I and every taxpayer is paying for that. It is critical that we take steps that will effectively deter crime, but we should not ignore the costs of this one-size-fits-all approach to mandatory minimums.

We also cannot ignore the policy implications of the boom in our prison population. Let me just tell you about this. In 1970—5 years before I came to the Senate—the total population in the Federal prison system was 20,868 prisoners, of whom 16.3 percent were drug offenders.

By 1997, the federal prison population had grown to almost 91,000 sentenced prisoners, approximately 60 percent of whom were sentenced for drug offenses. The cost of supporting this expanded federal criminal justice system is staggering. The portion of federal drug control spending attributable to the criminal justice system grew from $415 million in 1981 to over $8.5 billion in 1999. Imprudently lowering the cocaine sentencing threshold without considering the fiscal consequences would further encumber our already overworked system. We ignore at our peril the findings of RAND's comprehensive 1997 report on mandatory minimum drug sentences: ''Mandatory minimums are not justifiable on the basis of cost-effectiveness at reducing cocaine consumption, cocaine expenditures, or drug-related crime.''

Reducing the disparity between sentences for powder and crack cocaine in the manner proposed in this amendment is simply wrongheaded. Sentencing parity at any cost is not the smartest way to wage our war on drugs. Drastically increasing the mandatory minimum penalties for powder cocaine in this hasty, end-of-session amendment will be costly to taxpayers far into the future, as we will have to build numerous new prisons to house non-violent drug offenders who are subject to lengthy federal prison terms under this amendment. Indeed, when a bill seeking to make identical changes to our powder cocaine laws was introduced in the last Congress, I wrote to the Attorney General requesting a prison impact assessment. I received a letter from the Justice Department on June 1, 1998, estimating that the total cost of this legislation over 30 years would be over $10.6 billion, including construction of nine new medium security federal prisons to house 11,000 more prison beds.

I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 1, 1998.

Hon. PATRICK LEAHY,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: This is in response to the letter you and two colleagues wrote to the Attorney General requesting a prison impact assessment for S. 2033, which would alter federal sentences for crack cocaine and powder cocaine offenders. I hope the following information is helpful to you.

S. 2033 would mandate a 5-year mandatory minimum sentence for 50 grams of powder cocaine, instead of the current 500-gram threshold. In addition, the proposal would impose a 10-year mandatory minimum sentence for 500 grams of powder cocaine, instead of the current 5 kilogram threshold. The 5- and 10-year mandatory minimum thresholds for crack cocaine would remain at 5 and 50 grams, respectively.

Table 1 estimates the impact of the proposed change on prison costs and population for the 30 years following enactment. Using its 1996 data set, the U.S. Sentencing Commission produced estimates of the number of individuals who would be incarcerated under this scenario. These estimates, which were based on a review of all defendants sentenced for drug trafficking and related offenses (U.S.S.C. 2D1.1) involving a single drug type, were then used by the Bureau of Prisons to project prison costs. While our estimates assume a constant rate of prosecutions for the next 30 years, it is important to understand that changes in sentencing during that time period could alter prosecution practices, thus affecting the cost and population estimates we provide here. Additional cost analysis assumptions are contained in Enclosure A.

We estimate that, in the fifth year after enactment, S. 2033 would require us to provide over 5,500 additional prison beds than currently projected in order to handle those inmates who would be spending more time in prison. The cumulative additional cost over five years would be almost $794 million, including construction of seven new medium security federal prisons. In the thirtieth year after enactment, we would need approximately 11,000 additional beds. The total cumulative cost over thirty years would be over $10.6 billion, including construction of a total of nine new medium security federal prisons.

Please do not hesitate to contact our office if you have additional questions concerning this or any other issue. We have sent similar letters to Senators Biden and Kennedy.

Sincerely,

L. ANTHONY SUTIN,
Acting Assistant Attorney General.

Enclosures.

ENCLOSURE A: COST ANALYSIS ASSUMPTIONS

For crack cocaine and powder cocaine sentencing scenarios, the Bureau of Prisons (BOP) is assuming that these inmates will be housed in medium security facilities. BOP's projected construction and operating costs presented in this prison impact assessment are consistent with costs required by medium security facilities, which are designed for a capacity of 1,152 prisoners.

If the estimated impact of enacted legislation will result in fewer than 1,152 additional prisoners, the prisoners will be added to existing facilities and be charged at marginal costs. If the estimated impact of enacted legislation will meet or exceed 1,152 additional prisoners, construction of a new facility will be necessary. While construction is underway, space will be found in existing facilities. Once the prisoners are transferred to the newly built facility, those prisoners are charged at full per capita cost to meet the full expense of operating an additional facility.

The increase in costs over time due to inflation is assumed to be approximately 3.1% per year.

TABLE 1.—5/50 RATIO FOR FIVE YEAR MANDATORY MINIMUM THRESHOLD*

Year and number of inmates	Annual operating cost	Cumulative operating cost	Construction cost	Total cumulative cost
1: 358	$3,122,476	$3,122,476	$327,168,000	$330,290,476
2: 1,321	11,878,432	15,000,908	84,327,552	426,496,460
3: 2,777	25,745,567	40,746,475	86,941,440	539,183,467
4: 3,756	35,899,848	76,646,323	0	575,083,315
5: 5,529	126,303,054	202,949,377	92,415,744	793,802,113
10: 9,163	251,592,061	1,235,564,127	Yr 7: 98,234,496	1,924,651,359
20: 10,868	426,305,688	4,721,379,782	Yr 13: 117,980,928	5,528,447,942
30: 11,066	580,578,254	9,793,498,397	0	10,600,566,557

*Whenever a 5 year mandatory minimum threshold ratio is discussed, we are presuming that there is also a 10 year mandatory minimum threshold at a drug weight equal to 10 times the amount of the 5 year mandatory minimum threshold weight.

Mr. LEAHY. We are going to see the effects of this amendment much earlier than 30 years from now. Most of us won't be here 30 years from now to answer for it; some may be. We have to look at this and ask, do these costs justify what we wanted to do?

We also will be focusing a lot more Federal resources on lower-level drug dealers. We will have to hire a whole lot of new drug enforcement officers right off the bat, but we are going to be refocusing them on lower-level drug dealers. I do not believe this is the most cost-effective allocation of Federal resources.

In addition to being costly, another consequence of lowering the powder cocaine threshold is that more federal resources will be focused on lower-level drug dealers. We must ask whether this is the most cost-effective allocation of federal resources. In adopting the federal sentencing scheme, Congress intended state and local drug enforcement personnel to investigate and prosecute small-time offenders, while

the federal government was to use its more sophisticated law enforcement weapons to investigate and prosecute higher-level drug traffickers. Recently, Congress has made great strides toward balancing the federal budget and has opted to devolve many federal programs to states in the belief that certain programs can be more efficiently administered by state and local governments. Likewise, Congress should be wary of assuming the costs associated with federal intrusion into the traditional domain of the states in prosecuting criminal offenses. Ill-considered expansion of the federal criminal justice system has recently come under fire from Chief Justice Rehnquist, who criticized the Congress for federalizing the criminal justice system during a period in which the Senate has failed even to keep the federal bench adequately filled.

A 50-gram powder cocaine offense is a serious criminal charge. No one is debating whether a 50-gram powder cocaine dealer should be subject to the possibility of incarceration. What is debatable, however, is whether a 50-gram powder cocaine offender is the type of high-level dealer that should be dealt with harshly by federal rather than state authorities. It is inevitable that the possibility of harsh federal sentences will encourage more federal prosecutions. The question is whether a 50-gram powder cocaine dealer is the type of sophisticated drug trafficker that requires the expense of federal technical expertise. If not, then we should be looking very seriously at more cost-effective ways of distributing law enforcement, prosecution, and incarceration obligations between the federal and state governments in order to maximize the efficiency of our nation's drug control strategy. By restructuring the federal sentencing scheme, we can ensure that state and local governments can assume greater responsibility for the investigation and prosecution of low-level dealers, whose offenses are of particular local concern. Federal resources can then be freed to pursue traffickers higher in the distribution chain.

Other aspects of this amendment also turn principles of federalism on their head. For example, the amendment contains a federal mandate for the disciplinary policies of local schools. It would require local schools to adopt certain specific policies on illegal drug use by students, including mandatory reporting of students to law enforcement and mandatory expulsion for at least one year of students who possess illegal drugs on school property. This turns on its head our traditional idea that state and local governments should have the primary responsibility for education, even though that idea is one that is constantly put forward by my colleagues on the other side of the aisle, and indeed is currently being used by them to justify their opposition to the President's plan to provide funding for schools to hire additional teachers and reduce class size.

I am particularly concerned about this one-size-fits-all mandate on the expulsion of students. Expulsion is an option that schools need to have so they can deal with particularly intractable behavior problems among their students. But only local teachers and principals can know which students who violate policies or laws should be expelled, and which deserve a different punishment.

I can just see the school principal in Tunbridge, VT getting a directive from the Federal Government, based on something we passed in a bankruptcy bill, telling them how they are going to run disciplinary procedures in Tunbridge. We may find ourselves back to the days when Vermont decided they wanted to be a republic.

I am not willing to tell thousands of school principals and administrators around the country, the U.S. Congress will tell you when to expel your students. If I did that, I would almost expect a recall petition and expulsion petition from the people of my State.

Finally, I object to the provision in this amendment that authorizes the use of public funds to pay tuition for any private schools, including parochial schools, for students who were injured by violent criminal offenses on public school grounds. Such a provision obviously raises serious Establishment Clause questions that deserve a fuller airing than is possible in an end-of-session amendment. It also gives rise to the numerous policy questions surrounding the issue of school vouchers, which could cause significant damage to our public school system. As a practical matter, this provision also raises the very real possibility of fraud and collusion to manufacture injuries in order to attend a private school at the taxpayers' expense.

I do believe that there are good things contained in the parts of this amendment that deal with our methamphetamine and amphetamine problems, most of which are borrowed from a bill that was reported by the Judiciary Committee in August. That bill managed to help local law enforcement in its daily battle against drugs, provide funding for the hiring of new DEA agents, and increase research and prevention funding, all without imposing mandatory minimums. I supported each of those provisions. But the good things included within this amendment are outweighed by the amendment's return to the failed drug policies of the recent past and its unwise and likely unconstitutional educational policies. Therefore, I will vote against this amendment.

Mr. President, I know others wish to speak. I know the distinguished Senator from New York was waiting to speak.

Mr. SESSIONS. Is the Senator asking unanimous consent that he speak next? Otherwise, the Senator from Michigan is due.

Mr. LEAHY. How much time remains for the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 45 minutes 59 seconds.

Mr. LEAHY. When next this side is recognized, I ask unanimous consent that Senator SCHUMER of New York be recognized. I know the distinguished Senator from Michigan is ready to be recognized on the other side.

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

Mr. LEAHY. I ask the distinguished Senator from New Jersey, Mr. LAUTENBERG, be recognized after the distinguished Senator from Michigan.

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

Mr. SESSIONS. Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I appreciate the opportunity to speak on the amendment offered by the Senator from Utah, Mr. HATCH, Senator ASHCROFT, and myself.

I wish to be somewhat responsive to a few of the statements made in some of the speeches in opposition to this amendment, as they pertain specifically to the issue of changing the mandatory minimum sentences on dealing with powder cocaine. I think it is important that we reflect on how we got to where we are today. There has been for some time, as reflected in actions of the U.S. Sentencing Commission, concern about the disparity between the mandatory minimum sentences for crack cocaine triggers of 5-year mandatory minimums for the dealing of 5 grams, of 10 years for dealings of 10 grams, and the mandatory minimums for powder cocaine, which are 100 times greater with the 5-year mandatory minimum trigger at 500 grams and the 10-year trigger at 1,000.

The Sentencing Commission has tried on a couple occasions to address this issue. The first time they tried this we were forced to take action as a Congress to stop their proposal from going into effect. I remind my colleagues that we overwhelmingly voted, I believe unanimously voted, to say no to the proposal of addressing this disparity by simply changing the powder cocaine thresholds to the same as crack cocaine. We thought it was a big mistake to make the cost of doing business go down.

The President signed that legislation into law, making the very same statement, that the message we would be sending to young people, to drug dealers, to everybody, was the wrong message if we made crack cocaine sentences more lenient.

The Sentencing Commission came back with a second proposal—that was a proposal actually in response to a study we requested—that we would simultaneously make the crack cocaine mandatory minimum sentences more lenient while making powder tougher. The Sentencing Commission decided that a ratio of a 10-to-1 difference in the thresholds versus a 100-to-1 difference was the appropriate ratio.

A number of us found this second suggestion also unacceptable because,

once again, it would require making the sentences for crack cocaine dealers more lenient. I speak for myself, but I think others who cosponsored this legislation share the view that we should not be making drug sentences more lenient, particularly for crack cocaine dealers.

I want to talk about why we should not do that because the only way to change the disparity between powder cocaine mandatory minimums and crack cocaine mandatory minimums is either make the mandatory minimums for crack cocaine more lenient and the mandatory minimums for powder cocaine tougher or do a little of each.

I think anything that changes the crack cocaine mandatory minimum threshold is a mistake, for several reasons. First, the current mandatory minimum with respect to crack cocaine, the 5-gram threshold, to trigger a 5-year mandatory, has been a very effective device in terms of getting the lower end drug dealers to begin giving up to prosecutors up the drug chain so we can begin prosecuting people higher on the drug chain. If we make those mandatory minimums more lenient, if in fact the sentences being confronted by people at the bottom end of the drug chain aren't very severe, they are not going to cooperate. They are not going to provide the evidence or finger the higher-ups in the drug chain itself.

A second argument not to change the crack cocaine thresholds is that we have differences in a lot of States already between what the State mandatory minimums punishments are and the Federal mandatory minimum punishments are.

In Michigan, we have a pretty tough set of State laws, similar to the Federal laws. They are sufficiently similar so that if somebody is being pursued for crack cocaine dealing, they don't really gain anything by playing off the State versus the Federal law enforcement officials. But if we begin to make crack cocaine thresholds for mandatory minimum sentences more lenient, in Michigan, what is going to happen—and I predict in a lot of other States—is that the crack cocaine dealer is going to begin to make a deal with the Federal prosecutors, as opposed to the State prosecutors, to get the lighter sentence. I can't imagine that is what we want to do here in the Congress of the United States.

The third issue I think is important is to understand exactly how crack cocaine is sold. I have talked to people who are in our drug task forces in Michigan. They have pointed out that you really can't increase the thresholds very much beyond 5 grams because people don't walk around with larger quantities of crack cocaine in their possession when they are dealing. They hide their stuff, and they deal in quantities smaller than 5 grams or slightly greater than 5 grams. If you change that as significantly as has been proposed by the Sentencing Commission, if you make the thresholds more lenient, you are not going to find anybody carrying around or being apprehended with sufficient levels of crack cocaine to be pursued under the mandatory minimum structure.

Fourth, if we make the sentences for crack cocaine more lenient, we are going to be sending a terrible message as well as providing incentive for people to pursue crack dealing in greater amounts. Do we really want to send the message to young people that we are getting less tough on crack cocaine dealers? Do we want to send the message to crack dealers that the cost of doing business just got cheaper? Do we want to tell the families that we want to, in fact, make it harder to pursue, prosecute, and ultimately confine and incarcerate crack cocaine dealers who are in their neighborhoods, their schoolyards and playgrounds, selling dope to their kids? Is that the message we want to send? I hope not.

Finally, of course, as we know, crack is both cheaper and more addictive than cocaine in powder form. That is the reason there is a disparity to begin with, much the same as between heroin and opium.

For all these reasons, it does not make a lot of sense to make the mandatory minimum threshold for 5-year or 10-year sentences for dealing in crack cocaine more lenient. If you rule out the notion of making crack cocaine sentences more lenient, then the only other way to address the disparity between powder and crack cocaine is to make the powder cocaine sentences tougher.

So if people are on the other side of this issue and want to simultaneously make the disparity between crack and powder closer, lower that disparity, and oppose this amendment, then the only thing they can be saying is they want to make sentences for crack cocaine dealers more lenient. I can't believe many Members of this body want to do that. That is the only option we have. That is why we have pursued an option that will reduce the disparity by making sentences for powder cocaine dealers tougher.

What we have done in setting the standard we have chosen in this amendment is to use the ratio that was agreed upon by the Sentencing Commission in their proposal, and by the administration, of a 10-to-1 ratio between the triggers of mandatory minimum sentences for crack dealers and for powder dealers. But we have reduced the disparity from 100-to-1 to 10-to-1 by making tougher sentences for powder cocaine dealers—the change in our proposal.

I want to address two or three other points that were made in some of the earlier speeches. First, we have heard talk about the cost of incarceration. I addressed this earlier in my first speech because I get frustrated when I hear people talking about how much it costs to keep crack dealers and drug dealers out of the playgrounds and neighborhoods of our communities. The impression is that the only cost on which we should focus is exclusively the cost of incarceration. But what is the cost to us as a society and of having larger numbers of children becoming addicted to crack cocaine, having these people not in prison but in our neighborhoods? What about those costs? Can we possibly equate the cost of someone who dies as a result of their drug addiction or kills somebody in pursuit of the resources to be able to meet their drug addiction? What are the costs of that?

So I think it is a little bit unfair to only add up the costs on one side of this equation. I think we should also be talking about the costs to our communities of allowing larger numbers of drug dealers to avoid sentencing and to stay in business.

The other point I make, as I did earlier today, is that we have seen a dramatic reduction in the last few years in both the number of murders and robberies and other numbers of violent crimes across the board in our country, in city after city. Those with expertise on this issue have consistently cited that the reason for these declines in the murder rates, the rates of armed robbery, and so on, is the effectiveness with which we are finally beginning to address the crack cocaine epidemic in America.

So, Mr. President, the notion that we would do anything that would reverse our course with regard to cracking down on the dealers of crack seems to me to be a mistake.

Finally, I say our goal should be to lower the disparity so that more people up the drug chain are subject to mandatory minimum sentences. That is a good reason, in my judgment, by itself, to make tougher the threshold for mandatory minimum thresholds for the sale of powder cocaine.

In addition, by doing that, we will reduce this disparity that exists. I believe if we accomplish both objectives, we will make a greater impact on our fight against drugs in this country. But our colleagues should make no mistake about the fact that if we don't take this approach and want to reduce this disparity, their only option is to make the sentences for crack dealers lighter and more lenient. I don't believe the Members of this Chamber want to go on record as saying they want to move in that direction. So we have offered an amendment that constructively addresses the disparity without making crack sentences more lenient.

I think the other components of this amendment are also good—those that deal with methamphetamines, the increased amount of support for drug treatment programs, and the variety of other components of this amendment.

I say, finally, with respect to the question of why it should be in the bankruptcy bill, there are a lot of issues that were agreed upon when we moved to the bankruptcy legislation that were going to be included in the debate here, the so-called nongermane

amendments, ranging from amendments dealing with East Timor, to agriculture, and so on, and this amendment as well. Perhaps this isn't the ideal spot for this debate. I only say that was the agreement that was reached by 100 Senators, that we would have amendments that were not specifically germane to bankruptcy as part of the final bill we will deal with on the floor this year.

I hope those who argue somehow that we shouldn't be dealing with this issue will be equally vocal in complaining about the insertion of other less germane issues in the bankruptcy debate because clearly we are going to hear it argued from both sides that some of the issues are inappropriate in this context. The fact is, I think the American people want us to take a tough stand on drugs and want us to take a tough stand in favor of tough drug sentences. Our amendment accomplishes that. I sincerely hope our colleagues will join us in supporting its passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, how is the time apportioned?

The PRESIDING OFFICER. The Senator from New Jersey has 45 minutes, and the other side has 16 minutes.

Mr. LAUTENBERG. I thank the Chair. I will try to save some time for my friend from Iowa.

Mr. President, I raise my voice in opposition to this amendment because I think it is a wrong-headed distraction from the real issue that parents all over this country care about—the epidemic of gun violence in our society at large and especially in our schools.

This amendment would allow Federal education funding to be shifted from special education, computer technology, bilingual education, and other key programs to provide vouchers to students who are victims of school violence.

In a way, I have to tell you that I think this amendment has a cruel twist to it because we all want to be of help wherever we can be to those who are victimized by violence. But look at the way the program is designed.

Vouchers to schools? It doesn't, in my view, really make a lot of sense when in fact, if we could keep guns away from our schools, we would not have to be thinking about vouchers but, rather, about how we educate our children. We could bring the teachers into the schoolrooms, as the President would like to have us do—100,000 teachers. Perhaps the workloads of many would be able to be confined to a serious review of the educational requirements.

This amendment is disturbing on many levels—so many that I am not sure where we begin.

Is this the answer to school violence—ignore the causes, do nothing to remedy the issue, but ship certain kids out of public schools?

Does the Republican majority really believe schools should cut special education and computer funding in public schools to fund voucher programs?

We are approaching the 21st century. Everyone knows that whatever the 20th century brought by way of technology, computers, et cetera, is likely to be dwarfed in the earliest years of the 21st century. It all starts with a computer base. Why we would want to take funds away from those programs is really hard to understand. It is not what America's parents want. They want answers. We had one of the answers on the floor of this Senate. It passed this body. They want to see a juvenile justice bill passed, but the majority has buried this legislation in conference and declared it dead for the year. It is hardly a way to respond to the anguished calls we hear all over this country.

It includes, yes, stricter punishments for those who would violate the rules of behavior in our society. But it also closed a gun show loophole that took the anonymous buyer out of the equation. It reduced the possibility that anyone who is on the 10 Most Wanted List of the FBI could walk into a gun show and buy a gun. As outrageous as that sounds, that is the truth.

I don't know when the Congress is going to catch up with the American people. The American people are so far ahead of Congress that it is embarrassing. Poll after poll after poll pleads with the Senate and pleads with the House to take away the availability of guns. At least, if you are not going to take it away, make sure that those who buy guns are qualified; that they know what to do; that they are mature; that they are not likely to use them for a violent ending.

The public is demanding an end to the gun violence. It has reached epidemic proportions. The events of last week prove no one is safe from maniacs who amass arsenals of deadly weapons and use them to gun down whole groups of people—people from Hawaii to Seattle, from Colorado to Texas to Kentucky.

Just think about it. Schoolchildren, high school children at Columbine—everyone remembers that and will never forget the picture of that child hanging out the window pleading for help before he fell to the ground. Then the next one is office workers running away from a gunman in Atlanta, GA; the next, a picture of youngsters gathering together to pray while being assaulted by a gunman and running for their lives.

We have to do something to stop this insanity. We have to do something about a system that makes it easier for someone to buy a gun than to get a driver's license.

We are about at the end of this legislative session. One thing is clear—we have given in to the extremists, to the gun lobby, the NRA that opposed even the most commonsense proposal to stop gun violence. If I were their adviser, or counselor, I would say: Listen, guys and women. Let's give in on this one. It doesn't hurt us a darned bit, and it makes us look as if we are in touch with the American people. But no; the extremists went out, and they have their hand in this place. They have their hand in the House, and they turned our programs away from public opinion and public demand.

Most Americans assumed that the horrific shootings in Columbine would be enough—the ultimate outrage. Most Americans thought that the vision of 2 high school students systematically killing 12 classmates and a teacher and wounding 23 others would finally spur Congress to action, would finally say ''that is enough,'' ''that is enough.''

After that terrible incident, 89 percent in one poll and 91 percent in another poll asked for the elimination of the gun show loophole. But it was ignored here. The public ought to look at why it was ignored.

The reason I think it was ignored is that campaign contributions overwhelmed the good judgment and the demand of the American people—campaign contributions. Get elected; that is what counts. There is more to it than that.

It was 7 months ago when that happened. Congress hasn't acted even while the body count rises. Just last week, nine more people were shot and killed in rampages by two gunmen. One of these gunmen owned 17 handguns.

In May of this year, the Senate—with Vice President GORE'S help—passed my gun show loophole amendment as part of the juvenile justice bill. The gun show loophole amendment said that where gun shows, where so many guns are bought, traded, and sold, had a place for nonlicensed gun dealers, non-Federally-licensed gun dealers, anyone—it didn't matter who you were—could walk up to one of those gun dealers and say, ''Give me 20 guns, and here is the money.'' There would be no questions asked: What is your name? Where do you live? What do you do for a living? Have you been in jail? Have you been a drug addict? Have you been an alcoholic? Have you been known to have bursts of temper, outrage, beaten your wife, your children? Not one question. It is outrageous—not one question. We tried to close that loophole. It was a commonsense measure that would have stopped lawbreakers, underage children, and the mentally unstable from walking into a gun show and walking out with a small arsenal.

We passed it 51 to 50. But as soon as the Senate passed my amendment, the NRA sounded its alarm and its allies went to work to defeat the proposal in the House.

The gun lobby spent millions on radio and TV ads, but, of course, those ads didn't mention the gun massacres that followed Columbine. They didn't mention that. In the first week of July, a violent racist went on a shooting rampage in Illinois and Indiana killing two people and injuring nine. Or that a few weeks later, a deranged day trader in Atlanta shot 9 people to death in an

office and wounded 13. Or that in August, a man with a .44-caliber Glock gun killed three coworkers in Alabama.

No State is safe. There is no group of people that is safe—no ethnic group, religious group, or otherwise.

Five days after that, a white supremacist killed a Filipino postal worker and shot four young people at a Jewish day-care center. Who will forget that scene—these little kids, like my grandchildren, being led by policemen out of the schoolhouse, where they went to learn and have fun, running away from a killer? Last month, a well-armed maniac walked into the Baptist Church in Ft. Worth, TX, and killed seven young people who were at a prayer gathering.

Day by day, the death toll mounts. Our family, children, friends, and neighbors are being gunned down in our schools, in our houses of worship, where we work and live.

More than 34,000 people are killed by guns every year, more than lost during the Korean war. Additionally, we wind up treating 134,000 gunshot wounds, and the cost to the country is over $2 billion; taxpayers pay almost half of that.

While the NRA may be on the Republican side, law enforcement is on our side. I worked with law enforcement drafting my gun show amendment, and I received numerous letters from law enforcement organizations supporting that amendment and other gun safety measures the Senate passed.

I ask unanimous consent copies of those letters be printed in the RECORD.

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

INTERNATIONAL BROTHERHOOD
OF POLICE OFFICERS,
Alexandria, VA, September 15, 1999.

Hon. ORRIN G. HATCH,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN HATCH: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, AFL–CIO. The IBPO is the largest police union in the AFL–CIO.

On behalf of the entire membership of the IBPO I wish to express our strong support of the gun-related provisions adopted by the Senate as part of S. 254. The IBPO knows that passage of these measures will keep guns away from children and criminals.

The IBPO requests that the conferees continue to focus on the need for adequate time to conduct background checks at ''gun shows.'' As I am sure that you are aware, the Federal Bureau of Investigation has estimated that over 17,000 disqualified individuals would have been able to purchase a gun if a twenty-four hour time limit was required for a background check. Accordingly, if such time requirement is legislated 17,000 more felons will be able to purchase guns.

The IBPO is also in support of extending the requirements of the Brady Act to cover juvenile acts of crime. Our union has supported legislation which seeks to comprehensively control crime. The Brady Act is a major part of such efforts.

Thank you for your consideration of these issues that are significant to all law enforcement officers and the citizens of the United States of America.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL ASSOCIATION
OF CHIEFS OF POLICE,
Alexandria, VA, September 14, 1999.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: On behalf of the more than 18,000 members of the International Association of Chiefs of Police (IACP), I am writing to express our strong support for several vitally important firearms provisions that were included in S. 254, the Violent and Repeat Juvenile Offender Accountability Act of 1999.

As conference work on juvenile justice legislation begins, I would urge you to consider the views of our nation's chiefs of police on these important issues. Specifically, the IACP strongly supports provisions that would require the performance of background checks prior to the sale or transfer of weapons at gun shows, as well as extending the requirements of the Brady Act to cover juvenile acts of crime.

The IACP has always viewed the Brady Act as a vital component of any comprehensive crime control effort. Since its enactment, the Brady Act has prevented more than 400,000 felons, fugitives and others prohibited from owning firearms from purchasing firearms. However, the efficacy of the Brady Act is undermined by oversights in the law which allow those individuals prohibited from owning firearms from obtaining weapons, at events such as gun shows, without undergoing a background check. The IACP believes that it is vitally important that Congress act swiftly to close these loopholes and preserve the effectiveness of the Brady Act.

However, simply requiring that a background check be performed is meaningless unless law enforcement authorities are provided with a period of time sufficient to complete a thorough background check. Law enforcement executives understand that thorough and complete background checks take time. The IACP believes that to suggest, as some proposals do, that the weapon be transferred to the purchaser if the background checks are not completed within 24 hours of sale sacrifices the safety of our communities for the sake of convenience.

Requiring that individuals wait three business days is hardly an onerous burden, especially since allowing for more comprehensive background checks ensures that those individuals who are forbidden from purchasing firearms are prevented from doing so.

Finally, the IACP believes that juveniles must be held accountable for their acts of violence. Therefore, the IACP also supports modifying the current Brady Act to permanently prohibit gun ownership by an individual, if that individual, while a juvenile, commits a crime that would have triggered a gun disability if their crime had been committed as an adult.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at 703/836–6767.

Sincerely,

RONALD S. NEUBAUER,
President.

ARAPAHOE COUNTY SHERIFF'S OFFICE,
Littleton, CO, September 15, 1999.

Chairman ORRIN HATCH,
Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN HATCH: As you and other conferees meet to craft juvenile justice legislation, I urge you to adopt the gun-related provisions adopted by the Senate as part of S. 254, The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. We at the National Sheriffs' Association (NSA) appreciate your efforts to curb violent juvenile crime.

We feel that S. 254 combines the best provisions of each legislative attempt to reform and modernize juvenile crime control. As you know, sheriffs are increasingly burdened with juvenile offenders, and they present significant challenges for sheriffs. The so-called core mandates requiring sight and sound separation, jail removal and status offender mandates are so restrictive, that even reasonable attempts to comply with the mandates fall short. We welcome modest changes to the core mandates to make them flexible without jeopardizing the safety of the juvenile inmate. We agree that kids do not belong in adult jail and therefore we appreciate the commitment to find appropriate alternative for juvenile offenders.

Additionally, NSA supports the Juvenile Accountability Block Grant program. S. 254 sets aside $4 billion to implement the provisions of the bill and this grant funding will enable sheriffs to receive assistance to meet the core mandates. NSA is also hopeful that the prevention programs in the bill will keep juveniles out of the justice system. Kids that are engaged in constructive activities are less likely to commit crimes than those whose only other alternative is a gang. We applaud the focus on prevention, and we stand ready to do our part to engage America's youth.

In addition, you may be asked to consider the following amendments that I support.

Four ways to close loopholes giving kids access to firearms:

1. The Child Access Loophole.

Adults are prohibited from transferring firearms to juveniles, but are not required to store guns so that kids cannot get access to them. This Child Access Prevention (CAP) proposal would require parents to keep loaded firearms out of the reach of children and would hold gun owners criminally responsible if a child gains access to an unsecured firearm and uses it to injure themselves or someone else.

2. The Gun Show Loophole:

So-called ''private collectors'' can sell guns without background checks at gun shows and flea markets thereby skirting the Brady Law which requires that federally licensed gun dealers initiate and complete a background check before they sell a firearm. No gun should be sold at a gun show without a background check and appropriate documentation.

3. The Internet Loophole Similar to the Gun Show Loophole:

Many sales on the internet are preformed without a background check, allowing criminals and other prohibited purchasers to acquire firearms. No one should be able to sell guns over the internet without complying with the Brady background check requirements.

4. The Violent Juveniles Purchase Loophole:

Under current law, anyone convicted of a felony in an adult court is barred from owning a weapon. However, juveniles convicted of violent crimes in a juvenile court can purchase a gun on their 21st birthday. Juveniles who commit violent felony offenses when they are young should be prohibited from buying guns as adults.

The National Sheriffs Association and I welcome passage of this legislation. We look forward to working with you to ensure swift enactment of S. 254.

Respectfully,

PATRICK J. SULLIVAN, Jr.,

Sheriff, Chairman, Congressional Affairs Committee and Member, Executive Committee of the Board of Directors, NSA.

NATIONAL ASSOCIATION OF SCHOOL RESOURCE OFFICERS,
Boynton Beach, FL, September 16, 1999.

Chairman HATCH,
Senate Judiciary Committee,
Dirksen Senate Office Building,
Washington, DC.

DAER CHAIRMAN HATCH: The National Association of School Resource Officers (NASRO) is a national organization that represents over 5,000 school based police officers from municipal police agencies, county sheriff departments and school district police forces. On behalf of our entire membership nationwide, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, NASRO urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials we know from experience that it is critical to have at least three business days to do a thorough background check. Law enforcement officials need time to access records that may not be available on the federal National Instant Check Background System (NICS) such as a person's history of mental illness, domestic violence or recent arrests. What is important to law enforcement is not how fast a background check can be done but how thorough it is conducted. Without a minimum of three business days, this will increase the risk that criminals will be able to purchase guns.

NASRO is concerned that 72 or 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all NICS background check data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours—9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchase points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes didn't stop until 1998, when he shot his stepson and three police officers before turning a gun on himself.

On June 23, 1999 a Colorado man shot and killed his three daughters, ages 7, 8 and 10 just hours after purchasing a gun from a licensed dealer. The dealer completed a NICS check, but the check failed to reveal that the man had a domestic abuse restraining order against him. If law enforcement had consulted local and state records using both computerized and non-computerized data bases than the man probably would have never been able to purchase the gun.

The other Senate passed provisions NASRO supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate-passed gun-related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

CURTIS LAVARELLO,
Executive Director.

NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES,
ALEXANDRIA, VA, SEPTEMBER 15, 1999.

Hon. ORRIN HATCH,
Chair, Senate Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The National Organization of Black Law Enforcement Executives (NOBLE) representing over 3500 black law enforcement managers, executives, and practitioners strongly urge you to support the gun related provisions adopted by the Senate as a part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile legislation, NOBLE urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed dealer.

NOBLE is concerned that 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all National Instant Check Background System (NICS) data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours, 9000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set for 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchased points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes did not stop until 1998, when he shot his stepson and three police officers before turning the gun on himself.

The other Senate passed provisions NOBLE supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate passed gun related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

ROBERT L. STEWART,
Executive Director.

HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION,
Washington, DC, September 15, 1999.

Chairman HATCH,
Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN HATCH: The Hispanic American Police Command Officers Association (HAPCOA) represents 1,500 command law enforcement officers and affiliates from municipal police departments, county sheriffs, and state and federal agencies including the DEA, U.S. Marshals Service, FBI, U.S. Secret Service, and the U.S. Park Police. On behalf of our entire membership nationwide, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, HAPCOA urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials we know from experience that it is critical to have at least three business days to do a thorough background check. Law enforcement officials need time to access records that may not be available on the Federal National Instant Check Background System (NICS) such as a person's history of mental illness, domestic violence or recent arrests. What is important to law enforcement is not how fast a background check can be done but how thorough it is conducted. Without a minimum of three business days this will increase the risk that criminals will be able to purchase guns.

HAPCOA is concerned that 72 or 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all NICS background check data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours—9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchase points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes didn't stop until 1998, when he shot his stepson and three police officers before turning a gun on himself.

On June 23, 1999 a Colorado man shot and killed his three daughters, ages 7, 8 and 10 just hours after purchasing a gun from a licensed dealer. The dealer completed a NICS check, but the check failed to reveal that the man had a domestic abuse restraining order against him. If law enforcement had consulted local and state records using both computerized and non-computerized data

bases then the man probably would have never been able to purchase the gun.

The other Senate passed provisions HAPCOA supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate-passed gun-related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

JESS QUINTERO,
National Executive Director.

POLICE EXECUTIVE RESEARCH FORUM,
Washington, DC, September, 14, 1999.

Hon. ORRIN G. HATCH,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN HATCH: The Police Executive Research Forum (PERF) is a national organization of police professionals dedicated to improving policing practices through research, debate and leadership. On behalf of our members, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing children's and criminals' access to guns.

As you and other conferees meet to craft juvenile justice legislation, PERF urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials, we know from experience that it is critical to have at least three business days to do a thorough background check. While most checks take only a few hours, those that take longer often signal a potential problem regarding the purchaser. Without a minimum of three business days, the risk that criminals will be able to purchase guns increases. The FBI analyzed all NICS background check data in the last six months and estimated that, if the law had required all background checks to be completed in 72 hours, 9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have obtained guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

PERF also strongly supports measures that impose new safety standards on the manufacture and importation of handguns requiring a child-resistant safety lock. PERF helped write the handgun safety guidelines—issued to most police agencies more than a decade ago—on the need to secure handguns kept in the home. Our commitment has not wavered. I also urge you to clarify that the storage containers and safety mechanisms meet minimum standards to ensure that the requirement have teeth.

PERF also encourages the enactment of proposals that prohibit the sale of an assault weapon to anyone under age 18 and to increase the criminal penalties for selling a gun to a juvenile. PERF all supports banning all violent juveniles from buying any type of gun when they turn 18, and supports banning the importation of high-capacity ammunition magazines. PERF knows we must do more to keep guns out of the hands of our nation's troubled youth.

PERF supports strong, enforceable ''Child Access Prevention'' laws. Once again, we have witnessed the carnage that results when children have access to firearms. PERF has supported child access prevention bills in the past because we have seen first hand the horror that can occur when angry and disturbed kids have access to guns.

We must do more to keep America's children safe—not just because of recent events, but because of the shootings, accidents and suicide attempts we see with frightening regularity. It is important to adopt the Senate-passed gun-related provisions in order to protect our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals. Thank you for considering the views of law enforcement. We applaud your efforts to help make our communities safer places to live.

Sincerely,

CHUCK WEXLER,
Executive Director.

Mr. LAUTENBERG. Mr. President, some of my colleagues may recall that former President George Bush resigned from the NRA because the organization referred to law enforcement people as ''jack-booted thugs.'' What a twist to refer to our law enforcement people courageously out there risking their own lives to protect others and referring to them as ''jack-booted thugs.'' I saluted President Bush for that one.

We ought to be skeptical when the NRA says it supports law enforcement. We ought to be skeptical when they use the second amendment to promote extremist views. What does the second amendment say?

A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

It doesn't say one ought to be able to buy it without a license. It doesn't say if someone is crazy, they ought to be able to buy a gun. It doesn't say if one is 12 years old, they ought to be able to buy a gun. It doesn't say one ought to be able to buy as many guns as they want. No matter how broadly one interprets that, there is nothing that says one shouldn't have to have a license to buy a gun.

The interpretation of the amendment has been broadened and the courts don't hold or support that. That is the kind of gobbledygook that accompanies that. It is like saying guns don't kill; people kill. Who pulls the trigger? Animals. I guess maybe in some ways they are.

We never hear the NRA talk about the first 13 words in that amendment:

A well-regulated Militia, being necessary to the security of a free State . . .

They only cite the last 14 words when they argue that the amendment creates an unlimited right for individuals to bear arms.

Nonsense. The NRA knows the history of the second amendment doesn't support the organization's radical views. When the Constitution was being debated, each State had its own militia. Most adult males were required to enlist and to supply their own equipment, including their own guns. The second amendment was written in response to concerns that excessive Federal power might lead to the Federal Government passing laws to disarm those State militias.

The United States has changed a great deal since then. We no longer have State militias where citizens are required to provide their own arms. Thank goodness we have a National Guard—a State-organized military force—that is more limited and depends on government-issued weapons. They are there to respond to protecting the public.

If my colleagues are interested in reading more about reality and the myths surrounding the second amendment, I urge them to read some recent scholarly articles written by independent historians whose research has not been funded by the NRA. These include articles by Saul Cornell, a history professor at Ohio State University; an editorial by Garry Wills, a Pulitzer Prize-winning history professor at Northwestern University; and an article by historian Mike Bellesiles of Emory University.

I ask unanimous consent these articles be printed in the RECORD.

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

[From the New York Times, June 24, 1999]

REAL AND IMAGINED

(By Saul Cornell)

Three words are routinely invoked by opponents of gun control: the Second Amendment. So it was during the debate last week in the House.

In reality, however, the amendment was never meant to ban virtually all efforts to regulate firearms. Indeed, the Founding Fathers viewed regulation as not only legal but also absolutely necessary, and colonial America enacted all sorts of regulatory legislation governing the storage of arms and gunpowder.

The mythology of the Second Amendment, however, has turned history on its head. Herewith, the truth about the Second Amendment and its place in history.

Myth: The right to bear arms has always been an individual right.

Reality: States retained the right to disarm law-abiding citizens when the good of the community required such action.

In Pennsylvania, as much as 40 percent of the adult, white male population was deemed to lack the requisite virtue to own guns.

Myth: The armed citizen militia was essential to the cause of American independence.

Reality: If Americans had relied on their militia to achieve independence, we would still be part of the British empire. There were never enough guns in the hands of citizens to pose a threat to a well-equipped army. The Continental Army, not the militia, won the American Revolution.

Myth: The militia included all able-bodied citizens.

Reality: The list of groups excluded from the militia in Massachusetts ran to two paragraphs.

Myth: The militia was an agent of revolution.

Reality: While the militia became a powerful agent of political organization, it was invariably used by states to repress rebellions by citizens and slaves.

[From the Chicago Sun-Times]

SHOOTING HOLES IN AGE-OLD GUN MYTHS

(By Garry Wills)

For a number of years now, historian Michael Bellesiles of Emory University has been amassing a great body of evidence that demolishes the myths of the gun's role in American history. I have wondered by no one in the popular press has picked up on this work published in scholarly journals. Now that a news magazine finally has done that, the magazine, it turns out, is not an American one but the Economist, published in London. Its current issue runs a very full and important summary of Bellesiles' findings.

By a sophisticated bit of sleuthing, Bellesiles has put together probate reports on what people owned in the 18th and early 19th centuries, government surveys of gun ownership (something the NRA would go crazy at today), records of the number of guns produced in America and imported from abroad—all to establish this fact, which runs contrary to romantic notions of the frontiersman's reliance on his weapon: Up until 1850, fewer than 10 percent of Americans owned guns, and half of those were not functioning.

Guns were expensive in early days; they cost the equivalent of the average man's wages for a year. They were inefficient and hard to maintain. Few were made in America. Repairs were not readily executed (mainly by blacksmiths who worked on farm implements). How did people protect themselves then? Not by guns. Only 15 percent of the violent deaths inflicted in the period 1800 to 1845 were brought about by guns—about the same number as were caused by ax attacks and fewer than those caused by knives. The leading cause of violent death was being beaten or strangled (twice as many died that way as by shooting or stabbing).

So much for the NRA argument that if guns are taken away, people would just find other means of killing one another. People certainly will kill, but the rate just as certainly would drop. When is the last time you heard of a drive-by strangling, or the case of a school where a dozen children were mowed down with an ax? that is why the murder rate is so low in the countries that do have gun control.

Another myth that Bellesiles demolishes is that of the militias. Most militias did not have guns, or powder, or the training to use what few weapons they had. They were not made up of the whole male citizenry—how could they have been, when no more than 10 percent of the citizens had guns. Militias usually were mustered for immediate emergencies from the unemployed, the drifting or those too poor to buy substitutes for their service. One of the few exceptions to this condition was militias in the South that were kept in fighting condition in order to patrol the slaves. So far from being a great bastion of freedom, the militias were a support of slavery.

When Bellesiles' findings are put together with Robert Dykstra's study of the cowboy legend (towns such as Tombstone and Dodge City had gun control laws, so that only 1.5 deaths occurred annually during the cattle drives of their most famous years) and with Osha Gray Davidson's history of the NRA (which did not oppose gun control until the 1960s), there is nothing left standing to vindicate the myth that individually owned guns were a source of American freedom and greatness.

[From the Economist, July 3, 1999]

ARMS AND THE MAN

America's love affair with the gun is the eternal stuff of fiction. It has not always been the stuff of fact.

Richard Henry Lee, one of the signers of America's Declaration of Independence, wrote that ''to preserve liberty, it is essential that the whole body of the people always possess arms and be taught alike, especially when young, how to use them.'' This association between guns and liberty seems hardwired into the American consciousness. It has produced a country with more guns than people. It has made national heroes of the armed frontiersman, the cowboy and Teddy Roosevelt, the president who carried a big stick and a hunting rifle. Above all it has engendered such a powerful cult of the gun that whether you glorify it, fear it or accept it as a necessary evil, hardly anyone questions its basis in fact. Have guns really been an essential part of American life for 400 years?

At first glance it seems absurd to doubt it. From the time of the earliest settlement on the James River, the English colonies required every freeman to own a gun for self-defence. More than a century and a half later, the notion of the citizen-soldier was enshrined in the constitution. ''A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed,'' holds the second amendment of the Bill of Rights, which establishes additional safeguards for Americans' freedom.

Yet in ordinary life people were not armed to the teeth a couple of centuries ago. Wills from revolutionary times present a different picture. Probate records that list the belongings passed on to heirs often give valuable insights into everyday activities and possessions. Michael Bellesiles, a professor at Emory University in Atlanta, has trawled through more than 1,000 probate records dating from between 1765 and 1850. Here is a typical finding: ''He takes note of his favourite chocolate pot [says Mr. Bellesiles]. The record notes broken bottles, bent spoons. It notes every scrap of land and every debt and credit he holds. There's not a single gun listed. And this is the commander of the Virginia militia.'' Between 1765 and 1790, fewer than 15% of probate inventories list guns of any kind (see chart 1 on), and more than half of those listed were broken. The larger-than-average proportion in the South was probably due to difficulties in persuading people to be slaves by peaceful means.

Official surveys of private-gun ownership show much the same thing. (Amazingly, to modern sensibilities, state and federal governments were able to undertake surveys of this sort without any debate in state legislatures about their right to do so.) The state of Massachusetts counted all privately owned guns on several occasions. Until 1840, at any rate, no more than 11% of the population owned guns—and Massachusetts was one of the two centres of gun production in the country. At the start of the War of 1812, the state had more spears than firearms in its arsenal. What was true at the state level was true nationwide. ''It would appear,'' says Mr. Bellesiles, ''that at no time prior to 1850 did more than a tenth of the people own guns.''

So, contrary to popular belief and legend, and contrary even to the declarations of the founding fathers, gun ownership was rare in the first half of America's history as an independent country. It was especially low in parts of the countryside and on the frontier, the very areas where guns are imagined to have been most important. By no stretch of the imagination was America founded on the private ownership of weapons.

But what about the civilian militias of the period, in which all adult men were supposed to serve? These included bodies such as the Minutemen of Massachusetts, embattled farmers who agreed to turn out at a minute's notice and managed to take on the British at Lexington and Concord. Surely they at least exemplified the republican ideal of universal military service by the citizenry?

Not really. Most militias were a joke. Describing a shooting competition at a militia muster in Pennsylvania, one newspaper wrote cruelly: ''The size of the target is known accurately, having been carefully measured. It was precisely the size and shape of a barn door.'' The soldiery could not hit even this; the winner was the one who missed by the smallest margin. No wonder the militias of Oxford, Massachusetts, voted in 1823 to stop their annual target practice to avoid public humiliation. South Carolina fined people who heckled or disrupted the militia muster—to no avail.

Militias, it seems, were neither adept nor well-armed. In 1775 Captain Charles Johnson told the New Hampshire Provincial Congress that his company had ''perhaps one pound of powder to 20 men and not one-half our men have arms.'' The adjutant general of Massachusetts complained in 1834 that only ''town paupers, idlers, vagrants, foreigners, itinerants, drunkards and the outcasts of society'' manned his militias. Delaware was one of several states that fined people for non-attendance at musters. In 1816 it gave up the unequal struggle and repealed all the fines; and when the legislature dared to enact a new militia law in 1827, it was turfed out at the next elections and the law repealed. In the 1830s, General Winfield Scott discovered the Florida militia to be essentially unarmed—and this was during a war against the Seminole Indians.

These and other bits of information confirm the evidence of the probate records: guns were rare. Perhaps the fact should not surprise. Gunpowder and firing mechanisms had to be imported, so a gun cost about a year's income for an ordinary farmer. (For comparison, a basic rifle now costs the equivalent of three days' work at the average wage.) And guns were hard to maintain: muskets were made mostly of iron, which rusted easily and needed constant attention. Many busy farmers had better things to do with their time.

Even if farmers had wanted and been able to buy guns, they would usually have found them hard to obtain. Before the civil war, America had only two armouries, at Harper's Ferry, Virginia, and Springfield, Massachusetts (see chart 2). Their joint output was not enough even for basic national defense. In an attempt to equip the militias sufficiently to protect the newly independent country, Congress ordered the purchase of 7,000 muskets in 1793. A year later, it had managed to buy only 400.

Strikingly, the citizen-soldiers could not be bothered to arm themselves even when guns were both available and free of charge. In 1808 the government made its biggest attempt to arm and organise the citizenry, offering to buy weapons for every white male in the country. All the militias had to do to get guns was apply for them, reporting how many members they had. By 1839 only half the companies in Massachusetts had taken the trouble to do this.

Across the country, popular neglect was killing the militias. In 1839 the secretary of war complained that ''when mustered, a majority of [the militias] are armed with walking canes, fowling pieces of unserviceable muskets.'' Practically every militia commander reported that his members did not look after their guns properly. All complained of non-attendance. All worried about the low esteem in which the militias were generally held. In 1840 most states gave up filing militia returns altogether. Militias as the founding fathers had envisaged them were finished.

ARMING AMERICA BY MISTAKE

So when did mass ownership of guns begin to develop, if not at the start? It was during the civil war, from 1861 to 1865, and the agent of change was industrialisation. The American civil war was the first conflict in history in which the new techniques of mass production and transport played vital roles. Armies were ferried around by train and issued with the latest weapons from the most modern factories.

Naturally, weapons production soared. In the 12 months to July 1864, the state-owned Springfield armory produced over 600,000 rifles, nearly as many as in the whole of its 70-year history. The Union government's Ordnance Department spent $179m (about $2.5 billion at today's prices) from 1861 to 1866 on buying or making weapons.

Much of the money was collected by the dozens of new private factories that opened or grew to meet the increased demand. Chief among them was Samuel Colt's, the first private company to manufacture guns on a large scale. Between 1836, when Colt's factory first opened, and 1861, when the civil war began, production averaged a few thousand weapons a year. By 1865 Colt had become the largest private supplier to the Union army, selling 386,417 revolvers in the course of the conflict. Like other gun makers, Colt started to reap huge economies of scale, as the war went on, and the costs of production dropped sharply. In 1865 the Colt Peacemaker revolver cost $17 to buy—about two months' earnings for a labourer.

The civil war expanded not just the production but also the ownership of guns. At its outset the Union government owned 300,000 muskets and 27,000 rifles; the Confederacy had another 150,000 guns of various sorts; and there were tens of thousands of guns in private hands. During the war, the Ordnance Department of the Union government bought or made 3.5m carbines, rifles, revolvers, pistols and muskets, as well as over 1 billion cartridges and 1 billion percussion caps. In addition, it imported $10m-worth of rifles, muskets and carbines from Europe. In all, the Union issued at least 4m small arms to its soldiers in five years—perhaps eight times as much as the total stock of guns at the beginning of the war.

The men were not only issued with firearms but also taught how to use them. At its peak, the Union army counted around 1.5m enlisted men and the Confederate army another 1m. These were easily the largest military forces ever assembled. Most important, these weapons were left in the hands of the soldiers at the end of the war. Anxious to press ahead with reconstruction, the victorious Union government allowed all soldiers, including those of the Confederacy, to take their guns home. (In theory, soldiers were supposed to buy their guns but no one made any serious effort to collect the money that was due.)

The civil war thus transformed America from a country with a few hundred thousand guns into one with millions of them. it was this war, rather than any inherent belief in the right of individuals to carry guns, that first armed America—and then created the first crime wave to go with it. In the decade immediately after the war, murder rates soared, and guns became the murder weapon of choice (see chart 3). This crime wave was one important reason why the ownership and production of guns did not fall away after the ''late unpleasantness between the states'', as some Southerners put it.

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Colt was a self-publicist of genius. When his brother, John, unfraternally chose a mere axe with which to commit murder in 1841, Samuel persuaded the court to let him stage a shooting display inside the courtroom to demonstrate the superiority of the new revolver over the axe as a murder weapon. Using these publicity skills, and displaying precocious evidence of lobbying ability (he gave President Andrew Jackson a handgun and pioneered the practice of wining and dining members of Congress), Colt aimed his campaign at the growing middle class. He devised advertising campaigns showing a heroic figure wearing nothing but a revolver defending his wife and children. His guns were given nicknames (Equalizer, Peacemaker and so forth). Since most of his customers did not know how to use a firearm, he printed instructions on the cleaning cloth of every gun. His initial success shows up in the probate records: the percentage of wills listing firearms among their legacies rose by half between 1830 and 1850.

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The big industrial cities back East were actually far more violent than even the most notorious cowboy town. Robert Dykstra writes that ''during its most celebrated decade as a tough cattle town, only 15 persons died violently in Dodge City, 1876–85, for an average of just 1.5 killings per cowboy season.'' Towns such as Tombstone (in Arizona) and Dodge City (in Kansas) had very low murder rates, mainly because drovers had their guns confiscated at the town limits. Not so in the East. In 1872 the Missouri Republican, for example, called New York a ''murderer's paradise'' and criticized its ''chronic indifference'' in the face of ''the murdering business [that] is carried on with impunity.''

Nonetheless, by the end of the 19th century, two elements of America's present gun culture were in place: widespread individual ownership of guns, and large numbers of factories that were turning out affordable weapons to meet popular demand. More was required, however, to create a true ''gun culture'': in particular, as Mr. Bellesiles points out, ''there needed to be a conviction, supported by the government, that the individual ownership of guns served some larger purpose.'' The notion that the right to own firearms was somehow the quintessential American freedom had yet to come.

THE CULT OF THE GUN

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After the second world war, the organization's character altered. It began to represent sportsmen more, organizing training courses for hunters, teaching classes in gun safety and even putting together a rifle team to represent the United States in the Olympic games. Though it did some lobbying, the question of influencing gun laws came low on its list of priorities. The NRA was, in fact, a little like the Boy Scouts.

Two developments changed that. The first was the Gun Control Act of 1968, which forbad selling guns by post after President Kennedy was assassinated by a weapon that had been bought in this way. The act was supported by the NRA's leaders but opposed by many of its members.

The other event was the appearance of Hanlon Carter at the head of a dissident group within the NRA. A tough Texan who had had a murder conviction overturned on appeal, he transformed the NRA from a sporting club into what is widely seen today as one of the most powerful lobbying organizations in America. In 1997, incensed at plans for training in environmental awareness at the NRA's new national shooting range, Carter organized what was in effect a takeover of the association. When the smoke cleared, his headliners were in charge.

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Mr. LAUTENBERG. The courts have interpreted the second amendment in a straightforward and commonsense way. In the United States v. Miller, decided in 1939, the Supreme Court ruled the amendment guarantees the right to be armed only in service to a well-regulated militia. In other words, no one has an automatic right to own a firearm.

The NRA is simply wrong. If they were right, anyone could carry a gun any time they wanted to. People could carry machine guns anywhere they wanted to—to work, restaurants, on airplanes. That is exactly why former Chief Justice Warren Burger, a conservative appointed to the Supreme Court by President Nixon, and a gun owner himself, called the NRA's distortion of the second amendment a fraud on the American public. That is a Chief Justice of the Supreme Court.

I hope my colleagues will put aside the false rhetoric of the extremist NRA and listen to other American people, people of every religion, race, color, creed, and profession coming together to try to stop gun violence, people joining together because the right to bear and raise children safely must come before the right to bear arms. People are joining together because there is no need for 200 million firearms in a civilized society. The people are joining together to say if citizens want a gun, they ought to prove they can use it safely.

Vouchers are not the answer; a voucher to go to different schools won't solve the problem. Ignoring the problem is not an answer. Instead of wasting our time today on this meaningless amendment, the Senate ought to be working to pass a gun safety bill to close dangerous loopholes. I hope the constituents back home will watch how their Senators vote on matters to control gun violence and compare it to what kind of vote we get on the school voucher issue.

On this issue, we will prevail because there is no force stronger than the people united to protect their children. There aren't enough gun lobby dollars to protect politicians who stand in the way. Lord help us.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Iowa.

Mr. HARKIN. I associate myself with the eloquent and erudite remarks made by my colleague, the Senator from New Jersey. He is right on target.

This amendment we are about to vote on misses the mark by a mile in terms of what we ought to do. The Senator from New Jersey has been the leading advocate on the Senate floor for focusing razor-like on the real problem, which is the proliferation of guns, the ready access to guns of the youth of this country. He is right on target. I compliment the Senator for his leadership in that area and the statements made today.

Again, the majority has taken a measure which has strong bipartisan support and added a poison pill—nothing more or less than a blatant political maneuver. Most of the provisions

of this amendment provide critical resources to law enforcement and communities to battle the methamphetamine epidemic. This started as a strong measure, one I wholeheartedly endorsed and have cosponsored. We have in the Midwest, the West, the Southwest, a major problem with this dangerous and highly addictive drug. We need additional resources to stop the spread of meth in our rural communities and urban centers.

I am a cosponsor of the bill authored by Senators HATCH and ASHCROFT, including provisions to help law enforcement investigate and clean up highly toxic meth labs. It includes $15 million for meth prevention and education, $10 million for meth treatment, and authorizes funding for needed research on the treatment of meth. It also includes tougher penalties for meth lab operators and traffickers. Many of these provisions, about a third of them, are taken from the bill I introduced earlier this year called the Comprehensive Methamphetamine Abuse Reduction Act.

Over the past 3 years, I have worked very hard to increase the resources for law enforcement and communities to reduce the supply and demand of these illegal drugs through millions of dollars in grants for law enforcement, prevention, treatment, and research. So the methamphetamine bill is a good bill. It has strong bipartisan support. The methamphetamine amendment is a good amendment—until last-minute additions were included to undermine the bipartisan support. We now have a couple of poison pills added to it.

The first is a school voucher program, private school vouchers that will divert Federal education dollars from public schools to private schools. It says for a victim of a crime at a school—a situation that no one condones—that Federal education funds could be used to send that student to a private school anywhere in the State. That sounds good, but it doesn't do anything to make schools safer. Plus there is a big loophole in the amendment. If you read the amendment, it says here:

> Notwithstanding any other provision of law [et cetera, et cetera] if a student becomes a victim of a violent criminal offense, including drug-related violence, while in or on the grounds of a public elementary school or secondary school that the student attends. . . .

Then they can use these funds to send the student to a private school, including a religious school, anywhere in the State, wherever the parent wants the student to go.

So, obviously, a student could be on the school grounds after school, in the evening, on the weekend, as most of these grounds are available as playgrounds, basketball courts, things like that, and if the violent act occurred then, which has nothing to do with the school whatsoever, these funds could be diverted. There is a big loophole in that amendment. Aside from that, that is not the way to address violence in schools. We should, instead, support violence and crime prevention programs in and around public schools, not divert resources from public to private schools. We should invest in initiatives such as the Safe and Drug-Free Schools Act and afterschool programs, since we know most juvenile crimes occur between 3 p.m. and 8 p.m.

I am on the Appropriations Committee for education. As soon as I finish my statement, I am going downstairs to continue negotiations. The President wanted $600 million for afterschool programs to keep these kids off the streets and put them into afterschool programs. The Republican leadership knocked that down in half, to $300 million. That is where we ought to be putting our money, not saying take money out of public schools and put them in vouchers. Let's do what the President wanted to do: Put $600 million in afterschool programs so these kids will be safe.

We also need more counselors in schools, especially in our elementary schools, to prevent problems before they start. Public tax dollars should be spent on public schools which educate 90 percent of our Nation's children. Taxpayers' money should not go to vouchers when public schools have great needs, including providing a safe environment.

Again, there is another part of this that is a poison pill, and that is the mandatory minimum provisions which were put in the amendment. The Department of Justice, all of the U.S. attorneys, including the two U.S. attorneys from the State of Iowa, oppose this provision. It does not fix the problem. Our prisons are already full. We are building new prisons. In fact, the most rapidly growing part of public housing today is our building of prisons. Yet what this amendment would do is crowd more people into those prisons and require us to build more prison cells. That is not the answer. Building more prisons, making mandatory minimum sentences, getting young people who may be first-time abusers into these prisons, is not the answer. We need more education; we need more prevention; we need more treatment; and we need more counseling for kids in elementary and secondary schools.

With these two poison pills, I do not see how anyone could support this. The methamphetamine part was a good part when it started out. Then the majority decided to add some poison pills in a political maneuver. I understand the politics of it, but the politics does not mean we have to shield our eyes and cast a blind vote.

I am hopeful that sometime—probably not this year—next year we will be able to bring up again a targeted methamphetamine bill, one that gets to, yes, penalties but also gets to education, prevention, treatment, and research, and put this package together in an antimethamphetamine drug bill that we can bring up and pass without all these riders and poison pills.

I yield the remainder of the time on this side.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. We also yield the remainder of the time on this side. I assume we can go to a vote.

The PRESIDING OFFICER. All time has been yielded back. Has someone requested the yeas and nays?

Mr. GRASSLEY. 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.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2771. The yeas and nays were ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—50

Abraham	Frist	Murkowski
Allard	Gramm	Nickles
Ashcroft	Grams	Roberts
Bennett	Grassley	Roth
Bond	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Byrd	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Cochran	Inhofe	Stevens
Conrad	Kyl	Thomas
Coverdell	Lieberman	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	Warner
Fitzgerald	McConnell	

NAYS—49

Akaka	Edwards	Levin
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Gorton	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Reed
Breaux	Hollings	Reid
Bryan	Inouye	Robb
Chafee, L.	Jeffords	Rockefeller
Cleland	Johnson	Sarbanes
Collins	Kennedy	Schumer
Craig	Kerrey	Specter
Crapo	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	
Durbin	Leahy	

NOT VOTING—1

McCain

The amendment (No. 2771) was agreed to.

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

Mr. ASHCROFT. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, today I voted against the Hatch ''drug'' amendment. I voted against this amendment with some regret because I very much wanted to support one provision in this amendment—Senator HATCH's Methamphetamine Anti-Proliferation Act of 1999.

Senator HATCH's Methamphetamine Anti-Proliferation Act of 1999 is a bipartisan bill that would go a long way toward attacking the proliferation of methamphetamine trafficking and abuse that particularly plagues the Midwest. I know my friend Senator HARKIN and others have worked tirelessly with Senator HATCH to improve the bill and to ensure that prevention and treatment programs targeted at young people tempted by or addicted to methamphetamine are included in any solution to this problem. Because I feel strongly about this issue, I co-sponsored Senator HARKIN's bill the ''Comprehensive Methamphetamine Abuse Reduction Act,'' and many of the provisions of Senator HARKIN's bill are now included in this amendment.

We have a serous problem in South Dakota with the production, trafficking and use of methamphetamine. I have met with many members of South Dakota's law enforcement community about this problem, and I know that cracking down on meth traffickers and users has become more and more difficult as this highly addictive drug has increased in popularity, particularly among our young people. The number of methamphetamine arrests, court cases, and confiscation of labs continues to escalate. In the Midwest alone, the number of clandestine methamphetamine labs confiscated and destroyed in 1998 was nearly triple the number confiscated and destroyed in 1997.

It has become evident that methamphetamine is fast becoming the leading illegal drug in our region, and efforts to combat its spread are complicated by the fact that the drug does not discriminate. Its users range from teenage girls who use the drug to decrease their appetite in an effort to lose weight, to middle class men looking for a cheap high. This highly addictive drug can lead to devastating consequences for its users, and far too often methamphetamine use has been a major factor in a number of violent crime cases. In recent years, the Drug Enforcement Agency has registered an increase in the percentage of arrests due to methamphetamine in South Dakota from around 20% of the total arrest rate to 70%, and several high profile crimes, including murders, in South Dakota have been attributed to methamphetamine abuse.

Though, we have taken some important steps to combat methamphetamine abuse in recent years, such as securing targeted funding to fight methamphetamine production and trafficking in South Dakota, Iowa, Nebraska, Kansas and Missouri, I believe it is time to do more. Accordingly, I would have liked to support the provisions in this amendment that increase penalties for amphetamine manufacturing and trafficking and provide more money for law enforcement personnel to address the methamphetamine problem in high intensity drug trafficking areas. That is why I would have liked to support the provisions that provide needed funds for hiring and training law enforcement officers to combat methamphetamine trafficking and manufacture. And that is why I would have liked to support the provisions that would fund increased methamphetamine abuse research, grants to states and Indian tribes to expand treatment activities, and grants to schools and local communities for methamphetamine prevention activities. But unfortunately, I could not because the Republicans added, at the last minute, a poison pill provision aimed at weakening our public education system.

The Hatch amendment includes a provision allowing school districts to use federal funds to provide vouchers to students who have been victims of violent crime on school grounds. This means that money that is supposed to be used to help public schools improve technology, to develop charter schools, or that has been set aside for special education students, could be used on vouchers for private schools. The amendment does nothing to make schools safer for children and will do nothing to increase student achievement.

Let there be no mistake about what this amendment is trying to do. This is just a back-door attempt to take federal resources necessary to improve our public schools and squander them on vouchers to send a few children to private schools. While the proponents claim that parents could send their child to any school, this provision actually creates an incentive to send the child to private or parochial schools by disallowing transportation expenses for public school students, while allowing transportation expenses along with tuition and fees for private or religious schools.

Federal resources should be invested in improving public schools for all children through higher standards, smaller classes, well-trained teachers, modern facilities, more after-school programs, and safe and secure classrooms. They should not be frittered away on ineffective and unproven programs to help just a few children.

Mr. President, we all know that the education provisions in this amendment will necessitate that this amendment be dropped in conference. Thus, this is not a meaningful vote. I will continue to work to enact legislation to provide law enforcement officials the tools they need to combat the methamphetamine problem in this country. But I don't want to be part of an effort that may jeopardize the Bankruptcy Reform Act of 1999—a bill that is aimed, rightly, at reducing the abuses of the bankruptcy system. We should be focused on enacting meaningful bankruptcy reform, and not encumbering this bill with decisive partisan issues. We need to send a bankruptcy bill to the President which he can sign into law—this amendment, unfortunately, does not further that end.

Mr. LEVIN. Mr. President, the Republican drug amendment to the bankruptcy bill would authorize private school vouchers for students who are injured by offenses on public school grounds. It allows school districts to use funds from other Federal education programs, including IDEA funds, technology funds and others, to provide vouchers. I will vote against this amendment. I will do so because it will not make our schools safer and it will not invest in student achievement. Ninety percent of students are educated in our nation's public schools. Our public tax dollars should be used for improving public schools, through smaller class size, well-trained teachers, more after-school programs, modern facilities, higher standards, and safe and secure classes. I repeat, vouchers are the wrong way to go.

My decision to oppose this amendment is bitter-sweet because while I oppose the voucher provisions of this amendment, I strongly support a provision of the amendment which is, in fact, legislation which I co-authored and introduced with Senator HATCH, Senator MOYNIHAN and Senator BIDEN in January of this year—S. 324, the Drug Addiction Treatment Act. It addresses a long-time crusade of mine—that of speeding the development and delivery of anti-addiction medications that block the craving for illicit addictive substances. This is one way in which we can fight and win the war on drugs—by blocking the craving for illegal substances. The Drug Addiction Treatment Act is aimed at achieving this goal. It was originally reported out of the Judiciary Committee as Sec. 18 of the Methamphetamine Anti-Proliferation Act of 1999, and provides for qualified physicians to prescribe schedule IV and V anti-addiction medications in their offices, under certain strict conditions. I was pleased to have introduced S. 324 along with my distinguished colleagues. I regret that this vital legislation, which can be a tool for fighting and winning the war on drugs, is included in an amendment that I cannot support.

Mr. MOYNIHAN. Mr. President, I rise now to echo the sentiment of my friend and colleague from Michigan, Senator LEVIN, that the passage of the Republican drug amendment marks a bitter-sweet moment. I, too, regret that I had to vote against the Republican drug amendment today, because it contains a provision that is very important to me, which I will address in a moment. I voted against the Republican drug amendment as a whole because of the provision that would expand the number of people who would come within the reach of mandatory minimum sentences for certain offenses involving cocaine. I feel very strongly that the correct way to address the problem of addiction is not by increasing the reach of mandatory minimum sentences, but rather to increase access to treatment. And that is why passage of the Drug Addiction Treatment Act of

1999 (S. 324), in Subtitle B, Chapter 2, of the Republican drug amendment, marks a milestone in the treatment of opiate dependence. The Drug Addiction Treatment Act increases access to new medications, such as buprenorphine, to treat addiction to certain narcotic drugs, such as heroin. I thank my colleagues Senator LEVIN, Senator HATCH, and Senator BIDEN for their leadership and dedication in developing this Act, and regardless of the outcome of the Bankruptcy Reform Act, one way or another, I look forward to seeing the Drug Addiction Treatment Act of 1999 become law.

Determining how to deal with the problem of addiction is not a new topic. Just over a decade ago when we passed the Anti-Drug Abuse Act of 1988, I was assigned by our then-Leader ROBERT BYRD, with Sam Nunn, to co-chair a working group to develop a proposal for drug control legislation. We worked together with a similar Republican task force. We agreed, at least for a while, to divide funding under our bill between demand reduction activities (60 percent) and supply reduction activities (40 percent). And we created the Director of National Drug Control Policy (section 1002); next, ''There shall be in the Office of National Drug Control Policy a Deputy Director for Demand Reduction and a Deputy Director for Supply Reduction.''

We put demand first. To think that you can ever end the problem by interdicting the supply of drugs, well, it's an illusion. There's no possibility.

I have been intimately involved with trying to eradicate the supply of drugs into this country. It fell upon me, as a member of the Nixon Cabinet, to negotiate shutting down the heroin traffic that went from central Turkey to Marseilles to New York—''the French Connection''—but we knew the minute that happened, another route would spring up. That was a given. The success was short-lived. What we needed was demand reduction, a focus on the user. And we still do.

Demand reduction requires science and it requires doctors. I see the science continues to develop, and The Drug Addiction Treatment Act of 1999 will allow doctors and patients to make use of it.

Congress and the public continue to fixate on supply interdiction and harsher sentences (without treatment) as the ''solution'' to our drug problems, and adamantly refuse to acknowledge what various experts now know and are telling us: that addiction is a chronic, relapsing disease; that is, the brain undergoes molecular, cellular, and physiological changes which may not be reversible.

What we are talking about is not simply a law enforcement problem, to cut the supply; it is a public health problem, and we need to treat it as such. We need to stop filling our jails under the misguided notion that such actions will stop the problem of drug addiction. The Drug Addiction Treatment Act of 1999 is a step in the right direction.

Mr. LOTT. Mr. President, I ask unanimous consent that the remaining votes be limited to 10 minutes in length each.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF CAROL MOSELEY-BRAUN TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND AND SAMOA

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Carol Moseley-Braun, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand and Samoa.

Mr. BIDEN. Mr. President, I am pleased that today the Senate is voting on the nomination of our friend and former colleague Carol Moseley-Braun to be U.S. Ambassador to New Zealand, as well as Ambassador to Samoa.

I am confident that Senator Moseley-Braun will be an excellent ambassador. She has all the requisite skills—political savvy, personal charm, and street smarts—to represent the United States in the finest tradition of American diplomacy.

I would like to make a few comments about the remarks made yesterday by the chairman of the Foreign Relations Committee, the senior senator from North Carolina.

During yesterday's session, the chairman spoke on the floor about this nomination. While he essentially conceded that Senator Moseley-Braun will be confirmed by the Senate, he proceeded to make several arguments which I believe deserve a response.

First, the chairman stated that there had been a ''successful coverup'' of serious ethical wrongdoing. I believe such a loaded accusation should be supported by facts, yet the chairman offered not a shred of evidence that anyone has covered up anything.

On the contrary, during the consideration of the nomination, the Committee on Foreign Relations was provided with several thousand pages of documents requested by the Chairman, documents which were produced in a very short period of time. Included in these materials were several internal memoranda from the Department of Justice and the Internal Revenue Service; Committee staff members were even permitted to read the decision memos related to the IRS request to empanel a grand jury.

Second, the chairman suggested that Senator Moseley-Braun has ''been hiding behind Mr. Kgosie Matthews,'' her former fiancé, who, the chairman charged, is now ''conveniently a missing man.'' Mr. Matthews, it should be emphasized, is Senator Moseley-Braun's former fiancé, and it is ludicrous to suggest that she is somehow responsible for his whereabouts or actions.

Third, the chairman suggested that the request of the Internal Revenue Service for a grand jury to investigate the Senator was blocked by political appointees in the Justice Department, ''no doubt on instructions from the White House'' and that it was somehow odd that the request was blocked.

Here are the facts: in 1995 and 1996, the Chicago field office of the Internal Revenue Service sought authorization to empanel a grand jury to investigate allegations that Senator Moseley-Braun committed criminal violations of the tax code by converting campaign funds to personal use (which, if true, would be reportable personal income). The IRS request was based almost exclusively on media accounts and some FEC documents. When the first request was made in 1995, the Department of Justice urged the IRS to do more investigative work to corroborate the information that was alleged in the media accounts. Justice invited the IRS to resubmit the request.

The IRS resubmitted the request in early 1996; but it had not added any significant information to the request. In other words, it did not provide the corroborative information that the Justice Department had requested.

The decision to deny the request for authorization of the grand jury was made in the Tax Division, after consultation with senior officials in the Public Integrity Section.

Although it is not that common for grand jury requests to be refused, the Department of Justice is hardly a rubber stamp—for the IRS or anyone other agency. It is guided by the standard of the United States Attorneys' Manual, which requires that there be ''articulable facts supporting a reasonable belief that a tax crime is being or has been committed.'' (U.S. Attorneys' Manual, 6–4.211B). The committee staff was permitted to review, but not retain, the internal memos in the Tax Division rejecting the IRS request. From the trial attorney up to the Assistant Attorney General for the Tax Division—four levels of review—all agreed that there was not a sufficient predicate of information that justified opening a grand jury investigation. In short, there were not the ''articulable facts'' necessary for empaneling the grand jury.

There is no evidence—none—that this decision was influenced by political considerations or outside forces.

Last year, when the story became public that Senator Moseley-Braun had been investigated by the IRS—and that the requests for a grand jury had been denied—the Office of Professional Responsibility at the Department of Justice opened its own inquiry. They investigated not Sen. Moseley-Braun, but

the handling of the case within the Department of Justice. Their inquiry concluded that there was no improper political influence on the process. So, far from the ''Clinton White House blocking the grand jury,'' all the proper procedures were followed, and there is no evidence of White House intervention in the case. Equally important, the Office of Professional Responsibility review concluded that the decision on the merits was appropriate.

Next, the chairman suggested that the decision to reject the grand jury request was somehow tainted because the senior official at the Justice Department who made the decision, Loretta Argrett, ''was a Moseley-Braun supporter, who had made a modest contribution'' to Senator Moseley-Braun's campaign, ''who had a picture of Ms. Moseley-Braun on her office wall'' and that the Senator had ''even presided over Ms. Argrett's confirmation in 1993.''

Here are the facts: Ms. Argrett, the Assistant Attorney General for the Tax Division, was the senior official at Justice who approved the decision not to authorize the grand jury request. It is true that Ms. Argrett gave money to the Senator's campaign: the grand sum of $25. It is also true that the Senator chaired Ms. Argrett's hearing, a hearing at which several other nominees also testified. I chaired the Judiciary Committee at that time. I routinely asked other members of the Committee to chair nomination hearings, just as Senator THOMAS chaired last week's hearing on Senator Moseley-Braun. Finally, it is also true that Ms. Argrett had a photograph of her and the Senator hanging in her office—a photo taken at that confirmation hearing.

All of these facts were disclosed to the Deputy Attorney General at the time, Jamie Gorelick, for a determination as to whether Ms. Argrett should be involved in the case. On June 2, 1995, Assistant Attorney General Argrett disclosed these facts to the Deputy Attorney General and concluded that, based on the minimal contact she had with the Senator, she believed she could act impartially in this case. Deputy Attorney General Gorelick —one of the most capable public officials I have known in my years in the Senate—approved Ms. Argrett's continued participation in the case.

Mr. President, I will not delay the Senate any further. The Committee did its job and gathered the available evidence. There is no evidence in the record that disqualifies Senator Moseley-Braun.

She will be an excellent ambassador, just as she was an excellent senator. We are lucky that she still wants to continue in public service. I urge my colleagues to vote to confirm Senator Carol Moseley-Braun.

Mr. FITZGERALD. Mr. President, I submit this statement in opposition to the nomination of former Senator Carol Moseley-Bruan as Ambassador of the United States to the governments of New Zealand and Samoa. The people of Illinois are intimately familiar with Senator Moseley-Braun's public career, as am I. Based on my extensive knowledge of her record, I cannot in good conscience support her nomination. While her tenure involved a significant number of controversies, many of which are troubling, her secret visits to, and relations with, the late General Sani Abacha and his regime are themselves a disqualifier for any kind of position that involves representing the United States in a foreign land. They demonstrate a lack of judgment and discretion that should be required of any ambassadorial nominee.

According to her written responses provided to the Senate Foreign Relations Committee on November 6, 1999, the Senator traveled to Nigeria in December, 1992; July, 1995; and August, 1996. According to the same documents, Senator Moseley-Braun met with Sani Abacha during all three trips. Abacha was one of the world's most brutal and corrupt dictators, an international pariah, widely reviled. After taking power in 1993, he jailed Nigeria's elected president, reportedly imprisoned as many as 7,000 political opponents, hanged environmentalist Ken Saro-Wiwa and eight other activists and allegedly stole more than $1 billion in oil revenues while presiding over the nation's economic collapse.

During her appearance before the East Asian and Pacific Affairs subcommittee of the Senate Foreign Relations Committee, Senator Moseley-Braun likened her meetings with General Abacha to meetings between other Senators and Members of Congress with leaders of countries accused of violating human rights. This analogy is inappropriate; her visits were of a chilling and distinctly different nature. Senator Moseley-Braun's visits with Abacha were secret encounters, condemned by the U.S. State Department, hidden not just from the government but even from her own staff. Moreover, her former fiance, Mr. Kgosie Matthews, was at one time a registered agent for the Nigerian government. Mr. Matthews accompanied her to Nigeria, although it is not clear how many times he did so. In response to written questions, Senator Moseley-Braun stated that she was ''unaware of whether . . . Mr. Matthews 'directly or indirectly received any money or anything of monetary value' from the Nigerian government.'' To secretly visit a corrupt despot like Abacha, remaining unaware of whether a fiance, a one-time agent of the regime, is profiting in any way from Abacha or the Nigerian government, demonstrates a profound lack of judgment.

The confirmation hearing briefly touched upon areas of concern other than Senator Moseley-Braun's relations with Abacha. During her tenure, the Internal Revenue Service requested a grand jury investigation of Senator Moseley-Braun, suggesting a number of areas of inquiry. In her written responses to questions posed by the Foreign Relations Committee, the nominee stated that ''I was unaware that I was the subject of any criminal investigation by the Internal Revenue Service prior to the July, 1998 WBBM report.''

The WBBM–TV report, to which Senator Moseley-Braun referred, disclosed that the IRS twice sought to convene a grand jury to explore allegations concerning the personal use of campaign funds as well as allegations relating to ''possible bank fraud, bribery and other federal crimes.'' The committee record established that the Department of Justice rejected the requests for grand juries, citing a lack of sufficient evidence, thus halting the ability of the IRS to proceed with the very subpoena power necessary to acquire sufficient evidence. The circularity of this process—the IRS requests for grand juries and Department of Justice refusals—as well as the inability of these concerns to be probed to conclusion, leaves a host of unanswered questions. These questions should have been resolved prior to a vote on the confirmation.

Senator Moseley-Braun refers to an FEC audit report that she believes rebuts the IRS concerns. First, assuming for the sake of argument that the FEC audit refutes the personal use of campaign funds, it nevertheless clearly does not refute the other allegations reportedly raised by the IRS such as ''possible bank fraud, bribery and other federal crimes'' reportedly going back to her tenure as Cook County Recorder of Deeds.

Second, it is unclear to what extent the FEC investigated the personal use of campaign funds. There are countless ways a diversion of campaign funds for personal use could occur. Discussion in the confirmation hearing centered around just campaign credit cards. Section I. D. of the FEC audit report does not mention the diversion of campaign funds as being within the scope of the audit, but instead lists, in specific detail, eight other areas of inquiry. On the other hand, the last page of the audit report indicates that the FEC audited the activity of the campaign credit cards. FEC working papers provided to the Senate further indicate that the FEC found that the cards were used to pay $6,258.14 of Mr. Matthews' personal expenses, but that, after deducting sums which the campaign argued it owed him, these personal expenses totaled only $311.28. It is unclear whether the FEC probed the possible diversion of campaign funds by other, less blunt, more oblique means, such as by cash purchases or by cashier's checks purchased with cash, or by other mechanisms. To the best of our knowledge, major allegations of diversion, such as those discussed in the Dateline NBC report, did not arise until after the FEC audit was completed.

Third, the FEC itself pointedly said that no inferences should be drawn

from its failure to resolve its examination of Senator Moseley-Braun's campaign fund. According to a Chicago Tribune article dated April 8, 1997, FEC spokeswoman Sharon Snyder mentioned ''a lack of manpower, a lack of time'' and cited the impending expiration of the statute of limitations. She went on to say: ''There's no statement here: no exoneration, no Good Housekeeping seal of approval, just no action.''

Thus, with respect to the FEC investigation, as with the IRS requests for grand juries, many questions remain unresolved. However, the visits with General Sani Abacha are undisputed and, in their context, they are so unusual and bizarre as to alone disqualify her as an ambassador.

Mr. President, I recognize the Senate must fulfill its constitutional obligation. This body has given Senator Carol Moseley-Braun a select responsibility. While I cannot in good conscience support her nomination, I wish her well in her new post.

Mr. KENNEDY. Mr. President, I strongly support our distinguished former colleague, Senator Carol Moseley-Braun, and I urge the Senate to confirm her as Ambassador to New Zealand. Senator Carol Moseley-Braun served the people of Illinois with great distinction during her six years in the Senate. She fought hard for the citizens of Illinois and for working men and women everywhere, and it was a privilege to serve with her. In her years in the Senate, she was a leader on many important issues that affect millions of Americans, especially in the areas of education and civil rights. She worked skillfully and effectively to bring people together with her unique energetic and inspiring commitment to America's best ideals.

Senator Moseley-Braun has been breaking down barriers all her life. She became the first African-American woman to serve in this body. Her leadership was especially impressive in advancing the rights of women and minorities in our society. As a respected former Senator, she will bring great stature and visibility to the position of Ambassador to New Zealand. That nation is an important ally of the United States, and it is gratifying that we will be sending an Ambassador with her experience and the President's confidence.

Mrs. FEINSTEIN. Mr. President, I rise today to express my strong support for the nomination of my friend and former colleague, Carol Moseley-Braun, to be Ambassador to New Zealand.

I had the pleasure of serving with Senator Moseley-Braun for six years and I know her to be a dedicated, caring, intelligent, and hard-working public servant. I am confident she will carry these qualities to her new post in New Zealand.

Prior to her service in the United States Senate, Senator Moseley-Braun distinguished herself as a member of the Illinois Legislature and as the Recorder of Deeds for Cook County, Illinois. From 1973 to 1977 she also served as Assistant District Attorney in the Northern District of Illinois.

In 1992, Carol Moseley-Braun made history by becoming the first African American female elected to the United States Senate. As a United States Senator, she dedicated herself to issues that would make a difference in the lives of ordinary Americans: increased funding for education, HMO reform and family and medical leave.

Following her service in the Senate, Senator Moseley-Braun continued to stay involved in the issues that mean most to her and become a consultant to the United States Department of Education.

On October 8, 1999, President Clinton presented her with a new challenge and nominated her to be United States Ambassador to New Zealand. I am sure her tenure as Ambassador will only add to this long and distinguished career.

The overwhelming and bi-bipartisan vote in favor of her nomination by the Senate Foreign Relations Committee should answer any critic that questions her qualifications to be the next ambassador to New Zealand.

New Zealand is an important ally and a vital part of our relations in the Asia-Pacific region. We need an ambassador who will be able to handle all aspects of United States-New Zealand relations and best represent our interests. Carol Moseley-Braun is the right person for that job.

Mr. President, I was proud to serve with Senator Moseley-Braun, I am proud to call her a friend and I am proud to support her nomination to be Ambassador to New Zealand.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Carol Moseley-Braun, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand and Samoa?

Mr. LOTT. 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.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), and the Senator from Arizona (Mr. KYL) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. KYL) would vote ''yea.''

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

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 361 Ex.]

YEAS—96

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

NAYS—2

Fitzgerald	Helms

NOT VOTING—2

Kyl	McCain

Tne nomination was confirmed.

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The President will be notified of the action taken by the Senate.

NOMINATION OF LINDA JOAN MORGAN, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2003.

Mr. HOLLINGS. Mr. President, I rise in support of the nomination of Linda J. Morgan. Today we are considering the nomination of Linda Morgan to be reappointed as the chairman of the Surface Transportation Board. I am proud to say that I have known Chairman Morgan for many years. Although we may not always agree, I have a great deal of respect for her and know that two qualities she possesses in abundance are fairness and integrity. Those qualities, coupled with her commitment to public service, make her an outstanding chairman.

Before I discuss Chairman Morgan's abilities and accomplishments, I would like to comment briefly on the agreement reached between railroad management and labor this week on the cram down issue. As many of you know, the carriers and their employees have been working on the terms of an agreement which would create new rules pertaining to the abrogation of

collective bargaining agreements. Yesterday, the parties agreed to a moratorium on the filing of section 4 notices while the negotiations take place to establish new rules. I am pleased that the parties were able to reach a compromise on this important issue and urge the STB to look favorably on this agreement. In addition, I expect to address this issue legislatively next year when we take up the STB reauthorization bill.

As many of you know, Linda Morgan served as counsel for the Surface Transportation Subcommittee for 8 years and then as general counsel for the full Committee on Commerce, Science, and Transportation for seven years. During that time I found Linda Morgan to be one of the most intelligent and thorough professionals that I have worked with. She is smart and she cares about the issues—I know that she is committed to serving the public in her capacity as the chairman of the Surface Transportation Board.

Linda Morgan has served as chairman of the Surface Transportation Board (STB) since it was created in 1996. Prior to that, she served as chairman of the ICC. In 1996 she was responsible for implementing the changes that Congress envisioned in the Interstate Commerce Commission Termination Act. She pared down the ICC and established a new, more streamlined agency in its place, the STB.

Chairman Morgan is to be commended for her achievements and commitment to the mission of the STB during her first term. The STB operates with only 135 people, less than half the staff of it predecessor, but it is charged with regulating the entire railroad industry. Among her accomplishments, Chairman Morgan has facilitated creating a more efficient process for resolving rate disputes between shippers and carriers. Additionally, under her leadership, she has helped the private sector come to agreements on short line access and agricultural services arbitration which have benefited the entire transportation industry.

Chairman Morgan has done an outstanding job moving the agency through several different places. She successfully transitioned the agency from the ICC to the STB. She has seen the railroad industry through three very large merger transactions. She helped resolve the service issues in the west. And last year she ended the practice of using product and geographic competition in determining appropriate rates for shippers.

Linda Morgan has done a lot of heavy lifting during her tenure as chairman of the STB. She has my full confidence and I support her nomination.

Mr. BURNS. Mr. President, I rise today to oppose the nomination of Linda Morgan. During her tenure as the chairwoman of the Surface Transportation Board, Ms. Morgan has failed to achieve a primary goal of this independent agency—protecting the rights of shippers using rail transportation. Earlier this year, I along with a number of other colleagues, introduced a bill, S. 621, that would help to create competition among rail carriers where that competition does not currently exist due to regional monopolization.

This bill would resolve the economic inequities found around our nation. In my State of Montana, our farmers pay dramatically more for transportation costs than farmers anyplace else in the State. In fact, on a proportionate comparison, Montana's farmers pay more than most other shippers in the world. Why? I'll tell you why—because nearly the entire State of Montana is captive to the Burlington Northern Santa Fe railroad. In the case of Montana farmers, Montana is captive to BNSF.

I cannot blame Ms. Morgan for this. The board's decision are based on misinterpreted statute that was legislated in the early 80's.

However, I cam blame Ms. Morgan for not recognizing this as the case before the shippers asked me and several of my colleagues for assistance. It is inexcusable to treat the Nation's shippers so pitifully. It is arrogant on behalf of the railroads to think that they can take advantage of small shippers using strongarm tactics to determine shipping costs. It should not cost more to ship from Montana to the Pacific Northwest than it costs to ship from the Midwest to the Pacific Northwest—over the same tracks. This is an absurd manner in which to allow a railroad to operate.

Back to Ms. Morgan. It is about time for Congress to recognize the inequities in the rail industry. Competition is based on choice. Without multiple competitors to choose from, we are left with a monopoly. BNSF has a monopoly in Montana and the four behemoths that have evolved since the early 80s when we had over 40 large railroads have monopolies all across this Nation.

Let me quote Ms. Morgan from hearings held earlier this year:

Ms. Morgan has stated, ''If Congress feels the statute doesn't work, it's up to Congress to provide a revision to the statute.'' Mr. President, Ms. Morgan is the chairwoman of the STB and a very intelligent woman. Ms. Morgan has recommended to this body that Congress would need to change the law in order to create an equitable environment. If the STB is saying this, if hundreds of shippers are saying this, if economists are saying this, why won't Congress react? I'll tell you why. Railroad interests in this city have a stronghold on legislation that would take away their ability to charge unchallenged rates.

Ms. Morgan has also stated the following:

''The role of the STB is to allow competition where it exists and protect those where it does not exist.'' Let me give you an example of where competition does not exist. Competition does not exist in the entire state of Montana. Competition does not exist in the entire state of North Dakota. With four major railroads in the country, regional rail monopolies are very common. Montana was one of the first—we've been captive since 1980.

Another statement from Ms. Morgan.

''The board is there to make sure that no rate is unreasonable. The equalization of rates is not inherent in the statute.'' A goal of the STB is to make sure that no rate is ''unreasonable''. The STB could define as unreasonable the rate paid by Montana's farmers. These rates are unreasonable! Lastly, Ms. Morgan has indicated that, ''The statute does not make competition a priority.'' I agree with her and that is why I am sympathetic, Her's is a thankless job and until Congress gives the STB the proper tools to decide cases in an equitable manner, it will continue to be a thankless job.

Mr. President, we have an opportunity to do what is right for America. I will not support Ms. Morgan but I will support reform of the STB.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I am pleased to vote to reappoint Surface Transportation Board, STB, Chairman Linda J. Morgan to serve another term on that panel even though I am troubled by some STB decisions concerning the CSX and Norfolk Southern acquisition of Conrail properties in New York State. I am encouraged, however, by Chairman Morgan's responsiveness to my requests, and those of my colleagues, to monitor the freight rail problems that have plagued New Yorkers since the June 1, 1999 implementation of the CSX/Norfolk Southern acquisition. Just last month, Chairman Morgan came to Buffalo to hear the concerns of local shippers.

As she begins her second term as Chairman of the STB, Linda Morgan has presided over the largest rail mergers in this Nation's history. Now the hard part begins. If service failures persist, Chairman Morgan must exercise her statutory authority to impose conditions upon the railroads. This will be no easy task. Revising one's work in the face of significant opposition requires courage. But I am confident that should the public interest so require, Chairman Morgan will respond boldly. Nothing short of the future of freight rail in the United States is at stake.

One additional thought is the role of organized labor in the freight rail industry. I would note that I do not find it fair that an interpretation of current Federal law permits the STB to revisit collective bargaining agreements dozens of years after a merger has been completed. There is a certain logic to providing the STB with the authority to abrogate local, State, and Federal laws to ensure the success of a merger. But the prospect that collective bargaining agreements—private contracts—can be the subject of renegotiation and mediation years after a merger has been consummated is troubling. In the 2nd session of the 106th Congress I will seek legislation to constrict the window of time following the

approval of a merger in which unions can be compelled to renegotiate collective bargaining agreements.

In closing, Mr. President, the Surface Transportation Board faces extraordinarily difficult decisions in the next few years. I believe that Linda Morgan's experience as a trusted advisor and counsel to the Senate Commerce Committee and her chairmanship of the STB have prepared her well for the challenges that lie ahead. I yield the floor.

Mr. LOTT. Mr. President, I ask for the yeas and nays on the nomination.

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, Will the Senate advise and consent to the nomination of Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 362 Ex.]

YEAS—96

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

NAYS—3

Burns	Rockefeller	Specter

NOT VOTING—1

McCain

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 78

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to consideration of the continuing resolution just received from the House, that there be 15 minutes under the control of Senator EDWARDS, and following the conclusion or yielding back of time, the resolution be read for the third time and passed and the motion to reconsider be laid upon the table.

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

ORDER OF PROCEDURE

Mr. LOTT. So Members will know what they can expect the next few hours in the Senate, I ask consent that following the continuing resolution, the pending Kohl amendment No. 2516 be modified to reflect the text of amendment No. 2518 and that it be in order for the majority manager of the bill to withdraw the second degree amendment No. 2518, and Senators HUTCHISON and BROWNBACK be recognized to offer a second degree amendment and there be 1 hour for debate, equally divided in the usual form, and no other second degree amendments be in order to amendment No. 2516.

I further ask consent that a vote occur on or in relation to the Hutchison amendment to be followed immediately by a vote in relation to the first degree amendment, as amended, if amended, following the conclusion or yielding back of time.

I further ask consent that following the votes just described, Senator WELLSTONE be recognized to offer his amendment relative to agriculture.

Finally, I ask consent that following the votes relative to the Hutchison amendment, all amendments relative to homestead be withdrawn.

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

Mr. LOTT. Mr. President, basically we will have two votes with regard to the homestead issue after 1 hour, and then we will go to the Wellstone amendment, which has 4 hours. I hope there will be much less than 4 hours necessary for that. I assure Members there will be less than that.

That is the lineup of what will happen now for the remainder of the afternoon.

N O T I C E

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in the next issue of the Record.