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Senate

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

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Moshe Feller, Upper Midwest Regional Director of the World Lubavitch Movement, St. Paul, MN.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Rabbi Moshe Feller, Upper Midwest Chabad Lubavitch, offered the following prayer:

Almighty God and God of our fathers, sovereign Ruler of the universe and all mankind, tomorrow we mark Your biblical holiday—the Festival of Weeks. On this day 3,311 years ago, You descended on Mount Sinai and gave the Ten Commandments amidst ''thunder and lightning and the powerful sound of the ram's horn.''

Before issuing Your Commandments, the most crucial of which are: Thou shalt not commit murder; Thou shalt not commit adultery; Thou shalt not steal, You awesomely declared, ''I am God, your God.'' You declared so because, in Your infinite wisdom, You knew that only by constantly focusing on Your sovereignty could humans control their negative impulses.

Almighty God, this august institution, the Senate of the United States of America, responds daily to Your declaration at Sinai by opening their convocations in this historic and noble Chamber with the recognition of Your sovereign presence and by publicly offering prayers to You.

Reward this sacred practice by granting the Senators good health, good cheer, good fellowship, long life, and abundant wisdom. May this wise and sacred practice be an inspiration to all convocations and assemblies which are convened daily throughout our blessed country and throughout the world to do likewise, in light of today's event in the school in Georgia, especially in the Nation's public schools, so that mortality, safety, tranquility, and happiness prevail throughout our country and throughout the world. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. HATCH. Mr. President, I thank the President pro tempore.

SCHEDULE

Mr. HATCH. This morning the Senate will resume debate on the juvenile justice bill. Under a previous order, the Senate will begin 60 minutes of debate on the Smith and Lautenberg pawnshop amendments. Following that debate, at approximately 10:30, votes on or in relation to the amendments will occur. Additional amendments are expected, and therefore votes will occur throughout the day and into the evening.

In addition, consideration of the supplemental appropriations bill will begin today. It is hoped that a time agreement on this legislation will be made and a vote on final passage will also take place today.

I thank my colleagues for their attention.

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

Mr. HATCH. What is the pending business?

RESERVATION OF LEADER TIME

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

VIOLENT AND REPEAT JUVENILE ACCOUNTABILITY AND REHABILITATION ACT OF 1999

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

The legislative assistant read as follows:

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

Pending:

Frist amendment No. 355, to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have firearms.

Lautenberg/Kerrey amendment No. 362, to regulate the sale of firearms at gun shows.

Lott (for Smith of Oregon/Jeffords) amendment No. 366, to reverse provisions relating to pawn and other gun transactions.

AMENDMENT NO. 366, AS MODIFIED

Mr. HATCH. Mr. President, I send a modification to the desk and ask unanimous consent that the Smith amendment be modified.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, we have no objection to the modification.

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

The amendment (No. 366), as modified, is as follows:

At the end of the act, insert the following:

SEC. . PROVISIONS RELATING TO PAWN SHOPS AND SPECIAL LICENSEES.

(a) Notwithstanding any other provision of this Act, the repeal heretofore effected by paragraph (1) and the amendment heretofore effected by paragraph (2) of subsection (c) with the heading ''Provision Related to Pawn and Other Transactions'' of section 4 of the title with the heading ''General Firearms Provisions'' shall be null and void.

(b) Notwithstanding any other provision of this Act, section 923(m)(1), of Title 18, United States Code, as heretofore provided, is amended by adding at the end the following subparagraph:

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

''(F) COMPLIANCE.—Except as to the State and local planning and zoning requirements for a licensed premises as provided in subparagraph (D), a special licensee shall be subject to all of the provisions of this chapter applicable to dealers, including, but not limited to, the performance of an instant background check.''

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will withhold.

Mr. HATCH. Mr. President, this is an important day because this is the day on which we hope we can finally pass this juvenile justice bill. We have had another shooting of students just today at a high school in Georgia. The shooting occurred at 8 a.m. at the Heritage High School and a number of children were wounded. I won't go into the details, but the shooting was exactly a month after the April 20 slaughter at Columbine High School in Littleton, Colorado, where two students killed 13 people before taking their own lives.

It is apparent that we have to do something about this, and this bill is a very considered attempt to do exactly that.

Now, we are going to have two very crucial amendments this morning. The Smith amendment is first to come up, and this amendment is to resolve the pawn shop issue and the special licensee issue. I commend the distinguished Senator from Oregon and the distinguished Senator from Vermont in particular for their thoughtfulness in trying to resolve this difficulty. We want to do this in a bipartisan way. I surely hope people quit trying to score political points and help to get this bill done.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, look where we are today—another high school shooting incident in Atlanta, four young people, at least in the initial news, injured, not killed. I talked about it with the Attorney General a few minutes ago. She had expressed her concern. I also commended her for her strong words of last week because I believe that helped move this bill forward. We are considering it during the eighth legislative day. We have not spent full days on this important bill. We will not be able to spend a full day. Notwithstanding that, we have made significant progress.

Today, we will also consider the long-delayed emergency supplemental appropriations bill to provide relief for victims of Hurricane Mitch, humanitarian aid in the Balkans, aid for farmers, and aid for the victims of natural disasters, as well as military and other appropriations.

In the time available to us today, I do hope we will be able to move to final passage on this bill. The bill has been much improved since its predecessor was introduced 2 years ago as S. 10. I detailed some of those improvements yesterday, and yesterday the Senate took a giant step forward with the adoption of the managers', the Hatch-Leahy amendment. Those modifications go a long way toward improving the bill. I predicted all week long that once we adopted Hatch-Leahy, we would have fewer than 10 amendments offered from the Democratic side.

As we begin this morning, I am sure of that. I am working with other Democratic Senators to see if the number of amendments can be reduced even further. Thanks to the hard work of Senator REID and others, the Democratic amendments have been pared down from 89 to a precious few left to be offered. They are still pending; they are still to be offered. I am hoping, though, that none will pose a stumbling block.

I know that in a little while the President of the United States will travel to Colorado for events in connection with remembering and honoring those who perished in Littleton, CO, recently as a result of school violence. I hope the visit from the President will help heal the wounds and ease the suffering. He is right to go to Colorado, just as he went to Oklahoma and has gone to the side of other Americans in other places where tragedy has struck over the last several years. I had hoped that perhaps the chairman of the Judiciary Committee and I could place a joint call to the President before he leaves Colorado this afternoon to tell him the Senate is doing its job, the Senate has completed its initial work on the juvenile crime bill, and the Senate is sending the bill to the House for its prompt consideration. I would like for the President to be able to share that news with the people of Colorado and the Nation so that parents and youngsters everywhere can be reassured we are making progress in our work and that the Senate of the United States is acting as the conscience of the Nation.

There is one set of amendments that still threatens final passage of this bill. The Frist-Ashcroft amendment, which proposes modification of IDEA, is a matter of significant controversy and turmoil. Because that amendment threatens completion of the bill, I made a series of suggestions over the last couple of days in an effort to try to avoid that risk to the underlying measure. We need the cooperation of the Republican sponsors of that amendment if we are to complete our work on the juvenile bill today.

We are also working our way through a series of gun-related proposals to the bill. Last week, the Senate adopted a pattern of tabling Democratic amendments one day, and the next day it adopted pieces of those amendments if they were offered by Republicans. I suppose I should be glad to see our amendments finally get in one way or the other, but it is petty to say the amendments aren't worth anything if they are offered by Democrats, but they are wonderful if the same amendment is offered by a Republican. We have to do better. This should be a bipartisan bill.

Unquestionably, the Senate hit a real snag on this bill when it rejected, on a virtual party-line vote, the Lautenberg amendment. They didn't solve the first Craig amendment and Hatch-Craig II, seeking to reconstitute the ill-advised initial votes on the gun show issue.

Senator SCHUMER and I tried to point out problems with the Craig amendment, only to be told we were wrong last Wednesday night. In fact, we were told in fairly scathing terms how wrong we were. Of course, the next morning after the press looked at it, and after the Senate adopted the initial Craig amendment, it was clear to almost all throughout the country that mistakes had been made, the Senator from New York and I were correct, and matters needed to be fixed. So we saw another partial fix.

Today, we will see yet a third Republican amendment seeking to rectify what the Senate did when it rejected the Lautenberg amendment in favor of the Craig amendment last week. The Smith-Jeffords amendment is the most recent Republican amendment in that series of Republican amendments making corrections. As President Reagan said in another context, ''There you go again.'' Unfortunately, the Smith-Jeffords amendment closes only 2 of the 13 loopholes created by adoption of the Craig and the Hatch-Craig amendment.

The Smith-Jeffords amendment is baby steps toward background checks. That is what it is, baby steps toward background checks. It closes one loophole by requiring special licensees under Hatch-Craig to conduct background checks on firearm sales at gun shows. It closes the pawnshop loophole by repealing the Hatch-Craig amendment provision that allowed criminals to redeem guns at pawnshops without background checks—the same loophole adopted by the Senate last week.

The Smith-Jeffords amendment still leaves 11 loopholes that were created by adoption of the Craig and Hatch-Craig amendment of last week. The Smith-Jeffords amendment does not close the legal immunity loophole created by the Craig and Hatch-Craig amendments. Those amendments dismiss pending lawsuits against some gun dealers and perhaps even gun manufacturers. Giving gun dealers and manufacturers a get-out-of-jail-free card is wrong.

The Smith-Jeffords amendment does not close the loophole that weakens all background checks at gun shows by giving law enforcement only 24 hours to complete the checks. Most gun shows take place on weekends when courthouses and record departments are closed. Law enforcement may well need the full 3 days to do the job right.

Now, at the rate of the Smith-Jeffords amendment on closing only 2 of the 13 gun show loopholes—the ones the Republicans voted for last week—by closing only 2 of the 13 gun show loopholes at a time, I believe the Republican majority will need to offer 6.5 more amendments to finally fix all the

problems in the amendments they adopted last week. The Senate does not have the luxury of time to follow the ''baby steps toward the background checks'' approach.

Fortunately, Senators LAUTENBERG and KERREY are offering the Senate another chance to right this matter by adoption of the modified version of the Lautenberg amendment this morning. The Lautenberg and Kerrey amendment closes all 13 gun show loopholes. I hope we will finally step past party labels and close all 13 loopholes.

If we hear that we have already voted on this matter, be careful. We did. It was tabled. But didn't we find after that more loopholes were opened up? We have to come back. Let's close the loopholes once and for all. After all, the Senator from New Jersey should be commended for offering the Senate a second chance to do the right thing.

We have had three amendments on the subject from the other side, first opening huge loopholes, and now—and I commend Senator SMITH for trying to close the same loopholes that he voted for last week. I hope that all Members will step back from the heat of the debate and vote on the merits of these proposals. They can be corrected today. The way to do that is to vote for the Lautenberg-Kerrey amendment and close all the loopholes—not the baby steps but the one giant step.

Let's not keep coming back, and let's not be in a position we seem to put ourselves in. We open up huge loopholes, the American public reacts with great unanimity against those loopholes, and then we come back and say let's close a few and wait and see what the reaction is. Let's do what the American people are saying: Close all the loopholes.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, the vote we are about to take is about compromise. It is an attempt to try to get a bipartisan bill. It is about finding common ground to resolve an issue vital to the Nation. We should join together and show the American people that it is in a bipartisan manner that the Senate can responsibly deal with the issue of guns.

As a Senator who voted for the Brady bill, I understand the importance of background checks. I understand the need to keep firearms from felons. I have long supported the concept of background checks at gun shows.

This amendment mandates that every gun transaction at a gun show must include a background check, period. There are no loopholes. This is not a smokescreen. This is strict language, strong language, that will force gun sellers and purchasers to follow responsible actions in trading and selling guns.

The system we created with this amendment mandates that people purchase firearms legally and, therefore, go through the background check. It is time to tell gun owners and buyers to be responsible. It is time to show the Nation that we understand their concerns and we are acting.

The tragic shooting at Littleton and today in Atlanta further demonstrates the need for both sides to come together and to work on this issue to find a common solution to the escalating level of school violence.

The amendment Senator SMITH and I are offering will help ensure that timely background checks are performed on a purchase of firearms at gun shows. The Smith-Jeffords amendment should bring this Senate together with the common goal of any illegal firearm sales. The amendment is a bold, bipartisan step and should be adopted. Now is the time for action. Now is the time for reason to prevail over rhetoric. Now is the time to show our Nation's parents that we can get together and end this senseless violence.

I yield the floor.

Mr. SMITH of Oregon. Mr. President, I rise first to thank the cosponsor of this amendment, Senator JEFFORDS; and also Senator MCCAIN, who was instrumental in helping me and others to bring attention to the need to get a bill we can be proud of and that actually works.

Second, I extend my condolences, my thoughts, my prayers to the people of Atlanta. I know whereof they suffer this terrible day. It was a year ago, and a few days, that Oregon, in Springfield, at Thurston High School, suffered a similar tragedy. Now we must add Atlanta to the roll of Littleton and Springfield and Jonesboro and Paducah and many other places.

We stand here today as elected representatives of the people of the United States, to try to do right by them. But too often in this Chamber the focus seems to suggest there is only one answer and that answer is to go after guns. But the problem is so much deeper than that. I am willing to admit there are things we can do, and things we are doing now, that will separate law-abiding citizens and gun owners from the fanatics and the kooks and the criminals, the dangerous and the deranged in our society. We do not want them to have guns. We do not want obtaining guns to be easy for them. But we want to construct a system that encourages the law abiding to come and participate in an instant check, a system that encourages, that incentivizes, and does not just regulate and drive things into the back alley and into the parking lot.

The amendment that Senator JEFFORDS and I offer today does two very simple things. We do close the pawnshop loophole. We use the very language of my colleague and friend from New York, Senator SCHUMER, to go back to current ATF regulation to make sure if someone comes in and hocks his gun he cannot then go, commit a felony, and then retrieve that gun without a background check. I have no intention of leaving that loophole open. We are going to close it today.

Second, because there is a dispute as to the Hatch-Craig language in terms of licensees, we are clarifying that. We are saying simply those in the new Federal firearms dealer category of a ''special licensee'' must comply with all dealer provisions of the Gun Control Act and always do a background check with no exceptions.

This morning we have heard there are apparently 13 additional loopholes. Let me suggest the difference between our amendment and theirs. What our amendment does is incentivize. What their amendment does is regulate. The special licensee, if he obeys the law, comes in and is entitled to an instant check, access to the instant check system. He is not charged a fee, because we are not interested in increasing taxes here. He is immune from civil liability and fines of up to $10,000 and 5 years in prison. We are trying to get people to understand we want them to come in. We do not want to drive them into the back alley and into the parking lot and into the street. We want them to come in, in the light of day, because they are proud of their second amendment rights, and will protect their second amendment rights through instant check.

Let me tell you what else we do. There is a huge difference between this amendment and the one my friend from New Jersey is proposing. He is allowing for 72-hour checks. If it takes 72 hours to get a background check, it is not an instant check. If you have ever been pulled over for a traffic violation, you know the policeman will check your car, check your license, check your registration, and he will find out if there is any additional reason, other than a traffic violation, to hold you. We have instant check now. Why do we not make instant check available to people who are exercising their second amendment rights? I want to be real clear: 72 hours is not an instant. We are going down to 24 hours because we want to incentivize this Government to finally go to work and produce instant check, make it available.

One of the most appalling revelations to come out of the tragedies of Littleton is that gun laws are not prosecuted by this administration. We can pass all the laws in the world on guns but if they are not enforced they are of little value to this country. So, where it makes sense to add, we are adding. But we call on the administration also to enforce. If we enforce our laws, we will begin to make them efficacious; we will begin to change conduct.

But there is an important additional reason for supporting this amendment versus that of the Senators from New Jersey. Many States, as we speak, my own included, are debating the issue of gun shows, are debating the issue of instant check. You and I know very well that law enforcement takes place where crimes occur, at the local level. There are Governors and legislators

who are working with gun advocates, gun opponents, and police forces who are trying to come up with definitions that will work for their States and their localities. That is happening as we are talking. It is happening in my State. If we go to Senator LAUTENBERG's definition, all we would do is nullify much of the work that has already been done and has been passed into law. I am saying we should not do that. Because law enforcement, while we have a role, will remain primarily a local concern because it is locally administered.

So I would like to trust the States, to leave them some room, some discretion to fix this problem on their terms, in ways that work in their communities. We cannot know it all here, even though we too often pretend to. So, if you care about the issue of States rights and law enforcement, Smith-Jeffords is the way to vote. If you want Washington to dictate every principle and every definition, then Senator LAUTENBERG's approach is the way to do it.

There is another reason. I talked about incentives. I congratulate the Senator from New Jersey. His amendment today is much better than the one I proudly voted against on Wednesday night. That one made sure taxes were raised, Government bureaucracies were built, and everybody in sight got sued. What we are trying to do is not raise taxes, not grow Government, and to provide some immunity, therefore some incentives to get people to comply with these laws. We call upon this administration to enforce these laws.

I hope my colleagues, Republican and Democrat, will vote for this amendment. We are using Senator SCHUMER's language. I thank him for that. It works. It clarifies. It ties it up. But if you try to tighten every loophole you see, I promise you the effect of your work today will be to create a black market, an underground, a back alley business, a parking lot exchange. I want them to come inside.

Because second amendment rights do come with second amendment responsibilities, let's make it easier; let's not make it harder. We are doing this in this amendment. We are applying instant check, we are trusting the States, and we are not growing Government. We are protecting kids in the schools, we are protecting the second amendment right to bear arms, we are protecting law-abiding citizens, and we are getting after the kooks and the criminals, the deranged and the dangerous who haunt our society, to make sure this is not a huge loophole that will give them access to dangerous weaponry.

I encourage my colleagues to vote for this amendment and vote against the Lautenberg amendment. It is too much and it will drive this issue into the back alley.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from New York?

Mr. LEAHY. Mr. President, I yield my remaining 5 minutes—I believe I have 5 minutes—to the Senator from New York. He is going to speak right before the Senator from New Jersey who, under the original order, is guaranteed time in any event.

Mr. SCHUMER. I now, in the 5 minutes yielded to me generously by the Senator from Vermont—I believe I have 20 minutes. I will speak for 10—I will control 10 and yield 10 to the Senator.

Mr. LAUTENBERG. To be sure, the Parliamentarian may be able to tell us. How much time will we have on the Smith and Lautenberg amendments combined?

Mr. SCHUMER. I believe there are 20 minutes left, Mr. President.

The PRESIDING OFFICER. The minority has 20 minutes total. The majority has 15 minutes 58 seconds.

Mr. LAUTENBERG. And the Senator yields——

Mr. SCHUMER. I will be yielding 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Chair.

Mr. President, this morning while we are compromising with the gun lobby, ambulances are rushing to Heritage High School to save children from another shooting. It is profoundly disheartening. How much longer are we going to embrace the gun lobby instead of the mothers and fathers of America? Why are we compromising on such simple issues?

It should not have taken us a week to come to the view that we should close the gun show loophole. It never should have been opened, and it now should be closed, and it should be closed cleanly and simply by passing the amendment of the Senator from New Jersey.

We are making progress. At the beginning of the week, we started way apart, and because of the American public, we have come closer and closer together. I commend my colleague from Oregon. He has adopted language which I believe closes the pawnshop loophole. That is a major step in the right direction.

But, I say to my colleagues, there are other loopholes to close, and this very morning when there has been another shooting, why are we afraid to close those as well?

There is the new 24-hour loophole when the instant check system does not work, when the records are not immediately available, the FBI says they need 72 hours to check to see if the person asking for the gun is a felon. We now make it 24 hours. If a gun show is held on Saturday, there is no way—no way—to check. So what we will have is felons getting guns at gun shows. We will have children even being able to buy guns in many different ways.

The amendment of the Senator from New Jersey is simple. If we want to do it, let's do it. Let's not do an elaborate minuet where we take one step forward, two steps back, two steps forward, three steps back. That is what we have been doing this week. Yes, we are making progress, but on such a modest amendment like closing the gun show loophole, why does it take us 7 days of debate? Why does it take three different fixes that still do not close all the loopholes?

It is time for this body to come clean. It is time for this body to simply say, yes, we believe in the right to bear arms, but we also believe there are practical limitations that do not interfere with the rights of legitimate gun owners that we can make, and we can make them forthrightly and cleanly without all of these tiny baby steps.

I guarantee you, the American people are fed up with compromises with the gun lobby. Since the beginning of time, some teenagers have been crazy and angry and mixed up and sometimes disturbed, but they have never been armed. Until now, a teenager who was truly disturbed had his fists, and there might be a broken thumb and there might be black-and-blue eyes. There would not be dead children being taken out of our schools in every corner of America.

There are still loopholes, significant loopholes, that will be left in the law if we do not vote for the Lautenberg amendment. We can close them. We can stand up to the gun lobby. If anything, the actions this morning should have taught us that winking at the NRA and then smiling at the American people just produces more carnage.

It is not hard, it is not technically difficult, and it is not bureaucratic. The law for licensed dealers has worked since 1968. The Brady law has worked since 1993. It has prevented 250,000 felons from buying guns. What are we saying now? At a gun show, maybe; the FBI doesn't need 72 hours to check when it fails.

What the heck is going on in this country? Why do we let the gun lobby continue to pry open more loopholes for the Klebolds and the Harrises to crawl through? Because those who want to get guns for illicit purposes have ways to do it. Even if Lautenberg should be adopted—and I pray to God that it is—they will have means. But let's at least do our best to close those loopholes.

This week has been a week of both encouragement and discouragement for the American people. There has been encouragement. Because of the efforts of the Senator from Oregon and the Senator from Arizona, we are closing the pawnshop loophole, but it is discouraging overall, Mr. President. It is discouraging that it takes us such time to close a simple loophole like the gun show loophole and not do it cleanly and not do it completely. It is discouraging that when we close certain loopholes, somehow we feel obligated to open two or three more. It is discouraging that the gun lobby still seems to rule the roost, not in America, not in urban, suburban, or rural America, but here in this Congress.

I am going to support the Smith amendment because it does close the pawnshop loophole, but I am going to vote for, and urgently and prayerfully urge my colleagues to support, the Lautenberg amendment because it does not open or leave open other loopholes.

This is a test of the soul of America. I watched television this morning, and I said to myself: What is going on in America? The American people are asking themselves not only what is going on in America, they are asking, What is going on in the Senate of the United States? Let us show courage. Let us step up to the plate. Let us be strong, let us close the gun show loophole, let us not open new loopholes, and then let us move to do the other things that will prevent children and criminals from getting guns.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that there be an extra 6 minutes per side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The distinguished Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Mr. President, this morning we stand on the floor of the Senate in the wake of another shooting at a high school in America. My colleague from New York has just said in rather plaintive but appropriate terms: What's wrong in America?

We know there is something desperately wrong. Yes, we struggle with this problem here. I do not question the sincerity of anyone who comes to the floor today to debate this issue. But it is very important for some of us to stand and make as clear as we possibly can the differences between the amendments about which we are talking.

The reason there are an alleged 13 loopholes in the Craig-Hatch amendment is because there are 13 paragraphs, and the other side would suggest the whole thing is a loophole. That is simply not true—it has never been true—because, as the Senator from Oregon says, we are attempting to craft a very fine but important constitutional line between law-abiding citizens and their right to own guns unfettered by a Federal Government and the criminal who will seek and find a gun anywhere he or she wants and, of course, the disaffected youth of America who in some way find it necessary to express their frustrations or their sicknesses with the use of a firearm.

What the other side has not said, but what they whisper loudly, is: The second amendment is a loophole. Let's wink and nod at it and then try to close it up.

I cannot do that. I really do believe in our Constitution and I do believe that law-abiding citizens have rights. I must tell you, the other side is winking and nodding and saying: Oh, yes, they have rights, but we will close all of the doors up to that right and see if you can find the key to get through.

So we came to the floor a week ago and began to strike a balance, recognizing that those constitutional rights must stand supreme for the law-abiding citizen, because the law-abiding citizen, in owning a gun under that right, accepts the responsibility of that gun.

The Senator from New York is right; all he wants to do will not stop the criminal from getting a gun, because it never has. It is law enforcement that stops the criminal. It is the handcuff provision of this bill that says to Janet Reno: Put your cops on the street and arrest the criminal who uses the gun. Janet Reno, your record of law enforcement is dismal. You have winked and nodded at the law. And now it is time you wide-eyedly move to the streets and arrest the criminal who uses the gun.

That is what the juvenile crime bill says. It says it loudly. It says it very clearly. Let's not wink and nod at our Constitution. Let's go at the criminal element of our society. Let's not create the kind of provision that the Lautenberg amendment does. It is not 72 hours; it is the old 3-day waiting period. Even that side said, once we get instant check, that goes away. That is what the law said. Now they want it back, even though we tried to honor our legal citizens by providing an instant check system.

That is what the Congress has said for a decade: We will fund it. We will implement it. And we will demand that it be used. The law-abiding citizens, the gun owners of America, in gun-owning America, say: We agree. There is no argument there.

So as the chairman of the Senate Judiciary Committee worked with his committee and here on the floor to craft a juvenile crime bill, it is so tragic that the other side tried to make it a gun control bill only.

Let's see what we did. We put juvenile Brady in the bill. We said to violent juveniles: You lose all of your constitutional rights when you act violently as a juvenile felon.

We have gone after gangs.

The PRESIDING OFFICER. The time allotted to the distinguished Senator from Idaho has expired.

Mr. CRAIG. I ask my chairman for 1 more minute.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. CRAIG. We have gone after gangs. We have gone after the juvenile offender. We have built in youth protection. We are concerned about gun safety.

This Senate has put in gun laws. The Senator from Vermont said: OK, if you don't believe CRAIG and HATCH, let's say it one more time for the record: People who sell guns at gun shows will do background checks on those who purchase guns.

I am sorry I sound as if I am stuttering, but that is what the other side demanded, that we say it again. And we have said it again. We have not changed the law; we just said it again for the record. I hope that is enough.

We are going after crime control. We are giving our schools of America the tools of safety. If they had those tools maybe in Georgia this morning it might have worked.

So I hope we will withstand the vote on the Lautenberg amendment, vote it down, and let the Craig-Hatch amendment stand with its corrections——

The PRESIDING OFFICER. The time has expired.

Mr. CRAIG. And serve the law-abiding citizens of America as we search out the criminal element.

The PRESIDING OFFICER. Who seeks time?

Mr. LAUTENBERG. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The distinguished Senator from Rhode Island is recognized for 2 minutes.

Mr. REED. Thank you, Mr. President.

I rise in strong support of the Lautenberg amendment. It would close a number of serious loopholes that were created by the Hatch-Craig amendment. As the Hatch-Craig amendment stands today, any number of places where people could buy large quantities of guns would not be deemed gun shows, would not be subject to these types of regulations. The Lautenberg amendment closes that loophole.

The Lautenberg amendment would allow for 72 hours in certain circumstances for background checks. That is absolutely necessary. As the Senator from New York said, on a Saturday, when many of these gun shows take place, there is no possible way of doing a 24-hour background check.

It would also allow the individual who is a weapons dealer to be subject to liability if they are not following the law. That is very critical.

All of these provisions together are in the Lautenberg amendment. That is an amendment the American people support overwhelmingly, because they want a structure of laws that actually protects their children and does not simply provide some slick cover for the gun lobby. They want their children protected. They want us to do it in a sensible way. They want us to pass laws which are not cynical exercises in self-preservation but will actually protect the children of America.

The Lautenberg amendment will do this. I strongly support it. Gun control is absolutely essential to the process of protecting children, but so many of these incidents we have seen—as just this morning—show that we also need to take preventative action to ensure that children, with or without access to firearms, do not feel self-destructive

and destructive of others. That is part of this overall legislation. In fact, we could do much more. Today we are here to make a clear choice between laws that work to protect children and an exercise in simply protecting the gun lobby. I support the Lautenberg amendment.

I thank the Senator.

The PRESIDING OFFICER. Who seeks time?

Mr. LAUTENBERG. I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. KERREY. I thank the chairman, Mr. President.

The largest gun dealer in the State of Nebraska is Guns Unlimited. The owner of that operation is a man by the name of Tom Nichols. I turned to Tom when this legislation was first introduced and when the issue of gun control came up because I trust him. I believe that he understands what works and what does not work.

As I said on this amendment when I first came to the floor, I have supported things that work. If I believe it is going to make the public safer, I will support it. If I don't think it will work, and that all we are doing is sort of a political figleaf, which happens from time to time on these issues, then I am not going to support it, because all we are going to do is add regulatory friction or interference with people who are law-abiding citizens, and it is just an irritant; it does not do anything other than perhaps make our press releases sound a little bit better.

But I asked Tom about this amendment. I have great respect for the Senator from Oregon and the Senator from Vermont. I think they have come a long way in closing the loophole on pawnshops, which is very important, because oftentimes people who are criminals or who have guns that they have stolen will go to a pawnshop and pawn the gun. They need to have a background check done.

There is still a significant weakness in this amendment. Again, I urge colleagues to vote for the Smith-Jeffords amendment—or is it Jeffords-Smith, whatever it is. I urge them to vote for that and to vote for the Lautenberg-Kerrey amendment.

Here is the reason why. In the words of Tom Nichols, the owner of the largest gun shop in the State of Nebraska—he sells more handguns and other kinds of guns than anybody in the State of Nebraska—80 percent of the people who come in to buy a gun in his shop are cleared in 24 hours. The instant check system gets them just like that. These are the law-abiding citizens. These people have absolutely nothing in their background at all that would indicate there is any kind of a problem. But, he said, the people of greatest concern aren't those 80 percent. The people of greatest concern are the ones who take a longer period of time, require a special agent to get into their background to find out what is going on.

If it is only 24 hours, what is going to happen is, yes, the law-abiding citizens will be OK; you will clear those out with no trouble at all. But those aren't the people who are the problem. Those people are getting cleared out in the 24-hour instant check, just like that. It is the people who require a little bit more work who are the ones we want to deny the opportunity to own a gun.

I urge colleagues, as they come down here, if you really want to try to change the law to increase public safety, my recommendation is to vote for the amendment offered by the Senator from Oregon and the Senator from Vermont, but then also vote for the amendment which has been offered by the Senator from New Jersey and myself. Ask your own gun dealers why and who and what happens with that additional 48 hours. They will tell you. The answer is, that is when you get the people who are the biggest problem. That is when you create the most public safety with the Brady bill background checks.

I understand that this issue has been highly charged and there has been a lot of heat and rhetoric and hard feelings on both sides which has occurred as a consequence of that. But if you are trying to write a law that will increase public safety, that will decrease the number of Americans who are either felons or dangerous or have something else in their background but own guns, I urge Senators to vote for both of these amendments, which we will have an opportunity to do, I guess, in about 10 minutes.

Again, I thank the Senator from New Jersey and others who have taken the leadership on this. I thank, again, Tom Nichols from Guns Unlimited in Nebraska. You put yourself out a little bit in this kind of situation. He is basically saying we need to have a level regulatory playing field. You have 2,000 or 3,000 gun shows a year. The Senators from Oregon and Vermont will allow instant checks for those gun shows, but we need that other 48 hours in order to be able to level the playing field between licensed gun dealers and gun shows. That is all we are doing.

There is no more money that they will be paying in, no more regulatory burden. It merely levels the playing field so people who buy a gun in a gun show and people who buy a gun from a licensed dealer will have to go through the same thing. If you want to make Americans safe, I urge you to vote for both of these amendments.

The PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. HATCH. Mr. President, may I inquire, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 16 minutes, and the Senator from New Jersey has 9 minutes.

Mr. HATCH. Is there anybody on their side who cares to speak at this time, or should I?

Mr. LAUTENBERG. I would like to give the proponents time.

Mr. HATCH. I am happy to do that.

We are hearing a lot in the media and on the floor of the Senate demonizing those who believe in the second amendment, those who strive to protect the rights of American citizens. The sincere steps taken today to try to find a middle ground are slapped aside by some. And, quite frankly, I find that to be discouraging and dispiriting.

I still hold out hope that the Littleton shooting can bring out the best in all of us. We have come together on some issues and have before us a bill that responds to Littleton and does so in a way which respects the rights of law-abiding citizens. But to suggest, as one of our colleagues did yesterday, that in defending the second amendment rights of law-abiding citizens the Senate is ''whistling past the graveyard of Littleton'' is contemptible, in my view. Given what is in this bill already, how can anyone in good conscience really say such a thing.

If today's shooting in Atlanta isn't a wake-up call to those who want to play politics with this bill, I don't know what is.

Americans still believe that gun ownership is a basic right of our people. If any community would change its views as a result of the Littleton shooting, it would be the residents of Colorado, where prior to the shooting 70 percent believed firearms ownership was a basic right. Has support for gun control increased in Colorado? No, just the opposite. A recent poll found that 75 percent of Coloradans believe gun ownership is a basic right. The people of Colorado and elsewhere recognize that this is a complex problem and that going on a gun control feeding frenzy is not the answer. Those who think otherwise should take a deep breath, take stock in what we have accomplished to date with this bill, and bring this bill to passage, because this bill can have a dramatic effect on helping us to resolve some of these problems with teen violence in our society today.

We have had a vigorous and lengthy debate about gun shows and how best to limit criminal access to guns at these shows. There have been numerous unnecessary delays on this matter. Today I hope we can bring closure on this matter. This is an evolving process. After several days of debate last week, Republicans took a step to require background checks at gun shows without substantial cost and without overregulatory burdens.

We all realize our duty to do what is best for our children and to uphold the Constitution of the United States, including the second amendment. We all realize that the political benefits of scoring debating points lasts only for the hour, while the real benefits of protecting our children last for a lifetime.

The evolutionary process continues. The supporters of the Lautenberg amendment have made changes to their proposal to bring it closer to our

plan, and we are proposing the Smith-Jeffords amendment to deal with the pawnshop exemption and to clarify the special licensee provision. Our plan, however, does not impose substantial disincentives to obey the law. My sense and hope is that our efforts will continue to evolve and that we will be able to find common ground, a common ground that protects the rights of law-abiding citizens to legally use guns but punishes criminals who illegally use guns.

There is one firearm-related provision on which I hope we can reach bipartisan agreement. That is the treatment of pawnshops that have traditionally been exempt from the requirement to conduct background checks when they simply return a firearm to its owner.

Contrary to what the distinguished Senator from Nebraska said, if a stolen gun is pawned, it will be discovered when the gun comes into the pawn shop. State law requires pawn shops to notify state or local law enforcement agencies concerning the gun. These state and local agencies then check to determine if the gun is stolen. If the gun is stolen, the police can investigate and, if necessary, arrest the pawning customer. This all happens before the gun is returned to the customer and thus, before a Federal background check would be required.

The pawn shops protested the 1993 Brady law that required them to do a federal background check in addition to the state check they were already doing. Further, they complained about the 3-day waiting period. If a pawn shop had to wait 3 days under the orginal Brady law to conduct a federal background check, it could not return the gun to the customer when the customer repaid the loan. That is why Congress amended the Brady law in 1994 to exempt pawn shops from the requirement to do a federal background check.

The Craig amendment which we passed last Wednesday simply restored the exemption for pawnshops that had been part of the Brady law for 4 years and had been approved by some notable people, even some here on this floor. Thus, the Craig amendment did not effect a major change in law, but a change back to how the Brady law read from 1994 to November 1998 when the exemption lapsed as the instant check system became effective.

As I have stated repeatedly, it is my goal to find common ground on these issues. Wherever possible, I want to do what is best for our children and for the public, which is consistent with our oath as Senators to uphold the Constitution. Frankly, I viewed the pawn shop provision as a technical matter, one which should not be politicized. I am glad that Senators SMITH and JEFFORDS have made a bipartisan proposal to resolve this matter so that both sides can get together.

With respect to special licensees, last Wednesday the Senate passed the Craig amendment which provided that persons who wished to engage in the business of selling firearms but just at guns shows must obtain a special Federal license to do so. Subsequently, however, my colleagues on the other side of the aisle complained that the Craig amendment was not clear enough in requiring special licensees to conduct background checks. We have looked at the language and think it is clear.

Nonetheless, to address the concerns of our colleagues, I offered a simple one-page amendment last Friday which made it absolutely clear, beyond any shadow of a doubt, that special licensees were subject to the background check provisions of the Gun Control Act. Unfortunately, my colleagues on the other side of the aisle rejected this clarification. Instead of dealing with their concern, they wanted to debate it, and, boy, have they debated it.

Today the Smith-Jeffords amendment contains the clarification I offered last Friday with a bit more explanation. It states:

> Except as to the State and local planning and zoning requirements for a licensed premises as provided in subparagraph (D), a special licensee shall be subject to all of the provisions of this chapter applicable to dealers, including, but not limited to, the performance of an instant background check.

The key language of the amendment states:

> A special licensee shall [not might, but shall] be subject to all [not some, but all] of the provisions of this chapter applicable to dealers, including but not limited to, the performance of an instant background check.

This could not be any clearer. Special licensees must perform a background check before selling a firearm at a gun show. So let's get rid of the talk about loopholes.

The Smith-Jeffords amendment deals in a bipartisan fashion with the pawn shop exemption and with the clarification of the requirement for special licensees to perform background checks.

There has been a lot of talk about loopholes, and the Smith-Jeffords amendment should lay most of that talk to rest. But the biggest loophole for criminals is the lack of enforcement of criminal laws that currently exist by our Attorney General and this administration. If we in Congress pass a law prohibiting a criminal transaction, it is the duty of the Attorney General to enforce it. But she has not. Our bill includes the CUFF program to fund more prosecutions of gun crimes and orders the Attorney General to report on her progress in prosecuting gun crimes. By enforcing criminal statutes, we can protect our children and our schools. If a criminal knows that the statutes we pass will not be enforced, however, we expose our children to more crime.

Let me make a point with these charts. Is this a record to be proud of in this administration? We are quoting the Executive Office of the U.S. Attorneys for these figures. Prosecutions under the Brady Act background checks: In 1996, zero. They claim that the Brady Act stopped 200-some-odd-thousand felons from getting guns. There was not one prosecution in 1996, not one prosecution in 1997, and just one prosecution in 1998.

If there is a loophole, it is in the failure of the Attorney General and the Justice Department to enforce the laws that are already on the books. Yet, you hear this hue and cry for more gun control laws. But this is only for political purposes because they know that their own Attorney General will not enforce these laws.

Mr. SMITH of Oregon. Will the Senator yield for a question?

Mr. HATCH. I am happy to yield for a question.

Mr. SMITH of Oregon. I wonder if the Senator can address this. He is into this issue, but I think we have to answer the question the Senator from Nebraska has raised, Why do you need the 3 days, 72 hours?

My point really is this. I wonder if this amendment isn't so regulatory that it really isn't trying to end gun shows, and not an attempt to provide the service that we are asking be provided. If they find that there is a question, shouldn't the Justice Department, the FBI, deny the check in 24 hours, 1 hour, or whenever it occurs, and then go investigate it?

Mr. HATCH. The Senator really poses an interesting question. The current law requires no background check for sales at gun shows between non-licensed individuals. For sales by dealers, however, an Instant Check background check is required. If there is a question, the FBI gets 3 days to resolve the question. Of course, because a gun show generally lasts only 3 days, the show will be over by the time the FBI is through checking.

Our bill requires the FBI to resolve any question within 24 hours. This strikes a balance between the time constraints of a gun show and the time needed by the FBI to resolve any Instant Check question.

Further, this is an evolving process. As technology advances and more records are placed on the Instant Check database, the FBI will be able to resolve any question in less than 24 hours.

Mr. SMITH of Oregon. If the Senator will yield for another question. As chairman of the Judiciary Committee, don't you believe that if the Justice Department needed more resources to do this to provide the service, we would find the ways and means to accommodate them?

Mr. HATCH. The Senator makes a good point. As chairman of the Judiciary Committee, I will work with the FBI and the ATF to ensure they have the resources to get the job done. We will do everything in our power to find the means to solve these problems.

Mr. President, with respect to the Attorney General's prosecution record, this is not a record to be proud of—this business of prosecutions under Brady. There were zero in 1996, zero in 1997,

and one in 1998. Yet, they want new laws. We are not enforcing the laws we already have.

Is this a record to be proud of? Prosecutions for transfer of handguns or ammunition to a juvenile: This Justice Department, in 1996, had nine prosecutions. We have had that many shootings in the last short while. In 1997, five prosecutions. In 1998, six prosecutions. Why aren't we enforcing the laws that already exist instead of making political points to have a whole bunch of other laws that there is a question whether the Justice Department will enforce?

Let me go into this one. Is this a record to be proud of by this administration? Prosecutions for possession or discharge of a firearm in a school zone. Think about that. In 1996, four prosecutions; in 1997, five; in 1998, eight.

Wouldn't it be wonderful if we could enforce the laws that are already on the books? We would not have nearly the problems we have today. By the way, this business of prosecutions for transfer of a handgun or ammunition to a juvenile, and others, there are thousands of cases that they know of and there are only these limited number of prosecutions.

Well, Mr. President, the plain fact of the matter is that the revised Lautenberg amendment, though improved to look more like the Republican proposal, is still not as good as the current bill as amended.

The revised Lautenberg amendment still fails to provide qualified immunity to persons who obey the law and act appropriately with firearms, even after the Senate voted on it yesterday to provide qualified immunity when parents properly use child safety locks. The revised Lautenberg amendment still fails to provide tax relief to licensees and others who perform background checks. And the revised Lautenberg amendment still fails to relieve gun show organizers of substantial new recordkeeping requirements. It is very unfair.

Thus, the revised Lautenberg amendment is a small step in the right direction, and I sincerely appreciate that step. However, in my view, it fails to go far enough.

The revised Lautenberg amendment will change an unregulated market into a very heavily regulated market overnight. In fact, by imposing this much regulation, without providing any immunity or tax protection, and without any provision for licensing temporary dealers, the revised Lautenberg amendment will create a black market in gun trading, because people will not go to the gun shows, they will go into the streets and do it. By creating a black market in gun trading, the revised Lautenberg amendment will inevitably promote gun sales where there are no Federal licenses, no records, and no background checks. We do not need a black market, but we need a free market with reasonable, nonburdensome regulations where buyers and sellers have incentives to comply with the law.

Mr. President, the current bill with the Smith-Jeffords amendment will strike the appropriate balance between the legitimate interests of law-abiding citizens to own, buy, and sell lawful products and the public interest in preventing criminals from obtaining guns. The powerful incentives included in our plan will ensure that persons will comply with the mandatory background check requirement on all sales at every gun show. The Republican plan also gives law-abiding gun owners the peace of mind that they have not inadvertently transferred a firearm to a felon, and strongly encourages the Attorney General to begin prosecuting the criminals who have violated the existing gun laws.

Mr. President, this juvenile justice bill is too important to our country's schools, parents, and children to be held up by endless debates.

Only this morning, we heard of another shooting in Georgia. So far, thank goodness, there have been no reports of death.

We have to stop debating and pass this bill. We have had enough delays. We need to protect our students and our schools now. We in the Senate have an opportunity to take a major step toward protecting our children by passing the juvenile crime bill. Our country needs it. We should do it in a bipartisan way, and we need to do it today.

I reserve the remainder of our time.

Mr. LAUTENBERG addressed the Chair.

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

Mr. LAUTENBERG. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

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

Mr. KENNEDY. Mr. President, the Senate has spent the past week attempting to clean up the mess that our Republican colleagues have made over the gun show loophole. Now, again we have a chance to do the job correctly, by closing the gun show loophole the right way, not the NRA way.

As they say in the circus, it's a big job cleaning up after a big elephant, especially when the National Rifle Association is the trainer of the elephant.

The first two attempts by our Republican colleagues to close the gun show loophole were a travesty. They left the loophole open, and they created new loopholes while they were doing it.

While the Senate dithers, the need grows greater. Gun violence has struck again at one of the nation's schools—this time at a school in a suburb of Atlanta.

Enough is enough. We will decide today whether the United States Senate is serious about closing the gun show loophole, or whether we will continue to allow young people to have almost unlimited access to guns.

The Lautenberg amendment will close this deadly loophole in our gun laws, and close it all the way, not just part of the way.

The Smith amendment only goes part way. It closes the loophole our Republican friends opened for pawn shops last week—but it leaves unchanged the other serious loopholes that put guns in the wrong hands at gun shows.

Our Republican colleagues still refuse to close another major loophole they created last week—the 24 hour loophole, which makes a farce out of the background checks on gun purchasers.

These background checks have kept thousands of guns out of the hands of criminals and others who have no business owning guns. But the NRA opposes that law, so it wants to undermine it in a way that will protect illegal transactions at gun shows.

The Lautenberg amendment closes this loophole too.

Our Republican colleagues still refuse to close a third loophole they created last week, which makes it much more difficult for police to trace guns used by criminals. They have set up a new class of gun dealers called ''special registrants,'' who can sell as many guns as they want to anyone they want, without keeping the records needed to trace guns used in crimes.

The Lautenberg amendment closes this loophole, too.

Since the tragedy in Littleton, parents and children across the country have lived in fear that their school—their community—could be next. Now, it has happened in Georgia. On some days in recent weeks, parents have kept their children away from school in an effort to shelter them from violence.

Families cannot continue to live this way—in constant fear that their children and their school could be the next gun battleground.

There is only one way to close the gun show loophole, and that's to adopt the Lautenberg amendment.

In a few minutes, we will have two important votes. The Senate can act on the urgent needs of the American people, or it can continue to play ostrich—head in the sand, ignoring the national crisis of gun violence.

It is clear that the overwhelming majority of the American people want Congress to pass responsible gun control measures. Eighty-nine percent of the people say that it is important for this country to pass stricter gun control laws.

Now, we have the opportunity to get it right. Gun laws work. The facts speak for themselves. It is time—long past time—for the Senate to act, to say enough is enough is enough is enough.

I thank the Senator from New Jersey and hope his amendment will be accepted.

Mr. LAUTENBERG. I thank the Senator from Massachusetts.

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

Mr. LAUTENBERG. Mr. President, I, first of all, want to say to my colleagues on the other side—to Senator

SMITH, to Senator JEFFORDS, to Senator GREGG, to Senator HATCH—I really do appreciate the fact that they are trying to arrive at a consensus. I think what was said in the earlier presentation was that it is a bipartisan agreement. I wonder whether parents in Littleton, CO, care whether it is bipartisan or not, or whether it is a compromise or not. What they want to make sure of is that it never happens again, as it did this morning in Georgia.

It is a pity we are discussing whether or not there is too much regulation, or whether or not the law enforcement people are hard at work. I want them to look at the statistics. We will talk about that in just a minute. That is not the issue. The issue is, do you want to save lives, or do you want to save the NRA? Do you want to permit them to continue to oppose all sensible legislation?

There are people sitting here, I am sure, who have children at home and they don't want to worry about them when they go to school. That is the issue. What are we talking about here? Eighty-nine percent of the American people say they want the gun loopholes closed—finally shut. What do you think the percentage might be out of Georgia today, or out of Colorado, or out of Pearl, MS; or Paducah, KY; or Springfield? What do you think the percentage of those families are? I will bet you it is 100 percent.

We know one thing. It was admitted by the distinguished Senator from Idaho, or at least suggested—not admitted. He said 40 percent of the people who buy guns at gun shows do so without any identification at all. ''Buyers anonymous.'' Buy your gun. Don't tell anybody who you are. Forty percent, by my calculation. It is around 800,000 guns a year. Maybe I am wrong by 100,000 or 150,000. Over 5 million handguns are sold in this country each and every year.

Mr. President, I want us to stand up to the American people and say we care more about your kids; we care more about your family; we care more about violence in this country than we do about whether or not this one gets credit, or whether it looks like we are imposing an extra burden.

I want to talk about the burdens for just a moment and talk about Federal gun prosecutions. The distinguished Members on that side will say they are down. I would tell you this: Twenty-five percent more criminals are sent to prison for State and Federal weapons offenses than in 1992. That is because we work more closely with our partners in State and local law enforcement.

Look at the result. Stop looking at the process. Look at where we want to come out. Overall violence and property crimes are down by 20 percent. The murder rate is down 28 percent—the lowest level in 30 years. We have accomplished something. Do you know why? Because we are asking questions about guns. Yes. There are things wrong in our culture. There certainly are. But I look at our culture, and I look at other nations which are well developed. We have 35,000 Americans killed each year with firearms compared to 15 in Japan—15 people—30 in Great Britain. Just take the murder side of that—homicides, almost 14,000; suicides, 18,000. That happens, I guess, in other countries. But I am sure it doesn't happen to the same extent with guns.

When we hear our friends decrying this extension of time that is needed to get your mitts on a gun, why should we slow down the process? Somebody wants a gun. They give it to them. That is what they are saying.

I will tell you something. If they read the law carefully—the Lautenberg law—then they would see that the law limiting enforcement to 24 hours for gun show background checks is only if—72 hours; forgive me—only if there is some detection in the first minutes that something is wrong. If there is nothing wrong, you can have a gun in 5 minutes. Is that quick enough? Is a day quick enough? I think it is quick enough for the American people. Ask those in Littleton and ask them in other places how quickly the guns ought to be available.

No, Mr. President, we are missing the boat. We are arguing about process while we are exposing more and more of our kids to accessibility to guns. It is not right. The Lautenberg amendment closes the loopholes once and for all.

Again, I commend Senators SMITH and JEFFORDS for closing the pawnshop loophole, but they don't close all of the loopholes. There is still limited liability for gun sellers. There are still people who are going to be able to buy guns without registering them. They are not registering without going through a background check. They are not insisting that everybody go through a background check, and they are not insisting that 24 hours be extended to 72 for normal purchases.

I think what we ought to do is say once and for all—I hope my colleagues will respond—to the American people, enough of the debate about the process. The process is fair.

We are not talking about increasing taxes.

We are not talking about increasing the bureaucracy.

I would like to mention one thing—that even as our friends talk about more enforcement being the difference, the fact is that when we tried to hire 280 new ATF agents, requesting over $10 million to hire those people, and over 40 new Federal prosecutors as well, the NRA has never supported backing its tough talk with real money for State, local and Federal law enforcement agencies to investigate, arrest and prosecute. They like to talk about it here. But they don't want to pay for it.

It is time to face up to reality. One is we are going to probably pass the Smith-Jeffords amendment with an overwhelming vote. That is OK, because it starts the process. But it doesn't complete the process. The process will be complete when the Lautenberg amendment is passed, and I hope we have enough courage in this room to stand up and say, ''Yes, I vote for the Lautenberg amendment.''

The PRESIDING OFFICER. The time of the distinguished Senator from New Jersey has expired.

Mr. LAUTENBERG. I thank the President.

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

The PRESIDING OFFICER. The distinguished Senator from Utah has 42 seconds.

Mr. HATCH. Mr. President, I will be very brief.

The fact of the matter is that the overwhleming majority of instant checks can be completed in a matter of minutes. If the instant check system approves the purchase, it will do so quickly. If the instant check system disappoves the purchase, it will do so quickly. The problem is the portion that instead of being approved or disapproved, raise a question. Under the 24-hour rule, the Justice Department has to work harder to resolve questions for gun show instant checks. This is because the gun show will be over in 3 days. If you allow 3 days to resolve questions for gun show checks, the questions will not be resolved until after the gun show is over. It means private people are going to take their guns to the streets and sell them there. It means a black market. It means more problems—more accessibility to those who are unsavory in our society to guns.

I can't imagine why people can't see this, because it is as clear as the nose on anybody's face. The politics of it is more important than seeing the truth.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from Wisconsin make a unanimous consent request not related to this matter.

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

The distinguished Senator from Wisconsin is recognized.

CHANGE OF VOTE

Mr. KOHL. I thank the Chair.

Mr. President, on the rollcall vote on the McConnell amendment No. 365 to S. 254, I voted no. I ask unanimous consent that I be recorded as voting in favor of the McConnell amendment. Changing my vote will not affect the final outcome of that vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I hope Senators in voting for Smith-Jeffords will realize it is only a baby step towards background checks.

If they really want to close all 13 loopholes, they also have to vote for the Lautenberg amendment.

The PRESIDING OFFICER. The amendment pending before the Senate is amendment 366, as modified, by the distinguished Senator from Oregon.

Mr. CRAIG. 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. 366.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber desiring to vote? The result was announced— yeas 79, nays 21, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—79

Abraham	Feinstein	Mack
Akaka	Fitzgerald	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Bayh	Graham	Moynihan
Bennett	Grassley	Murkowski
Biden	Gregg	Murray
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hollings	Robb
Breaux	Hutchinson	Roberts
Brownback	Hutchison	Rockefeller
Bryan	Inouye	Roth
Bunning	Jeffords	Santorum
Byrd	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Cleland	Kerrey	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Daschle	Kyl	Thurmond
DeWine	Landrieu	Torricelli
Dodd	Lautenberg	Voinovich
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Edwards	Lincoln	
Feingold	Lugar	

NAYS—21

Allard	Enzi	Nickles
Burns	Gramm	Sessions
Campbell	Grams	Shelby
Cochran	Hagel	Smith (NH)
Coverdell	Helms	Stevens
Craig	Inhofe	Thomas
Crapo	Lott	Thompson

The amendment (No. 366), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 362

The PRESIDING OFFICER. The question is on agreeing to the Lautenberg amendment.

The Senator from Vermont is recognized.

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

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.

Mr. LAUTENBERG. Mr. President, I ask the Parliamentarian, is there a moment allotted for discussion of the amendment?

The PRESIDING OFFICER. In addressing the question of the Senator from New Jersey, there is no provision for comment unless unanimous consent is requested.

Mr. HATCH. Mr. President, I ask unanimous consent that there be 2 minutes equally divided.

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

The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, very simply, we have just made a decision to close a couple of the loopholes that existed before on gun show sales, and I commend the Senators who offered the amendment. But we are still left with significant numbers of people who do not have to have a background check, and that is not the way we want to do it. We want to close all the loopholes.

They have insisted we remove the 72-hour window for investigation of backgrounds, and that is only triggered if there is something that discredits the individual. Otherwise, it is 24 hours or less. If there is nothing on the person's record, the sale goes through.

It is hard to imagine why we cannot take enough time to investigate the prospective buyer sufficiently to make sure we are protecting our people.

That is the issue, and I hope our friends on the Republican side who voted with us last time will continue to vote with us. We could have won this several times if we had support from the Republican side of the aisle. I hope they will demonstrate to the American people that there is concern about limiting access to guns as the citizens of the country want us to do.

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

The Senator from Utah.

Mr. HATCH. Mr. President, we have debated this at length. The Lautenberg amendment creates more loopholes. It will be more expensive. It is going to increase taxes. And it will be more bureaucratic.

I think it is going to push people into the streets to sell guns on the black market, which I think undermines everything he is trying to do.

I yield back the remainder of my time.

The VICE PRESIDENT. The question in on agreeing to amendment No. 362. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

[Rollcall Vote No. 134 Leg.]

YEAS—50

Akaka	Cleland	Feinstein
Bayh	Conrad	Fitzgerald
Biden	Daschle	Graham
Bingaman	DeWine	Harkin
Boxer	Dodd	Hollings
Breaux	Dorgan	Inouye
Bryan	Durbin	Johnson
Byrd	Edwards	Kennedy
Chafee	Feingold	Kerrey
Kerry	Lugar	Sarbanes
Kohl	Mikulski	Schumer
Landrieu	Moynihan	Torricelli
Lautenberg	Murray	Voinovich
Leahy	Reed	Warner
Levin	Reid	Wellstone
Lieberman	Robb	Wyden
Lincoln	Rockefeller	

NAYS—50

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

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative and the amendment is agreed to.

The amendment (No. 362) was agreed to.

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

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

The VICE PRESIDENT. Without objection, it is so ordered.

(Mr. ALLARD assumed the chair.)

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the supplemental appropriations conference report and there be 3 hours for debate, to be equally divided in the usual form, and that it be in order for Senator GRAMM to raise a point of order against the conference report, and at that point there be 30 minutes equally divided in the usual form on the motion to waive.

I further ask that following the conclusion or yielding back of time and the disposition of the motion to waive the Budget Act, if successful, the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Mr. President, reserving the right to object, I wish to amend the consent agreement to allow me to offer a bill immediately following the adoption of the conference report regarding an across-the-board cut in nondefense discretionary spending to offset the supplemental appropriations conference report. I understand that the conference committee has been disbanded since the House of Representatives has voted to adopt the conference report. Therefore, I understand that it will require unanimous consent for the conference report to be amended.

Having said that, I now ask unanimous consent that following the adoption of the conference report, I be recognized to offer a bill that would call for an across-the-board cut in nondefense discretionary funding to offset

the supplemental appropriations conference report, and there be 30 minutes for debate on the bill, to be equally divided, and no amendments or motions in order.

I further ask consent that immediately following the use or yielding back of time, the Senate proceed to vote on passage of the bill, without any intervening action or debate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. LOTT. Mr. President, I believe we are proceeding under a reservation of the right to object. Senator ENZI was explaining his reservation, and he is asking to be recognized to offer a bill that would call for an across-the-board cut in the appropriations process in order to pay for the additional funding here. Is that the gist of the Senator's reservation of the right to object?

Mr. ENZI. Yes. There are a few questions we want to ask in regard to reserving this.

Mr. BROWNBACK. Mr. President, further reserving the right to object, I want to note my support for what Senator ENZI is stating, and that I am concerned that what we have in the underlying bill is not paid for and we ought to have appropriate offsets to this supplemental. It is an important supplemental bill, but I am reserving the right to object and I am saying that we should pay for this. It should be offset with other cuts in nondefense discretionary and domestic spending.

We have a $15 billion supplemental appropriations bill. We are asking in the nondefense areas that there be offsets to that. This is not a major thing for us to do. I think it is fully appropriate that we move forward and have offsets taking place in this supplemental bill. There is important spending taking place in the supplemental that I think is appropriate. There is some for my home State and the disaster we had. But let's pay for it. That is why I am reserving the right to object.

Mr. HUTCHINSON. Mr. President, also reserving the right to object, I share Senator ENZI's concern and making this UC request to introduce a bill that would allow us to have offsets. We have an appropriations bill, as so often is the case with these emergency spending bills that come before us, traveling like a freight train. The ''freight train'' has little stowaways hidden all through it. So in the very short period of time that I began to look at some of the little stowaways hidden on this ''freight train,'' I found $1.8 million for safety renovations of the O'Neill House Office Building, $1.9 million for the Northeast Multi-Species Fishery, $250,000 for the L.A. Civic Center, $1.5 million for the University of DC, and $3.76 million for the House page dormitory. These may all be good things, but they are certainly not going through the right process.

There is $100 million for aid to Jordan; $77 million to the Census Bureau, Postal Service, USTR, et cetera. The Office of the Special Trustee for American Indians gets $22 million. I don't see how that can be termed an emergency coming before us. There is $8 million dollars for an access road to Ellsworth Air Force Base in South Dakota. On and on go these little stowaways. There is a high school, White River High School, which receives $239,000.

The point is, Mr. President, we have a process that is being perverted, a process that is being circumvented.

Mr. DORGAN. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order has been called for.

Is there objection to the request of the majority leader?

Mr. GRAMS. Reserving the right to object, I also rise in strong support of Mr. ENZI——

The PRESIDING OFFICER. The Senator has no right to reserve the right to object when the regular order has been called for. Is there objection?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

The majority leader is recognized.

Mr. LOTT. In light of the objection, I renew my request for time agreements on the supplemental conference report, as stated earlier in my remarks, with 15 minutes of the Democrats' time under Senator DORGAN and 10 minutes of the Republican time under Senator MCCAIN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, what we have now—if I could explain it to the Senate—we have set aside the juvenile justice bill for now. We are going to do the supplemental appropriations bill. We have a 3-hour time agreement with some specific time set up for individual Senators. We also have a waiver of a point of order, with 30 minutes of time equally divided on that.

So there will be a vote on that point of order and, I presume, the vote on final passage. At that point, it is our intention to go back to the juvenile justice bill.

I say to the Senators who reserved their right to object, I certainly understand why they are doing it. I appreciate it and I want to support their effort. There is no question that more of this bill should have been offset. I know the chairman of the Appropriations Committee, who is probably in the vicinity, does not agree with that. But I have indicated all along I thought there should be more offsets. To Senators ENZI and BROWNBACK, HUTCHINSON, GRAMS, and perhaps SESSIONS—and I am not quite sure if Senator MCCAIN is here to raise that concern also—I certainly am sympathetic, but there was objection heard from Senator DORGAN.

Mr. DORGAN. Will the Senator yield?

Mr. LOTT. I will yield to the Senator.

Mr. DORGAN. I want to observe that the unanimous consent proposal offered by the Senator from Wyoming had not been cleared on our side. We were constrained to object. I also observe, if we are going to establish an order for legislation to be brought to the floor following disposition of the supplemental, for example, we may want to bring to the floor the proposed amendment that died in conference committee by a 14–14 vote dealing with the agricultural fund.

Our point was that there are other priorities as well. But the unanimous consent request had not been served on our side. That is why we were constrained to object.

Mr. LOTT. I wonder if other Senators want me to yield.

I yield the floor.

1999 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT—CONFERENCE REPORT

Mr. LOTT. Mr. President, I submit a report of the committee of conference on the bill (H.R. 1141) making emergency supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1141), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report. (The conference report is printed in the House proceedings of the RECORD of May 14, 1999.)

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Alaska.

Mr. STEVENS. Mr. President, is the conference report accompanying H.R. 1141 before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. That conference report is not amendable? There are no amendments in disagreement?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, I first want to start off by commending the chairman of the House committee, Congressman BILL YOUNG, for his leadership in the conference on this bill. He was the chairman of this conference, and through his efforts we have achieved passage not only by the House but we achieved the result of getting a bill out of committee. Chairman YOUNG and I have worked very closely in the past. He chaired the defense subcommittee before becoming chairman of the full committee. I look forward to continuing that partnership during his tenure as chairman of the House committee.

We face a difficult task in reconciling the funds needed to respond to hurricane damage in Central America, the

Federal Emergency Management Agency and agriculture disasters—those FEMA disasters are national disasters declared by the President—and continued military operations in Kosovo, in Bosnia, in Iraq, and in the high state of alert in South Korea.

This is not an easy period to be chairman of this committee. We have what amounts to four major crises going on at one time. We are trying to maintain our defense capabilities to preserve our interests worldwide. This is very difficult, apparently, for some Members to understand. It is a difficult process, at best, to handle a supplemental and an emergency bill together, but it does take consideration of the Members of the Senate to understand which versions in these bills are emergency and which are just a normal supplemental.

They have been joined together. The President has sent us two bills and the House has passed two bills. They address the needs and the formal requests of the President. The Senate passed one bill, the Central American agriculture bill, in late March, prior to the Easter recess. At that time, before the recess, I urged that we have a chance to come to the floor and pass that supplemental. We knew there was going to be a second supplemental, but we could not get the time on the floor and the Senate did not act on the separate Kosovo package.

Due to the emergency nature of the funding for military operations and the availability of the first bill, it was our intention to merge the two bills into a second single bill in conference, which we have done. That is consistent with rules of the Senate and the House. These were matters which were emergency in nature, and we have added them as emergencies.

Now, as I think Senators are aware, there are many ideas in how we can address other needs in this bill. Supplemental bills have routinely been amended by both the House and the Senate. Questions have been raised about some of the matters in these bills—assuming that we have no right to add any amendments to emergency bills.

Now, this is both a supplemental and an emergency appropriations bill before the Senate. I hope Senators will keep that in mind. As most of the Senators are aware, these matters are brought up by individual Members of the Senate or the House and are considered and adopted by majority vote. I am not that happy about some of the provisions of this bill but, again, I have the duty to carry to the Senate floor those amendments that were included by action of the conferees. I hope Senators will keep that in mind as we proceed.

The conferees decided that some of these matters that are before the Senate and were presented to us should be reserved in the fiscal year 2000 bill, which the Appropriations Committees will start marking up next week. We cannot get to the regular appropriations bills until we conclude the action of the Congress on the supplemental and emergency matters in the bill before the Senate now.

Again, I know there are objections to this bill; there are objections to the process we are following. Many of those objections are brought forward because we do not have a point of order against legislation on appropriations bills.

That is not my doing. I have sought to restore that point of order and I continue to support the concept of that point of order. But we have several matters included in the Senate-passed version of the bill that were deleted by the conference.

One of them was a matter that was very close to my heart, and that is the Glacier Bay provision which was offered by my colleague, Senator MURKOWSKI.

What I am saying is there are matters before the Senate some people object to. There are matters not in the bill that people object to, and one of them is that Alaska provision of my colleague. Obviously, a conference report is always a compromise. That is why we go to conference. We have disagreements with what the House has done, the House has disagreements with what we have done, and we meet in conference and try to resolve the problems.

This bill, for instance, contains more money for defense needs than were proposed by the Senate. After we went to conference with the House, we concluded they were right in seeking additional moneys for our defense readiness. There is no question it also contains more funding for refugees and for agricultural relief than was proposed by the House. The House has come towards the position of the Senate on both refugees and agriculture relief. Again, I think that is the process of compromise that should take place in a conference. This conference report needs to be passed today. The men and women of the Armed Forces must understand we support them, regardless of our points of view on the war that is going on in Kosovo.

Refugees ousted from their homes and their country by Serbian atrocities need our help also. I was honored to be able to go with other Members of the Senate to visit Albania. We saw the camps in Macedonia. We visited with the President of Macedonia and the Prime Minister of Albania. We went to see our forces in Aviano—that is our air base in Italy—and we visited with the NATO people in Bosnia.

Many Senators here have also visited the region since that trip I took with my colleagues and Members of the House. There were 21 of us on the first trip. All the Senators who went there know what needs to be done; there is no question in our minds. It is unfortunate we cannot take more people over there to let them see it, because I think uniformly the people who saw the troubles over there are supportive of this bill. We have provided additional funds in this bill for the Kosovo operation and for the victims of the war there in Kosovo. They are sort of an insurance policy.

We have faced this in the past. We went into Bosnia. We were supposed to be there 9 months and be out by Christmas. That is 5 years ago this Christmas. We have had to add money every year, take money from various portions of our appropriations process and pay for the cost of Bosnia.

We also have increased the level of our activity in the Iraq area. Even during the period of the Kosovo operation, there continue to be retaliatory strikes on Iraq because of the their failure to abide by the cease-fire agreement.

In South Korea, the North Koreans are continuing to rattle the cage, as far as we are concerned, and we are on a high level of alert in that area.

What I am telling the Senate again is this bill reflects those pressures on our defense forces. We want those people who are defending this country to know we support them when they are out there in the field representing our interests. The funds provided in excess of the President's request are contingency emergency appropriations for agriculture, for defense, for FEMA and for the refugees. The amounts added by the House and the Senate can only be submitted if the President declares an emergency requirement exists. We are going to get into that question of the emergency requirement here when the Senator from Texas raises his point of order. But we worked in conference very hard to assure adequate resources will be available through the remainder of this fiscal year to meet the needs in the areas we visited, in the Kosovo area, and to meet the needs of the military worldwide. Some of our systems are being taken from the areas I have described before—from South Korea, even from Bosnia and from Iraq—to move them into the area of the conduct of the hostilities in and around Kosovo and Serbia. Those funds that are needed on a global basis are in this bill. Some of them, as we know, the President did not request.

We believe we have taken action. Hopefully we will not have to see another emergency supplemental with regard to the conduct of the Kosovo operation during the period of time we will be working on the regular appropriations bills for the year 2000. In effect, we have reached across and gone in—probably this bill should be able to carry us, at the very least to the end of this current calendar year. The initial requests of the President took us to the end of the fiscal year on September 30.

I am happy to inform the Senate I am told today the President will sign this bill as soon as it reaches his desk. He has specifically asked us to complete our work and pass the bill today. I understand he has a trip planned and it would be to everyone's advantage if we get this bill down to him today and

have it signed. Therefore, I am pleased we do have the unanimous consent which does allow us to vote on this bill. I take it that will be sometime around 3:20 we will vote on the bill.

I do earnestly urge every Member of the Senate to vote for this conference report. To not vote for this conference report because of some difference, because of the process, would send the wrong message to the young men and women who represent this country in uniform. One of the things that impressed me when I was on the trips, both to Bosnia and into the Kosovo area, was if you go into the tents where these young people are living when they are deployed, do you know what you find? You find computers. They are on the Internet.

Right now, some of them out there will be picking up just the words I am saying. We are not back in the period, like when I served in World War II in China, when we did not hear from home but maybe once or twice a month at the most. We had to really just search to find news of what was going on at home and we were starved for news from home. These people are force fed news from home and many times what they see are rumors that come across the Internet. We don't need any more rumors going out to the men and women serving in the Armed Forces overseas. In this bill is the pay raise. We are committed that the money is there for the pay raise. We have initiated the concept of reforming the retirement system, which was one of the gripes we heard last year both in Bosnia and Kuwait and Saudi Arabia.

This is a bill the men and women of the armed services are watching. They are going to watch how you vote on this bill. And they should. It is not time for petty differences over process or committee jurisdiction. This is a time to act and give the people in the Armed Forces the money they need so they know they will have the systems and they will have the protections they need when they go in harm's way at the request of the Commander in Chief.

I urge we not only vote to pass this bill, but Senators listen carefully to this point of order the Senator from Texas will raise, as it is raised against specific provisions of this bill.

Mr. President, there is no question in my mind, as we look at this bill, it is a different bill. When I woke up this morning, I looked in Roll Call and I was interested to see the statistics on supplemental appropriations, 1976 through 1996. We had no supplementals in 1995. We had one supplemental in 1996. I will get that number for 1997. People who are saying we are having too many supplementals—they are just wrong. We have not had too many supplementals. We go through a process of predicting how much money we will need. The departments of the Government start the process of sending their requests to the President through their agencies. They come up in the department, they go to the Office of Management and Budget, the President finally gets them sometime in September of the year before. In January or February, the beginning of the year, the President submits his budget which will be made available the following September, following October, going through the September of the next year.

In other words, what I am saying is this is the process. The money we are spending now on a routine basis started through the agencies in the fall of 1997, came into the departments in the spring of 1998, went through the President's process and got to OMB and were presented to us, in terms of a process, to have a bill for the year 2000 presented to us and considered in 1999.

This appropriations process is a long process. I hope I have not shortened it. But it is a very long process. In the process of trying to estimate the needs, things are overlooked, concepts are developed and, particularly in the defense field, new involvements of our military erupt. Kosovo is a good example. We had no knowledge we would have that kind of operation, an immense operation now, probably the largest engagement we have had, in terms of this type of crisis, since the Persian Gulf war. Actually, I think before we are over, it may be more expensive than the Persian Gulf war was to the United States.

I recognize the comments that are coming, particularly from my side of the aisle, about greater consistency in our appropriations process. I want people to look at the record. We have not had an excess of supplementals. We had an omnibus bill last fall, and most of the comments made on this floor are about the two omnibus bills that ended up the fiscal year—the one my predecessor, Senator Hatfield, was involved with and the one last year with which I was involved.

In both instances, if the Senators look carefully, they will find the appropriations process reached a stalemate, and the stalemate had to be resolved on the leadership level with the President. That was not the two committees that added that money. It was a negotiation with the President, in both instances, by the leadership of the House and Senate, and I commend them for it. We had to get out of that impasse or we would have had another impasse like we had previously when there was an attempt to shut down the Government.

When this Government is at war, it is not going to be shut down on my watch. I want everyone to know that. We are not going to shut down the Government when there is a war going on. We are not even going to suggest it. Anybody who does suggest it better understand he or she will not be here for long. The American people will not stand for that. Their sons and daughters are out fighting, and we ought to fight to get them the support they need.

I am going to fight—I am going to fight as hard as I can —to get bills such as this through and keep funding the Department of Defense at the level it should be funded to assure their safety—not just normal safety—but every single system we can adopt that will save the lives of the men and women in the armed services ought to be approved. This is what this does. It gives them the money they need to carry through the remainder of this year.

This year is going to be a very tough year. Any one of those other crises which are going on in Iraq, in Bosnia, in South Korea, or other places could erupt. I was told yesterday that we have people in the uniform of the United States in 93 different places throughout the globe now—93 different places—and any one of those places could erupt again while this Kosovo conflict is ongoing.

I do not want to hear anyone tell me that we have provided too much money. We have not provided too much money. If the money is not needed, I can guarantee you that this Secretary of Defense and this Chairman of the Joint Chiefs is not going to spend it. We have given them under this bill an enormous amount of discretion to spend the money. We have not earmarked this money. We have suggested things in the report that we hope they will consider, but this is the money to meet the needs of protecting our men and women in the armed services abroad, and it has to be viewed on that basis.

I urge every Member of the Senate to vote for it and to forget petty differences.

I am delighted to yield now to my good friend from West Virginia, a partner in this process of trying to get this supplemental and emergency bill to the President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska, the senior Senator, Mr. TED STEVENS, the manager of the bill and the chairman of the Appropriations Committee. He is my longtime friend. I have served many, many years in the Senate and on the Appropriations Committee and on various subcommittees of the Appropriations Committee with Senator STEVENS.

He was fair and he was dedicated to the positions of the Senate throughout the discussions on the supplemental appropriations bill when it was in conference with the other body. He stood up for the Senate's positions, and he was remarkably effective. I am proud to associate myself with him. First of all, he is a gentleman. His word is his bond. His handshake is his bond. I like that.

He is not so partisan that partisanship overrides everything else. We are all partisan here to an extent, but to some of us party is not everything, party is not even the top thing. Party is important, but there are other things even more important.

Mr. President, I intend to support this emergency supplemental conference report accompanying H.R. 1141. It is the result of a long and difficult conference with the House of Representatives. There are a number of matters in this agreement that I do not support, and there is one provision which is not included in the agreement but which I believe was as deserving as any emergency contained in the conference agreement.

That provision is the Emergency Steel Loan Guarantee Program. Senators will recall that the Senate substitute to H.R. 1141 included the amendment that I offered to establish a 2-year $1 billion loan guarantee program to assist the more than 10,000 U.S. steelworkers who have already lost their jobs as a result of a huge influx of cheap and illegally dumped steel during 1998, last year.

This matter had strong support by the Senate conferees during the House-Senate conference. After a thorough discussion of the Emergency Steel Loan Guarantee Program, the House conferees voted to accept this Senate provision. Not all of the House conferees. All the House Democratic conferees and three of the Republican conferees voted to accept this provision. However, that vote was subsequently overturned the next day, and the Emergency Steel Loan Guarantee Program remained a matter of contention until the very end of the conference.

In order to expedite the completion of this very important emergency bill, not everything which I support in the Senate, but I am going to support the bill, and because of the need to get it to the President as quickly as possible, I agreed to drop the Emergency Steel Loan Guarantee Program in return for a commitment from the House and Senate congressional leadership that this loan guarantee provision would be brought up as a freestanding emergency appropriations bill in the very near future.

Pursuant to that agreement, I hope and expect that such an appropriations bill will be brought up in the Senate prior to the upcoming Memorial Day recess. I hope, because it is vitally important, that we act expeditiously, this being a real emergency.

The plight of many of the steel companies in this country is serious. The Speaker of the House has agreed to permit a motion to go to conference within 1 week of receiving the Senate-passed bill and has agreed to allow normal appropriations conferees to be appointed and to permit the resulting conference report to be brought up before the Houses.

Subsequent to Senate adoption of the substitute on H.R. 1141, the House Appropriations Committee marked up a second emergency supplemental appropriations bill to provide emergency funding principally to support the military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo and for military operations in Southwest Asia for fiscal year 1999.

In light of the House action in relation to the Kosovo supplemental, and in hopes of being able to move both the Central American emergency spending bill, H.R. 1141, as well as the emergency funding for Kosovo, it was determined by the joint leadership that the Kosovo funding should be taken up directly by the House-Senate conferees on H.R. 1141. As a consequence, the Senate Appropriations Committee never marked up the funding measure for Kosovo, nor did the Senate have an opportunity to debate that measure at all—no opportunity to amend it, no opportunity to debate it, no opportunity to vote it up or down. In other words, the first time the Kosovo funding has been before the Senate is today in the form of this conference agreement on H.R. 1141.

I generally do not support the handling of appropriations matters in a manner that does not allow the Senate to work its will on each of the issues in appropriations bills, but in this instance, I agreed to allow this procedure to be followed because of the importance of the matters contained in this particular conference report.

This conference agreement contains appropriations totaling some $15 billion, of which $10.9 billion is for the support of our men and women in uniform in Kosovo and Southwest Asia and $1.1 billion is for Kosovo-related humanitarian assistance. These amounts represent an increase of $6 billion—$6 billion—above the President's request for Kosovo-related appropriations. The $6 billion in emergency funding above the President's request contains a congressional emergency designation, but will only be available for obligation if the President agrees with that emergency designation, only if the President also requests these funds and declares them emergency spending.

In addition to the $12 billion for our Kosovo-related expenditures, both in military and humanitarian assistance, the pending measure also includes $574 million in emergency agriculture assistance programs, some $420 million higher than the administration's request. For the victims of Hurricane Mitch in Central America and the Caribbean, the conference agreement includes $983 million, of which $216 million is to replenish Department of Justice operation and maintenance accounts which were used to provide immediate relief to the hurricane victims. Finally, the agreement contains $900 million in emergency funding for FEMA in order to address the needs of the American people who suffered from the recent tornadoes in Kansas, Oklahoma, Texas, and Tennessee.

Mr. President, as I have stated, this was a very difficult conference that consumed many days and late nights to reach agreement. This was the first time that the present chairman of the House Appropriations Committee, Mr. BILL YOUNG of Florida, had an opportunity to serve as chairman of the conference. I must say that he performed his responsibilities very capably. During the many contentious debates that took place, he was always fair and evenhanded and respectful of all members of the conference, just like our own chairman, Senator STEVENS. Yet, at the same time, he displayed the necessary firmness in order to keep the conference moving toward completion. So, I compliment Chairman BILL YOUNG for his excellent work on this difficult conference.

Let me again compliment Senator STEVENS, but also I compliment the ranking member of the House Appropriations Committee, Mr. DAVID OBEY, whom one will never find asleep at the switch. He is always there. He is always alert, combative enough, to be sure, and loyal to his own body, the House of Representatives, and the Democrats whom he represented in the conference. His work is always effective and very capable.

In closing, let me again say that Chairman STEVENS stoutly defended the Senate position on all of the matters throughout the conference and also made certain that all Senate conferees were able to express their view on each of the issues.

I hope that the Senate will support the conference report. As I say, there are some things in it I do not like, some things that were left out of it that I very much wanted and believe in and believe constitute as much of an emergency as some of the other items that are designated as such in the conference report. But I want to support this. I urge all Senators to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, thank you.

Mr. President, I ask unanimous consent that a statement of mine concerning the objectionable provisions contained in the bill be made part of the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. MCCAIN. Mr. President, as a former Member of Congress once said, ''Every disaster is an opportunity.'' This bill proves that statement remains true today.

Scattered throughout this bill, which was supposed to be for emergencies only, is more than $1.2 billion in non-emergency, garden-variety, pork-barrel spending. When the Senate passed this bill just two months ago, I could find only $85 million in low-priority, unnecessary, or wasteful spending. By the time the conferees were done with it, the waste had grown by a factor of 14–14 times more pork-barrel spending was deemed worthy of inclusion in this conference bill.

Mr. President, I have compiled a list of the numerous add-ons earmarks, and special exemptions in this bill. Now, I know that some of these programs may well prove meritorious, but there is no

way for us to determine their merit because the process for doing so has been circumvented in this bill.

For example, the bill contains $1.5 million to purchase water to maintain sufficient water levels for fish and wildlife purposes at San Carlos Lake in Arizona, and an earmark of $750,000 for the Southwest Border anti-drug efforts. I know that these are important programs, but are they the most important programs in my state? The process by which these two earmarks were added in conference on this bill makes it impossible to assess the relative merit of these programs against all other priority needs in Arizona and across the nation.

The normal merit-based review process, which requires authorization and appropriation, was not followed, and these programs were simply added to this so-called ''emergency'' bill. The usual ''checks and balances'' were just thrown out the window.

Once again, I have to object to including programs in appropriations bills that have not been authorized. The Commerce Committee has jurisdiction over the Corporation for Public Broadcasting. Yet, without even seeking, much less obtaining authorization from the Commerce Committee, the appropriations put $38 million in this bill for the CPB to buy a new satellite. I have raised this issue before. There is a good reason for the two-tiered process that requires an authorization before appropriating any money for a program—to eliminate unnecessary or low-priority spending of taxpayer dollars. That process clearly was circumvented in this bill.

This bill contains the usual earmarks for specific amounts of money of special-interest projects, such as:

An emergency earmark of $26 million to compensate Dungeness crab fisherman, fish processors, fishing crew members, communities and others negatively affected by restrictions on fishing in Glacier Bay National Park in Alaska.

Emergency earmarks of $3.7 million for a House page dorm and $1.8 million for renovations in the O'Neill House Office Building, which were added in conference.

$3 million earmarked for water infrastructure needs at Grand Isle, Louisiana, again added in conference.

An emergency infusion of $70 million into the livestock assistance program, which is redefined to include reindeer.

Mr. President, I am sure that Santa Clause is happy today although even he would blush not only at the process but the amount of money that is included in this legislation.

Then there are the many objectionable provisions that have no direct monetary effect on the bill, but you can be sure there is a financial benefit to someone back home. For example:

Apparently, last year when we added millions of dollars to help maple producers replace taps damaged in ice storms in the Northeast, we added a bit too much money. This bill directs that leftover money be used for restoration of stream banks and maybe repairing fire damage in Nebraska.

The media has reported extensively on a provision (which was added in conference) allowing the Crown Jewel mine project in Washington State to deposit mining waste on more than the five acres surrounding the mine than is currently permitted. What hasn't been reported is that this language also reverses for several months any earlier permit denials for any other mining operations that were denied based on the five-acre millsite limit.

The bill contains language making permanent the prohibition on new fishing vessels participating in herring and mackerel fishing in the Atlantic—a protectionist policy that was slipped in last year's bill and is now, apparently, going to become permanent.

The bill contains another provision that provides a special, lifetime exemption from vessel length limitations for a fishing vessel that is currently operating in the Gulf of Mexico or along the south Atlantic Coast fishing for menhaden—an issue that should be dealt with by the authorizing committee, the Commerce Committee.

The report directs that three facilities be built to house non-returnable criminal aliens in the custody of the INS—facilities which are much-needed—but then the conferees decided to go one step further and direct that one facility had to be built in the mid-Atlantic region.

Last year's 1999 Transportation appropriations bill earmarked funding for a feasibility study for commuter rail service in the Cleveland-Akron-Canton area, and the conference report expands on the use of those funds to allow purchase of rights-of-way for a rail project before the feasibility of the project has even been determined.

There are many more low-priority, wasteful, and unnecessary projects on the 5-page list I have compiled, and is included in the RECORD.

Most of these add-ons are listed as ''emergencies'' in this bill. Do these programs really sound like emergencies to you?

A small number are offset by cuts in other spending, but that doesn't make it right to include them in a non-amendable bill that circumvents the appropriate merit-based selection process of selecting the highest priority projects.

Some of these programs, like the page dorm, were not even in the bills that passed the Senate and House. They were simply thrown into this bill in conference, at the last minute, in a bill that cannot be amended or modified in any way.

For the Coast Guard, this bill presented the opportunity to pick up another $200 million for operating expenses and readiness. This, too, was a last-minute add in conference of ''emergency'' funding—again, an issue for the Commerce Committee to consider.

I also want to note with interest the apparent prescience of the appropriators in including an additional $528 million in unrequested emergency funding, for ''any disaster events which occur in the remaining months of the fiscal year.'' Apparently, the appropriators have some inkling that bad things are going to happen in the next five months.

Mr. President, I hope my colleagues understand that designating spending as an ''emergency'' doesn't make it free. It still has to be paid for. The fact is that most of the pork-barrel spending in this bill comes straight out of the Social Security Trust Fund. At a time when the American people are worried about the fiscal health of Social Security, worried about whether Social Security will be there when they retire, it defies logic that we are taking money out of the Trust Fund for these projects. The Trust Fund is estimated to be bankrupt by the year 2032, and taking another billion dollars out of it clearly accelerates that fiscal crisis. That is exactly the opposite of what we should be doing, which is taking the Trust Fund off-budget and putting more money into it to ensure benefits will be paid, as promised, to all Americans who have worked and paid into the Social Security system.

Mr. President, disasters should not be opportunities. It seems the Congress may still be suffering from ''surplus fever,'' a giddy lack of fiscal discipline because of projected budget surpluses into the foreseeable future. Last year, we spent $20 billion of the Social Security surplus for wasteful spending in the omnibus appropriations bill. I voted against the omnibus bill last year, and I will vote against this bill.

This bill is a betrayal of our responsibility to spend the taxpayers' dollars responsibly and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few. I cannot support a bill that makes a mockery of the Congress' power of the purse and contributes to Americans' growing lack of faith in their Government.

Finally, I was very pleased to see the other Senators come to the floor. We cannot continue this practice of adding appropriations in conference. We cannot continue to circumvent the authorization process. I identified some 30 instances in last year's bill. It will stop, sooner or later. We promised the American people when we regained the majority we would not do this kind of thing, this kind of money, in this kind of unauthorized authorizations that circumvent the committee process.

I find it offensive as a committee chairman. Most of all, I find it offensive as an American citizen who also pays his taxes.

I assure Members and my friends on the Appropriations Committee, we intend to take additional measures in the appropriations process. If appropriations bills come to this floor without proper authorization of expenditures of

money or authorizations that are not agreed to by the committee chairmen who are authorizers, there are going to be a lot of problems around here.

Last fall, when we added $21 billion in unnecessary spending, some 30-odd reauthorizations, I said at that time in a letter to the distinguished chairman and my friend on the Appropriations Committee that I will not stand for it any further. I believe there are a whole lot of Senators on both sides of the aisle who are tired of this process.

I say that with all due respect for the dedication, the difficulties and the obstacles that the chairman of the Appropriations Committee and other appropriators have as they go through a very difficult process, but it must stop.

I yield back the remainder of my time.

EXHIBIT 1

OBJECTIONABLE PROVISIONS CONTAINED IN H.R. 1141, THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR RECOVERY FROM NATURAL DISASTERS AND FOREIGN ASSISTANCE FOR FISCAL YEAR ENDING SEPTEMBER 30, 1999

Bill language

Bill language directing that funds made last year for maple producers be made available for stream bank restorations. Report language later states that the conferees are aware of a recent fire in Nebraska which these funds may be used. (Emergency)

Language directing the Secretary of the Interior to provide $26,000,000 to compensate Dungeness crab fishermen, and U.S. fish processors, fishing crew members, communities, and others negatively affected by restrictions on fishing in Glacier Bay National Park, in Alaska. (Emergency)

A $900,000,000 earmark for ''Disaster Relief'' for tornado-related damage in Oklahoma, Kansas, Texas, and Tennessee. This earmark is a $528,000,000 increase over the Administration's request and is earmarked for ''any disaster events which occur in the remaining months of the fiscal year.'' (Emergency)

Report language providing FEMA with essentially unbridled flexibility to spend $230,000,000 in New York, Vermont, New Hampshire, and Maine, to address damage resulting from the 1998 Northeast ice storm. Of this amount, there is report language acknowledging the damage, and the $66,000,000 for buy-outs, resuting from damage, caused by Hurricane George to Mississippi, and report language strongly urging FEMA to provide sufficient funds for an estimated $20,000,000 for buy-out assistance and appropriate compensation for home owners and businesses in Butler, Cowley, and Sedgwick counties in Kansas resulting from the 1998 Halloween flood. (Unrequested)

$1,500,000 to purchase water from the Central Arizona project to maintain an appropriate pool of stored water for fish and wildlife purposes at the San Carlos Lake in Arizona. (Added in Conference)

An earmark of an unspecified amount for Forest Service construction of a new forestry research facility at Auburn University, Auburn, Alabama. (Unrequested)

Language directing that the $1,000,000 provided in FY 99 for construction of the Pike's Peak Summit House in Alaska be paid in a lump sum immediately. (Unrequested)

Language directing that the $2,000,000 provided in FY 99 for the Borough of Ketchikan to participate in a study of the feasibility and dynamics of manufacturing veneer products in Southeast Alaska be immediately paid in a lump sum. (Unrequested)

Language directing the Department of Interior and the Department of Agriculture to remove restrictions on the number or acreage of millsites with respect to the Crown Jewel Project, Okanogan County, Washington for any fiscal year. (Added in Conference)

Language which prohibits the Departments of Interior and Agriculture from denying mining patent applications or plans on the basis of using too much federal land to dispose of millings, or mine waste, based on restrictions outlined in the opinion of the Solicitor of the Department of Interior dated November 7, 1997. The limitation on the Solicitor's opinion is extended until September 30, 1999. (Added in Conference)

Specific bill language providing $239,000 to the White River School District #47–1, White River, South Dakota, to be used to repair damage caused by water infiltration at the White River High School. (Unrequested)

A $3,760,000 earmark for a House Page Dormitory. (Added in Conference)

A $1,800,000 earmark for life safety renovations to the O'Neill House Office Building. (Added in Conference)

An earmark of $25,000,000 to provide for the construction and renovation of family housing units at Fort Buchanan, Puerto Rico. (Unrequested)

Bill language, added by the conferees, directing that $2,300,000 be made available only for costs associated with rental of facilities in Calverton, NY, for the TWA 800 wreckage. (Added in Conference)

$750,000 to expand the Southwest Border High Intensity Drug Trafficking Area for the state of New Mexico to include Rio Arriba County, Santa Fe County, and San Juan County. (Unrequested)

Bill language directing $750,000 to be used for the Southwest Border High Intensity Drug Trafficking Area for the state of Arizona to fund the U.S. Border Patrol antidrug assistance to border communities in Cochise County, AZ. (Added in Conference)

A $500,000 earmark for the Baltimore-Washington High Intensity Drug Trafficing Area to support the Cross-Border Initiative. (Added in Conference)

Earmarks $250,000 in previously appropriated funds for the Los Angeles Civic Center Public Partnership. (Unrequested)

Earmarks $100,000 in previously appropriated funds for the Southeast Rio Vista Family YMCA, for the development of a child care center in the city of Huntington Park, California. (Unrequested)

Earmarks $1,000,000 in previously appropriated funds for the Maryland Department of Housing and Community Development for work associated with the building of Caritas House and for expansion of the St. Ann Adult Medical Day Care Center. (Added in Conference)

Bill language permitting the Township of North Union, Fayette County, Pennsylvania to retain any land disposition proceeds or urban renewal grant funds remaining from Industrial Park Number 1 Renewal Project. (Added in Conference)

$2,200,000 earmark from previously appropriated funds to meet sewer infrastructure needs associated with the 2002 Winter Olympic Games in Wasatch County, UT, for both water and sewer. (Unrequested)

$3,045,000 earmarked for water infrastructure needs for Grand Isle, Louisiana. (Added in Conference)

The conference report language includes a provision which makes permanent the moratorium on the new entry of factory trawlers into the Atlantic herring and mackerel fishery until certain actions are taken by the appropriate fishery management councils. (Added in Conference)

Additional bill language indicating that the above-mentioned limitation on registered length shall not apply to a vessel used solely in any menhaden fishery which is located in the Gulf of Mexico or along the Atlantic coast south of the area under the authority of the New England Fishery Management Council for so long as such vessel is used in such fishery. (Added in Conference)

Bill language directing Administrator of General Services to utilize resources in the Federal Building Fund to purchase, at fair market value, not to exceed $700,000, the United States Post Office and Federal Courthouse Building located on Mill Street in Fergus Falls, Minnesota. (Added in Conference)

Report language

A $28,000,000 earmark in FY 99, and a $35,000,000 earmark in fiscal year 2000 to the Commodity Credit Corporation to carry out the Conservation Reserve Program and the Wetlands Reserve Program. (Emergency)

The conference agreement provides $70,000,000 for the livestock assistance program as proposed by the Senate, and adds language providing that the definition of livestock shall include reindeer. (Emergency)

$12,612,000 for funds for emergency repairs associated with disasters in the Pacific Northwest and for the full cost of emergency replacement of generating equipment at Midway Atoll National Wildlife Refuge. (Emergency)

Report language acknowledging the damage caused by Hurricane George to Kansas. (Unrequested)

Report language urging FEMA to respond promptly to the appropriate disaster needs of the City of Kelso, Washington. (Unrequested)

Language where the Conferees support the use of the emergency supplemental funds to assist organizations such as the National Technology Alliance for on-site computer network development, hardware and software integration, and to assess the urgent on-site computer needs of organizations assisting refugees. (Unrequested)

$200,000,000 earmarked for the Coast Guard's ''Operating Expenses'' to address ongoing readiness requirements. (Emergency)

Report language detailing partial site and planning for three facilities, one which shall be located in the mid-Atlantic region, to house non-returnable criminal aliens being transferred from the Immigration and Naturalization Service (INS). (Unrequested)

A $1,300,000 earmark, for the cost of the World Trade Organization Ministerial Meeting to be held in Seattle, WA. (Added in Conference)

$1,000,000 earmarked for the management of lands and resources for the processing of permits in the Powder River Basin for coalbed methane activities. (Unrequested)

$1,136,000 earmarked for spruce bark beetle control in Washington State. (Unrequested)

A $1,500,000 earmark to fund the University of the District of Columbia. (Added in Conference)

$6,400,000 earmarked for the Army National Guard, in Jackson, Tennessee, for storm related damage to facilities and family housing improvements. (Unrequested)

A $1,300,000 earmark of funds appropriated under P.L. 105–276 under the EPA's Programs and Management for Project SEARCH water and wastewater infrastructure needs in the State of Idaho. (Unrequested)

Report language clarifying that funds appropriated under P.L. 105–276 under the EPA's Programs and Management for Project SEARCH water and wastewater infrastructure needs for Grand Isle, Louisiana, may also be used for drinking water supply needs. (Added in Conference)

Report language which authorizes the use of funds received pursuant to housing claims for construction of an access road and for

real property maintenance projects at Ellsworth Air Force Base. (Unrequested)

The conference agreement includes language proposed by the Senate directing a statutory reprogramming of $800,000 for preliminary work associated with a transfer of Federal lands to certain tribes and the State of South Dakota and for cultural resource protection activities. (Unrequested)

The conference agreement includes a provision proposed by the Senate that clarifies the scope of certain bus and bus facilities projects contained in the Federal Transit Administration's capital investment grants program in fiscal year 1999. The conferees direct that funds provided for the Canton-Akron-Cleveland commuter rail project in the Department of Transportation and Related Agencies Appropriations Act for fiscal year 1999 shall be available for the purchase of rights-of-way in addition to conducting a major investment study to examine the feasibility of establishing commuter rail service. (Unrequested)

Mr. STEVENS. Mr. President, I am surprised by some of the items listed in the Senator's statement. This bill is both a supplemental and an emergency appropriations bill.

A supplemental appropriations bill that was submitted by the President in March contained a request for $48 million to replace the National Public Radio satellite system. It is in this bill not as an emergency but as a supplemental appropriation. When we passed this bill in March, the Senate version of this bill contained $18 million for the satellite system. That was less than the President's request. The President made that request because the Public Radio system satellite failed and radio programs are currently being sent through an emergency backup satellite that will not be available until around the middle of September, early fall. The supplemental funding was requested by the President and approved by the Senate at the level of $18 million. The House insisted on the full $48 million. It is an item that is not designated as an emergency.

There are a series of other misunderstandings, I think, with regard to this bill, and I will be happy to discuss them with the Senator from Arizona later. I don't disagree with him about legislation on appropriations bills. The point of order under the rules that were previously in place against legislation on the appropriations bills was destroyed through a maneuver here on the floor of the Senate before my becoming chairman. We have had a tough time trying to get that put back into our system. I will be happy to help restore the point of order against legislation.

I don't look with favor on the omnibus process that occurred last fall and occurred once before I became chairman. But clearly, my job is to carry forward the bills as they come out of the Senate and out of the House and out of the conference by a majority vote. Under the current circumstances, there is not a point of order in the Senate on legislation against appropriations.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I rise to make a brief statement.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, if I might just confer.

How much time does the Senator from California wish?

Mrs. FEINSTEIN. About 5 minutes.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished and very able senior Senator from the State of California, which is larger than all the nations of the globe except, how many?

Mrs. FEINSTEIN. Thank you very much.

Mr. BYRD. Are there six nations that are larger than California?

Mrs. FEINSTEIN. That is correct.

Mr. BYRD. Six nations that are larger than California. So the two California Senators really are here representing a State that is larger than all of the nations of the world except six. I thank the distinguished Senator and I yield the floor.

Mrs. FEINSTEIN. I thank the distinguished ranking member. I appreciate his comments about my State. I also compliment both the ranking member and the chairman of the committee for their drive, for their motivation, and for their staying power to get this conference report done.

Mr. President, the room was crowded. The hours were long. The views were sometimes cantankerous. But both the chairman and the ranking member, I think, were steadfast in the desire to produce a conference report which could, in fact, be approved by both bodies.

I also pay tribute to the chairman from the House, Mr. YOUNG. I had never seen him preside before. What I observed, which I think is well worth noting, was his fairness, his equanimity, and really his ability to move the process along which, without rankling, can be a very diverse membership. I say the same for Mr. OBEY, who really was steadfast in pursuing his own views.

I support this report. It contains the $12 billion for Kosovo. I am especially pleased to note that the supplemental contains funding for the documentation of war crimes, including rapes that appear to have been committed as part of Serbia's brutal campaign of ethnic cleansing. As the ranking member and the chairman have pointed out, it contains the much-needed disaster assistance and the $574 million in agricultural funding to provide a measure of assistance to very hard-pressed farmers throughout this great country.

I do want to speak about one small item. As we debate the conference report on the emergency supplemental appropriations bill, I want to express my concerns about the inclusion of a ''hold harmless'' provision for what are called concentration grants authorized by Title I of the Elementary and Secondary Education Act.

In chapter 5, on page 91 of the conference report (Report 106–143), the conferees included $56.4 million for Title I concentration grants ''to direct the Department of Education to hold harmless all school districts that received Title I concentration grants in fiscal year 1998.* * *'' The report goes on to say, ''Neither the House nor the Senate bills contained these provisions.''

This provision is very disturbing for several reasons.

First, it was not included in either the House or Senate bills. Therefore, it has not been considered by the authorizing committees of either house. It has not been considered by the appropriations committees of either house. There have been no hearings. It has not gone through the normal deliberative process under which we hear from experts, weigh the pros and cons and cast votes. Quite frankly, this provision appeared ''in the dark of night.''

Second, the hold harmless provision contravenes an important provision of the law, known as the census update, a requirement in law that the U.S. Department of Education must allocate Title I funds based on the newest child poverty figures, figures that are updated every two years. Congress adopted the census update requirement in 1994 so that Title I funds—which the law says are to help disadvantaged children—truly follow the child, that dollars be determined generally by the number of children who are eligible. The holdharmless provision in this bill before us, guaranteeing that school districts that got funds in 1998 will get funds in 1999, even if their number of poor children has declined, violates the requirement that funds be allocated based on the most recent child poverty data available. The provision in this bill effectively rewards ''incumbents,'' despite their number of poor children, despite merit or need.

Third, this provision disregards Title I's eligibility requirements. Title I concentration grants are supposed to be especially targeted to concentrations of poor children, under the law. Districts that have poor children exceeding 6,500 or 15% of their total school-aged children are eligible for these grants, which are in addition to the ''regular,'' basic Title I grants. Guaranteeing funds to districts, no matter what the number or percent of poor children in those districts, spreads limited funds to districts that are not eligible because they do not have concentrations of poverty. It effectively takes away funds from districts that do have high concentrations of poor children. It overrides the eligibility requirements we have set and agreed on in law.

In my state, some school districts could benefit from this ''hold harmless'' provision because the number of poor children changed; it went below the eligibility threshold of the Title I concentration grants program. Like most Senators, I do not want any school district in my state to lose education funds.

But we either have rules or we don't. We have eligibility criteria or we don't.

If the current eligibility rules are wrong or are not working, we should change them in the authorizing process, a review which the Health and Education Committee is currently undertaking. We should not set up eligibility rules and then flagrantly ignore them, override them or ''freeze'' in place funds to districts that do not meet the requirements. We should not rewrite the rules in the ''dark of night'' outside the normal legislative process.

Fourth, this provision violates the principle that funds should follow the child. Title I was created for poor, disadvantaged children. That is its fundamental purpose and funding to states is determined largely by the number of poor children, children that all agree have great educational needs. This amendment sends funds to districts merely because they got funds in the previous year, not because the districts have needy children and not in proportion to the number of poor children they have.

Finally, this provision is very unfair to states like mine that have a very high growth rate in the number of poor children. In California, the number of poor children grew by 52 percent from 1990 to 1995. In Arizona, poor children grew 38 percent from 1990 to 1995. In Georgia, 35 percent. In Nevada, 56 percent. That is why Congress included a requirement for a child poverty update. This amendment is very unfair to those children. This amendment takes the funds away from the poor children for which the funds were intended.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. FEINSTEIN. If I may have 30 seconds to wrap up.

Mr. BYRD. I yield an additional minute.

Mrs. FEINSTEIN. I thank the distinguished ranking member.

Even though it ''freezes in'' funding to districts—including some in my state—that got funds last year, even though they do not qualify, it makes a mockery of the basic purpose of the Title I program, its eligibility rules and the requirement to use recent poverty data. If Congress continues to override these basic rules of the authorizing law, we are effectively operating with no rules, or at least, constantly changing rules. Districts will not know whether they are eligible or what they can or cannot count on. This is just plain wrong. In my state, even though 39 districts would have their funding ''frozen in'' by this provision, next year, California will have 166 new school districts that will become eligible. If these ''hold harmlesses'' keep appearing in the dark of night, these eligible districts, with concentrations of poor children, could be deprived of funds to which they are entitled.

Because this is a conference report, under our procedures, I am not allowed to offer an amendment to delete this provision.

But let me put my colleagues on notice that I find this provision and this procedure very objectionable.

I hope my colleagues will join me in ending this practice so that our children can get the education Congress intended in creating the Title I program in the first place.

I thank the Chair, and I thank the ranking member.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I am authorized to yield myself 5 minutes off of the time of Senator STEVENS.

Eleven billion dollars in this bill are earmarked to pay for the costs of the war in the Balkans and its consequences, direct and indirect. That war was begun in folly and has been conducted since with an almost incredible degree of incompetence. I have opposed the war from the beginning and will not support it now.

The conflict was begun because of Serbia's refusal to sign an agreement granting autonomy to the people of Kosovo and protecting its citizens. Other demands, including the free right of NATO troops to travel through any part of Yugoslavia, were impossible for any sovereign nation to agree to.

Our goals were worthy. But they were not of sufficient importance to vital American interests to warrant the use of our armed forces in combat. This proposition is perhaps best illustrated by the President's refusal to use all of the means necessary to attain his goals, choosing to cause death and destruction to the Serbs, and suffering, dislocation, and death to the very people we purport to protect, than to risk American lives in order to succeed. This is no way to wage a war.

But vital American interests have been seriously and adversely affected by the war itself. We have destabilized Macedonia and Montenegro, and perhaps other nations in the Balkans as well. We have damaged relations with Russia and may have pushed it along the road to reaction. We have put ourselves on the defensive with respect to China when we should have the high ground in many of our differences. We have fueled anti-American sentiment around the world.

If we win, we get to occupy Kosovo for a generation and to spend billions rebuilding it; if we lose, we are humiliated and NATO is weakened.

In addition, this war appropriation comes to the Senate in a form in which it cannot be amended. I, for one, am denied the opportunity to attempt to earmark a modest portion of this money to arm the Kosovo Albanian rebels. It is inconceivable that we should trigger this ethnic cleansing, refuse to intervene on the ground to defend the Kosovo Albanians, fail even to attack their persecutors effectively, and top it off by refusing to aid those who wish to fight for their own liberties.

Finally, of course, this entire emergency appropriation comes straight out of our Social Security surplus. I am not sure that the American people are at all aware of this fact. I cannot believe that they would support it. At my behest, the conference committee added managers' language calling for the restoration of this borrowing to the Social Security Trust Fund out of future general fund surpluses. But the language is not mandatory, and may well be ignored. We should not use Social Security to pay for a war in the Balkans.

For these reasons, and in spite of its many good and important provisions on other issues, I oppose this supplemental appropriations bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I rise to speak in favor of the emergency appropriations bill because it is an emergency, it is necessary. I have been reading all of the press reports about the bill and criticisms of the bill because it is too large or perhaps too much money has been spent on one area or another. But the fact is, we have emergencies in our country that are not covered by the budget. We have had more emergencies in our agriculture area than we ever could have foreseen. You can't pick up the paper that you don't read about a terrible tragic tornado, and we are coming into hurricane season. So we are putting more money into FEMA. We have had floods in my home State. We must deal with these as they occur, and clearly on an emergency basis.

A good part of this bill is for agriculture. We are also helping our neighbors in Central America who were ravaged with a terrible hurricane and tornadoes. We are trying to do the things we have promised we would do. But since we started this emergency appropriation, we have also had a new emergency, and that is the situation in Kosovo. We are seeing, every day, what is happening there.

Mr. President, it is no secret that I have spoken out strongly against the way we got into this Kosovo operation. I have spoken out against going into an operation when we didn't have a good contingency plan. I have spoken out against so much of our policy in the Balkans. I just came back from the Balkans, just over the weekend, and I met with our soldiers on the airfield in Albania, the ones who are going to be supporting our humanitarian effort and, hopefully, be part of our defenses there, whatever we may do. I went to Aviano, Italy, and met with the troops who are doing so many of these air operations that we are seeing day after day after day. And, of course, there is no question that our troops are doing a great job. They don't make the policy; they just do the mission they are

given. Nobody can question their sincerity, their great attitude, and their commitment to our country. You will never meet a young man or woman in the military who isn't there because they love our country.

So when I think about this supplemental appropriation—and I know I have spoken against the mission itself, the way it has come about—and I remember looking into the eyes of the young men and women who are on the front line, I think, now, can I vote not to give the money to them to have the equipment they need to do the training they need, to have the incentives that they need to be doing a very tough job in a very tough neighborhood? Well, the answer is no, I can't vote against paying for their security, because they are the security for me and my family and for every one of us who is lucky enough to live in the greatest country on Earth.

So they have volunteered to give their lives so that we may live in freedom. Do you think for one minute I would vote not to give them the equipment they need to do that job? It would be unthinkable. So while we debate how we pay for it or who is responsible, in the end, I am going to vote for this bill, because I am going to support the troops who are in the field.

I am going to continue to argue with the administration that we need to learn the lessons about how this operation has been handled, and I think we will. I think there is a glimmer of hope that perhaps Mr. Milosevic has seen that we are going to win and prolonging it will only hurt his own people. So there is a glimmer of hope, and a glimmer of hope is better than total darkness. I think we need to seize on that glimmer of hope and try to come to the first agreement that we must have from Mr. Milosevic—that he will stop the atrocities against the people of Kosovo.

I just visited with the people of Kosovo. I visited with them in Macedonia. I visited with them in Albania. Those people have been through more than any one of us will ever know or understand. What I want now is the atrocities to stop for the ones who are still there. The ones we met with are in refugee camps. They are not comfortable, but they are safe. I want to try to help the people who are still in Kosovo, and the atrocities on them to stop so that we can then allow the people who have fled their country in terror to be able to go back in and rebuild their homes, rebuild their economy, so that they will be able to have a livelihood, so that they will be able to raise their children in their homeland without fear of a despot who would commit the atrocities that there is no question in my mind have been committed in the last 6 months and, indeed, for many years in this part of the world.

So, Mr. President, while we are debating policy, while we are debating from where the money is going to come all of which is legitimate debate, while we are talking to each other about our principles, which is our right to do, but at the end of the day, it is most important that we have the emergency appropriations which would give our kids who are on the front line and their commanders everything they need so as to know that we are not going to pull the rug out from under them, that they will have the equipment, they will have the airplanes, they will have the helicopters for their own security while they are protecting yours and mine.

So let's talk policy. Let's talk about never going into an operation like this again without a contingency plan. Let's talk about the treasure we have spent in this country to try to solve this problem. And let's not stop with Kosovo, because the money and the troops that we have put in harm's way cannot be lost for us to put a Band-Aid on Kosovo. Let's finish this job now.

But when we have stopped the atrocities and when the Serb troops have started leaving Kosovo, and when an international peacekeeping force moves in, let's take the opportunity, let's seize the moment to do something bigger than putting a Band-Aid on Kosovo. Let's look at the Balkans and do what we can to try to help them form areas of government that have to change so that those people will be able to have jobs, start farming their land, to live in security. That is what I want for the Balkans.

But continuing to say we can amalgamate the Balkans as if they were America is not going to have a long-term chance for success, because we don't understand what they have just been through in the last 5 years. We don't understand what it would be like to force people to live next door to each other when their mothers have been raped, when their fathers have been brutally murdered, when their families have had to flee in terror.

Let's start today by supporting our troops. Let's start today by keeping open the glimmer of hope for peace. And then let's take one step at a time to try to help these people become a contributing part of Europe so that they can do what every one of us wants to do; that is, live in peace and freedom, to have jobs, to support our families, and to give our kids a better chance than we have. That is what the Kosovar Albanians want. It is what the Serbs want. They are the good people of Serbia—not President Milosevic. That is what the Moslems in Bosnia want. That is what the Croats want. It is what the Albanians want. And they should be able to have it. That should be our goal.

I am going to support this bill. I am not going to say there are not legitimate differences about certain parts of it. Sure there are. That is why 100 of us are elected independently to represent the views we have—the views of our States. But we are required to come together. I hope the Senate will do the right thing and come together to do what is right for the farmers who are hurting, for the people in Central America who are hurting, for the people in the Balkans who are hurting, to help promote peace in the Middle East, and to continue to appreciate that we live in the greatest nation on Earth. We need to make sure we keep the security and the freedom of our country on our watch.

It is our responsibility to pass this bill and talk about the policy and talk about our differences, and our Constitution that provided that we do this.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Who yields time?

Mr. BYRD. Mr. President, how much time does the Senator wish?

Mr. FEINGOLD. Mr. President, I ask for 15 minutes.

Mr. BYRD. Mr. President, I yield 15 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized to speak for 15 minutes.

Mr. FEINGOLD. Mr. President, I thank the Chair, and I thank the Senator from West Virginia.

Mr. President, I rise to offer some comments on the emergency spending bill we have before us. Many of us had hoped that the almost grotesque experience of last year's omnibus appropriations bill might have shamed Congress into refraining from the kind of fiscally irresponsible spending and catering to special interests that characterized that legislation. Apparently, it was a vain hope. We are back at the same disgraceful work barely seven months later.

Mr. President, few would argue the need for many of the core provisions of the legislation, especially the urgently needed humanitarian relief in Central America, our current military and humanitarian operations in the Balkans, and for victims of natural disasters here at home. Regrettably, those legitimate provisions are completely eclipsed by dozens of others that are at best highly questionable and at worst grossly irresponsible.

Mr. President, first and foremost among this latter group are the billions in additional funding for the military that was not requested by the administration.

Mr. President, to say there is a double standard when it comes to fiscal prudence in Congress is to say the ocean is damp. We saw it last year in the omnibus appropriations bill, we saw it again when this body took up and passed an unfunded military pay and retirement increase even before we had passed a budget resolution, we saw it still again during the budget resolution when military spending received a special exemption from the tough new emergency spending rules we adopted, and sadly, we see it now in this bill.

As has been noted by others, including my distinguished colleague from the other House, Wisconsin Representative DAVID OBEY, what we are probably witnessing is an effort to load as

much military spending into this bill under the pretext of an emergency in order to make room for special interest military spending provisions in the Defense appropriations bill later this summer.

Mr. President, put simply, this emergency supplemental measure uses Social Security Trust Fund revenues to help lard up an already corpulent defense budget.

Almost as troubling as this reckless use of Social Security revenues to pay for the military budget is that this technique isn't an exception. It has become the custom.

Mr. President, our budget caps have become a sham. We agree to those tough caps with great acclaim and fanfare, only to circumvent them casually on a regular basis with the emergency provisions of our budget rules.

Mr. President, as much as I oppose raising the budget caps, it would be far better if Congress and the White House were to raise those caps in an honest and open manner, than to continue the pretense that the caps have meaning only to circumvent them through the abuse—I say ''abuse''—of the emergency funding designation.

Mr. President, while the doubling of the military budget request is certainly the dominant flaw in this bill, there are other provisions that deserve notice as well. They represent what is most unseemly about the emergency appropriations process—special interest provisions that relate to no true emergency, but avoid the scrutiny of the normal legislative process and instead capitalize on human suffering or an international crisis, finding their way onto what we have come to call must-pass bills.

Mr. President, let me note that it may be that some of these extraneous provisions have merit. But they should be subject to the same fiscal scrutiny we ask of any proposal. They should be paid for. The standing committees should review and authorize these proposals, and the Appropriations Committee should propose a level of funding for each of them that makes sense in the context of the overall budget.

Mr. President, by circumventing this process, the advocates of these provisions reveal their distrust of Congress and possibly their own apprehension that their provisions may not be able to gain passage on their merits.

One such provision is the so-called Russian Leadership Program, a new program, Mr. President, newly authorized by this legislation which also provides it with $10 million in funding. I understand the program is intended to enable emerging political leaders of Russia to live here in the United States for a while to gain firsthand exposure to our country, our free market system, our democratic institutions, and other aspects of our government and day-to-day lives.

Mr. President, offhand, that doesn't sound like it is necessarily a bad idea. I might be able to support such a program, though I would certainly want to know something more about it before endorsing still another new democracy building effort. But, Mr. President, this proposal has not gone through the normal legislative process. It has not been held up to the scrutiny of a public review by the appropriate committees.

Mr. President, if one were asked where the new Russian Leadership Program were to be housed, one might reasonably guess somewhere in the State Department, perhaps in USAID. Those a bit more familiar with the array of duplicate programs we have might stroke their chin wisely and suggest that it would probably be included in the National Endowment for Democracy, a quasi-governmental agency that many of us believe duplicates services provided elsewhere in government.

But, Mr. President, if you guessed the State Department, or NED, you would be wrong. For the next year, this new Russian Leadership Program is to be housed in the Library of Congress. The Library of Congress, Mr. President.

Mr. President, as some may know, we already have numerous educational and other exchange programs with Russia. Agencies and Departments which have received funding from the Congress for exchange programs with Russia include, but are not limited to: the Departments of Commerce, Defense, Education, Justice, State, and Treasury; the Agency for International Development, the Environmental Protection Agency, the Federal Emergency Management Agency, the Federal Trade Commission, the Marine Mammal Commission, the National Aeronautics and Space Commission, the National Endowment for the Arts, the National Endowment for Democracy, the National Science Foundation, the Nuclear Regulatory Commission, and the Peace Corps.

Mr. President, I appreciate the tremendous impact that educational cultural exchanges have had on our relationship with Russia. I have to wonder if we really need to create still another exchange program. Even if we determine that the program has great merit, I think serious questions can be raised about whether this ought to be administered by the Library of Congress.

It doesn't end there. According to the authorizing language in this legislation, the Librarian of Congress is given authority to waive any competitive bidding when entering into contracts to carry out this program. In other words, this program is effectively shielded from any expertise or efficiencies that might be brought to bear by existing firms or nongovernmental agencies with experience in this area.

There we have it: In this bill, a brand-new program that has completely avoided the review of the appropriate standing committees established in an agency, that is wholly inappropriate, with virtually no restrictions on its administration. This is a heck of a way to legislate.

Of course, this is just one example, one of dozens of extraneous provisions that have been slipped into this emergency supplemental bill. I am not talking about a lot of different bills; it is just what is going on in this bill.

As others have noted, these unrelated riders have become business as usual. This is especially true with respect to antienvironmental policy. This is not the first time I have expressed concerns regarding legislative riders in appropriations legislation that would have a negative impact on our Nation's environment. I am sorry to say with respect to one of these policies, the delaying of the implementation of new mining regulations, this is not even the first time such a rider has been inserted into an appropriations bill.

The merits of this policy, this very important policy relating to mining, should be debated at length on another occasion. I do want to note that the rules that safeguard our public lands with respect to mining badly need updating, if only to keep pace with the changing mining technology. One such technique, the use of sulfuric acid mining, caused grave concern 2 years ago in my own State when it was appropriated for use in private lands in the neighboring Upper Peninsula of Michigan.

Regulations also need to take into account other land uses that would be displaced by mining, and they need to do more to require meaningful cleanup. Currently, there is no requirement to restore mine lands to premining conditions. This leaves taxpayers holding the bag for the mining industry's mistakes.

Obviously, this kind of a change requires a full, careful, and open debate. It just can't get the kind of attention it needs when it is quietly slipped into an emergency supplemental appropriations bill that we are only going to debate for 3 hours. Of course, that is precisely the reason the advocates of the rider have done it this way. They see their opportunity. They don't want a full and careful and open debate—special interests that push this policy know it will do them best and they will get it done best behind closed doors, away from the light of open debate.

In this connection, I think my colleagues should be aware that the PACs associated with the members of the National Mining Association and other mining-related PACs contributed more than $29 million to congressional campaigns from January 1993 to December 1998. Mining soft money contributions totaled $10.6 million during the same 6-year period. Mr. President, that is nearly $40 million in campaign contributions in recent years from an industry that stands to benefit from this rider that has been stuffed in this bill which we are only going to debate for 3 hours.

And so it is with too many of these provisions.

It should come as no surprise that a process characterized by secret negotiations and backroom deals should be

dominated by special interests and produce such questionable policy. These interests have succeeded in presenting Congress with a take-it-or-leave-it deal, and they are betting we will acquiesce for fear of delaying the true emergency assistance that I and everyone else have said is truly urgently needed.

Of course, I realize this measure is likely to pass. I hope it does not. But I cannot endorse this package or the process that brought it to the floor by voting for it. I ask my colleagues to consider calling the bluff of the interests that have succeeded in loading this bill up with extraneous matters that could never command a majority in Congress on their own.

If we can defeat this measure and insist on a clean, true emergency bill, we just might be able to shame those who have participated in crafting it and maybe even prevent this kind of abuse in the future.

I yield the floor.

Mr. GRAMM. Mr. President, I ask unanimous consent for 20 minutes to speak against this bill.

Mr. DOMENICI. I will not object.

Mr. President, Senator STEVENS has left the floor and I am here in his stead. Please enlighten the Senate as to the time situation pursuant to the unanimous consent request.

The PRESIDING OFFICER. Senator STEVENS has 39 minutes, Senator BYRD has 42 minutes, and Senator DORGAN has 15 minutes.

Mr. GRAMM. Mr. President, I ask for 20 minutes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, obviously appropriating money is a very difficult task. I had the privilege for 7 years to serve on the Appropriations Committee. During that time I had the great privilege of serving as chairman of Commerce, State, Justice Appropriations. Probably more than most Members of the Senate who don't currently serve on Appropriations, I think I have some understanding of the difficulty our colleagues have in appropriating money. Let me also say that the funding issues are the most important and the most difficult issues we debate.

I will share with my colleagues and anybody who might be following the debate an experience I had in 1980. I was a second-year Member of the House and I had been an economist prior to coming to Congress. I kept noticing that on the issues that really mattered—the spending issues on amendments—we were consistently losing on virtually every one of those votes. I ran sort of a running total for about 6 months on those votes.

Here is what I concluded, as best I can remember. The average vote on spending that really mattered cost about $50 million. These were little add-on amendments that were voted on in 1980 in the House of Representatives. There were about 100 million taxpayers in 1980. So the average taxpayer was paying about 50 cents. The average appropriation amendment was costing about $50 million; there were 100 million taxpayers; so each taxpayer was having a cost imposed on them of about 50 cents.

As best I could figure, the average beneficiary was getting about $700.

Members don't have to have a degree in mathematics or any fundamental understanding of economics to understand that if you have 100 million people all losing 50 cents each, and then you have beneficiaries who are getting, on average, $700 each, it doesn't take a lot of imagination to understand why in 1980 we were losing on every spending amendment. The reason being, the average taxpayer could benefit only by 50 cents if the amendment were defeated. That wasn't enough to activate them to write a letter in opposition. The average beneficiary was getting about $700, as best I could figure, on these votes on amendments. For $700 they were willing to do quite a bit, especially through groups that represented them where they would have thousands of members, sometimes tens of thousands of members, who were getting $700 each.

So it very quickly became evident to me that we were fighting a losing battle on spending. That ultimately gave rise to our efforts to try to elevate this to a national issue where, rather than voting on all these little amendments that cost taxpayers 50 cents each, we could turn it into a big issue where we were talking fundamentally about the future of America, which is what budgets are about. And, in fact, in 1981 when Ronald Reagan became President, we were able to adopt a budget that dramatically reduced the growth in government spending, that reformed entitlements, and that cut taxes across-the-board by 25 percent. And I would argue, probably more than anything else, that and Ronald Reagan's opposition to regulations and the rolling back of burdensome regulations, and the monetary policy of the Fed, explained why we are in the happy condition we are in today with the current state of the economy.

But what I discovered in 1981 was the only way you can win on these issues is when you are debating the big issue instead of the individual spending program. The budget has become our way of trying to rein in spending. One of the vehicles we have in that budget process is spending caps, where we debate how much money we are going to spend on discretionary programs and we set it in law and then we judge spending based on that number that we have in fact set into law. In order to try to beef up our strength to try to hold the line on spending, we established budget points of order. In order to try to enforce them we established supermajority budget points of order, with 60 votes required in order to violate the budget.

I will, later today, raise a budget point of order against this appropriation bill. Why do I object to this appropriation? First of all, you cannot spend $14 billion beyond the spending caps in actual cash outlays, without doing a lot of things that almost everybody is going to be in favor of. But here is the basic problem. We set out, in 1990, in a budget agreement, a little loophole. I would have to say I was worried about it when it happened. But the loophole was allowing the President and Congress to get together and declare emergency spending, to designate spending as an emergency and therefore get around the binding constraints on spending that we had written into the budget. That provision went into effect in 1990. And in 1991 we declared $900 million of emergency spending. But in 1992, with the Presidential election, with the election of Bill Clinton, and with the fundamental change that occurred since then, here is what has happened to spending that we have annually designated as an emergency, and therefore outside the budget caps, and outside any binding constraint that we all solemnly voted for as part of the budget process. In fact, the spending levels that I will be trying to defend today with my point of order were adopted 98 to 2 on June 27 of 1997. Only two Members of the Senate voted against making the commitment to hold the line on spending. I am today going to be offering a point of order to try to hold the line on that commitment we made.

But here is what happened. Beginning in 1991 we had $900 million designated as an emergency in a government that was spending, in 1991, maybe $1.2 trillion. It was not very much money by comparison. In 1992, we declared $8.3 billion of spending to be such an emergency that it did not even count as part of the budget process; that it was exempt from the cap. By 1994 that number had grown to $12.2 billion that, in 1994, we designated as an emergency.

Because of our action at the end of last year in passing a $21 billion emergency funding bill, we have already violated the budget for fiscal year 1999 above the level that we committed to on June 27 of 1997. We have already violated that budget by $15 billion in budget authority, which is the portion of the $21 billion that the President has already released by concurring in the emergency designation. If we adopt this bill unchanged, as it is written and now is before the Senate, we will declare another $14.8 billion in budget authority as emergency, which will mean that in 1999 alone, we will bust the spending cap by $29.8 billion, all of which will be designated as an emergency, and all of which will be exempt from our budgetary process.

First of all, isn't it amazing that we have seen the level of emergency spending grow in 1991 from $0.9 billion, to $29.8 billion? What this really shows is we have lost control of the budget

process. This loophole is literally destroying our ability to control spending.

What are these items that are declared as emergencies, items that were so critical that we had to pass an emergency supplemental appropriation in order to fund them? Let me just give you some of the ones from last year that have already busted the budget by $15 billion. Then I will give you a few from this year. Army research into caffeinated chewing gum; the National Center for Complementary and Alternative Medicine; grasshopper research; manure handling and disposal; onion research—those are the kind of items that were included in the emergency measure that we passed last year that has caused us to violate this year's budget already by $15 billion.

Let me go over some of the items that make up this supplemental appropriation bill. ''National Public Radio, $48 million to purchase satellite capacity; $1.3 million for the World Trade Organization ministerial meeting in Seattle.'' Would anybody have us believe that we planned that meeting and we suddenly discovered, after years of planning, that we had to pay for it? Would anybody believe that this should suddenly be contained in an emergency bill? No. But what they would believe is we always knew we had to pay for it but we did not put it in the budget, knowing we would put it in an emergency bill and therefore we could get around spending constraints.

''Filling up San Carlos Lake; the purchase of a post office and a Federal court house in Minnesota; modernization at Washington International Airport.'' Modernizing an airport is God's work, but does it belong in an emergency bill? Don't we fund that out of a trust fund? What is it doing in an emergency supplemental bill? ''Renovating the U.S. House page dormitory?'' I do not doubt that is meritorious. If I did a survey among the pages they might think it is a wonderful idea. But is suddenly the world going to come to an end if we did it in this year's regular appropriation? My guess is we will not spend a penny of it until this year's appropriation bill is enacted anyway, so why is it in this emergency appropriation? It's in this emergency appropriation so we do not have to count it toward the spending caps next year. ''$1.5 million for the University of the District of Columbia.'' Then there is funding for the majority whip's office—that is in the House let me make clear—and the House minority leader's office, $333,000 each. Why isn't that in the appropriation bill for the legislative branch of Government? Why are we not funding that through the normal budget process? The answer again is we put these things in emergency funding measures in order, basically, to take them out of the process.

Why does it matter? Why does it matter that we are getting ready to bust our spending caps by $29.8 billion? Why it matters is that every penny of that money is coming out of Social Security. We do not have a surplus today except for the fact that Social Security is collecting more money than it is paying out. In fact, Social Security is collecting $127 billion this year more than it will spend. We have already spent $16 billion of that on something other than Social Security. We are getting ready to spend another $14.8 billion from this bill on something other than Social Security.

The point is, if we had not passed the emergency supplemental bill last year, which ended up taking $17 billion away from Social Security in this year, we would have had in this year the first time ever in American history where we actually had a Social Security surplus available to either lock up in a lockbox so it could not be spent or use it to save Social Security.

We do not have that ability now because of the emergency bill we passed last year, and now we are passing another bill that will take $14.8 billion.

The point I am making is this: We cannot have it both ways. We cannot say we want to lock this money up for Social Security and spend it at the same time. You can say you want to spend it and that this spending is critical and that it is absolutely essential we fill up these lakes and build these dormitories and that we fund reparation payments to Japanese South Americans from World War II, that we repair high schools, which I never knew was a function of the Federal Government.

You can say those are emergencies and they are important enough that we are willing to plunder Social Security in order to fund them. That is a legitimate position. It is not one with which I agree, but it is a legitimate position. What you cannot do is say we are going to lock this money away from Social Security or we are going to use it to save Social Security and then turn around and spend it. It is not legitimate to do both. What we are trying to do in this Congress is say we want to save the money for Social Security and we are trying to spend it at the same time.

I do not hold myself out as being more righteous than anybody else, but that is turning a little more sharply than I can turn. I still remember the press conferences where we stood up and said we want to lock this money away. Here we are today spending it.

What am I trying to do in my point of order and what will it do? First of all, there is not a point of order under the budget resolution against defense spending. There is a point of order against nondefense spending. The tragedy of this bill is that we could have offset all the nondefense spending in this bill. There was a point at which, before we started piling on more and more spending, we could have, with $441 million, offset all of the nondefense spending in this bill, in which case we would not have had an emergency designation to allow us to spend beyond the budget.

A decision was made by the Appropriations Committee not to do that. They could have done it. The level of reductions in other programs would have been minuscule. But the basic response from the Appropriations Committee, with all due respect, has been: We are not going to pay for these programs, we are not going to offset them and, basically, if you don't like it, do something about it.

That has basically been the message, and people have been up front and honest about it. The only thing I know to do about it is to oppose the bill and to use the budget which we adopted and of which I am proud—it is the best budget that has been written since I have been in Congress or certainly the best budget since the Reagan budget.

The problem is, I do not see any willingness on the part of our colleagues to enforce the budget. It is as if somehow writing a good budget was enough. Every day I read in the paper, often from members of the Appropriations Committee, that they do not have any intention of living within these numbers.

Some people are saying: OK, let this $14.8 billion go and then the next time we will resist. If you are going to resist this never-ending spending spree and this plundering of the Social Security trust fund, you have to begin to resist.

We are averaging over $10 billion a year of spending we are not even counting as part of the budget, and I believe that has to end.

I am going to make a point of order which simply makes the point that under the budget we wrote earlier this year, any Member of the Senate can raise a budget point of order identifying emergency designations in nondefense areas that are not offset, and that in order to overcome that point of order, those who want to spend that money, those who want to take that money out of Social Security, will have to get 60 votes to waive that point of order.

I do not deceive myself into thinking we are going to get enough votes to sustain this point of order. I realize how the system works. But I think it is important that we begin to raise questions about what is going on in the Senate. I do not know how we are going to save Social Security if we keep spending the Social Security surplus, nor do I see how we are ever going to give tax relief if we——

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. GRAMM. I ask unanimous consent that I may take 7½ minutes off my 15 minutes on the point of order I will raise and use that 7½ minutes now.

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

Mr. STEVENS. Mr. President, if the Senator will yield, I have great problems now. I understand the Senator wants to vote on this point of order,

and there are 30 minutes on that. We then have time left for the debate on the bill itself. This vote then, I take it, will occur sometime around 25 after 2, the way I look at it. I put the Senate on notice that I am going to ask that the Senate stand in recess or stand off this bill from the hour of 3:30 p.m. until 4:15 p.m. I have not done it yet, but I want everyone to know we have to go off this bill. Our committee cannot be on the floor during that period of time because of a very important meeting the committee has that we cannot cancel.

Mr. GRAMM. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. GRAMM. I will be very happy to have this vote on waiving the point of order at any point that will convenience the Senator. There is nothing magic about doing it now. I had thought at the end of this 7½ minutes that I would raise the point of order, we could go ahead and have this vote and dispose of it, and therefore there will be no trouble being off the bill or potentially finishing the bill before the meeting. If the Senator wants to delay it, I will be happy to do that. The time is not of any importance to me. Whatever will convenience the Senator.

Mr. STEVENS. That is 1 hour 6 minutes beyond that. I serve notice to the Senate, as manager, I cannot be here between the hour of 3:30 p.m. and 4:15 p.m. We will go ahead and have the vote when Senator GRAMM's time expires, but then I will ask the leader to give us consent to do something in that period of time so we can keep our meeting as scheduled. The Senator has another 7½ minutes now, as I understand.

Mr. GRAMM. On this. Why don't I go ahead and raise the point of order and take my 15 minutes and explain it, if that is OK with the chairman.

Mr. DOMENICI. Mr. President, what has the Senator been doing? I thought we gave him 20 minutes so he can do that.

Mr. GRAMM. The Senator gave me 20 minutes to speak against the bill. I have done that. I am ready to raise the point of order.

Mr. DOMENICI. And speak 15 more minutes?

Mr. GRAMM. I have a right to under the unanimous consent request.

Mr. DOMENICI. I misunderstood when I quickly gave the Senator 20 minutes.

Mr. GRAMM. If the Senator wants me to yield the floor so he can speak now——

Mr. DOMENICI. No.

Mr. STEVENS. There are 30 minutes on his motion to waive.

Mr. GRAMM. I get half the time on the motion to waive since I am against waiving.

Mr. President, I raise a point of order that the conference report contains nondefense emergency designations in violation of section 206 of House Concurrent Resolution 68. I send a list of those designations to the desk. There are 29 nondefense emergency designations in this bill that are in violation and that are subject to a point of order, and I raise the point of order against each of these 29 designations.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, pursuant to section 206 of H. Con. Res. 68 and section 904 of the Congressional Budget Act, I move to waive all points of order against this conference report.

The PRESIDING OFFICER. There are 30 minutes equally divided.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me be sure to clarify: There are 29 provisions in the bill that are subject to a point of order because they are not funded.

Let me explain to my colleagues what this point of order does and what it does not do.

This point of order does not kill the emergency supplemental appropriations bill. This point of order does not strike any funding measure in the emergency supplemental appropriations bill. What this point of order does, by striking the emergency designation for these 29 unfunded, nondefense provisions, is that it will trigger an across-the-board cut in all nondefense programs to fund these items.

That across-the-board cut will fund $3.4 billion of unfunded programs. It will do it, according to the Office of Management and Budget, with a 1.25-percent across-the-board cut in discretionary nondefense programs.

Obviously, our bill—if this point of order is sustained—will differ from the House bill. Under the procedures of our budget the bill would go back to the House, which could adopt the bill with this point of order made and therefore require the across-the-board cuts to offset this new spending, or the House could amend the bill to throw out the point of order, and the bill would come back and we would vote on the bill again and see if we could sustain it.

So that is basically what we are doing.

This point of order does not kill the supplemental appropriation, it simply pays for it. It simply says, in the $3.4 billion of programs that are not funded, that under the Budget Act you can make a point of order that they are not funded, and insist on that point of order so that 60 Members of the Senate would have to vote to say we do not want to fund these programs, we want to bust the budget, and we are willing to take the money out of the Social Security surplus in order to pay for it—which is what you will be saying if you vote to waive this Budget Act point of order. Have no doubt about that.

If we sustain this point of order, there will be a 1.25-percent across-the-board cut in the same accounts, same section of the budget, nondefense discretionary, to fund these programs. The Appropriations Committee will have a decision at that point as to whether they really want these programs if they have to fund them. My guess is for many of them, they will not. My guess is, if you have to fund these programs, you will decide you do not really want them all.

Why have I made this point of order? And why is it important? Why it is important is that our budget is so different from real budgets in the real world. Every time we want to bust our budget, we say we have an emergency. But American families have emergencies every day. They are not able to bust their budgets. What we basically do here would be equivalent to a family—they have written out their budget, and they decide to buy a new refrigerator this year or they are going to go on vacation this year or they are going to buy a new car this year; and Johnny falls down the steps, breaks his arm.

The way the Government does it, they say: Well, that is an emergency, so we are going to waive our budget. We just won't have to count that as part of what we are spending. But that is not the way families work. Families have to sit back down around their kitchen table, get out an envelope and a pencil, and they have to figure out that if they have spent $400 setting Johnny's arm, they are not going to be able to buy that refrigerator or they are not going to be able to go on that vacation. They do not like it, but that is what they have to do, because that is the real world.

All I am asking here is that on these $3.4 billion worth of programs, if they are so good and they are so important, let's pay for them. It is not as if we are going to do great violence to the budget of the United States if we are required to pay for it. We are talking about a 1.25-percent across the board reduction in order to pay for these programs.

My view is that if you really wanted these programs, you would be willing to pay for them. If you are not willing to pay for them, we ought not to be spending it.

So I want to reserve the remainder of my time and conclude by just saying this. If you meant it when you set those caps on spending, if you meant it when you said you want to lock away this money for Social Security or use it for Social Security reform, we have an opportunity today to save $3.4 billion that belongs to Social Security. It does not belong to general government. It does not belong to all of these projects we are funding here. It belongs to Social Security.

If you want to save that $3.4 billion for Social Security, if you want to lock it away or use it to save Social Security, vote to sustain this point of order. I hope my colleagues will vote to sustain this point of order, because I think it is important. I think if we do not stand up now, we will now be at $29.8 billion by which we have overspent the 1999 budget before we have ever passed a single regular appropriations bill—all in the name of emergencies.

So if we are ever going to stand up and stop this plundering of Social Security and stop this runaway spending train, we have to do it now. I urge my colleagues to vote with me if you want to protect Social Security and if you want to live up to the budget.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask for just 2 minutes on this motion to waive. I thank the Senator from New Mexico for making that motion to waive.

My point in addressing the Senate now is to inform the Senators that, basically, this point of order deals with the moneys that are in the bill for PL–480 food aid, for refugee assistance, for farm aid, aid for the Wye River, aid to Jordan, for the Central America and Caribbean emergency due to Hurricane Keith, and for the FEMA disasters that have taken place throughout our country.

All of those are matters that could not have been contemplated in 1947. We controlled $1.8 trillion on a 2-year period. And the Senator from Texas is objecting to the fact that these events, that have taken place totally unexpectedly, are going to cost $29.6 billion.

He is talking about 16 one-hundredths of 1 percent of the total spending that we control. In other words, estimates that were made have been exceeded now because of unforeseen circumstances in Central America, in farm aid, in terms of the assistance to Jordan, in terms of FEMA disasters, and national disasters declared by the President, and have consumed 16 one-hundredths of 1 percent more money than we estimated.

He is wrong in talking about the bill for the year 2000. We have not gotten to the year 2000. This does not have any impact on the year 2000 except in terms of defense. It aids us in defense trying to deal with defense matters.

These are things that the Budget Act rightfully said there is a time when you can have emergencies, when they are unexpected items that have happened.

There are a lot of things in this bill that are not emergencies; they are supplemental; they are supplemental items. We can argue about them, but they are not involved in what the Senator from Texas is doing. An opinion about lumping all those things in the bill is one thing, but to deal with this concept of knocking out the emergency clause is wrong. I hope the Senators will support the motion of the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, not too long ago Senator GRAMM and I stood on the floor shoulder to shoulder preparing a budget for the United States. Not too long ago, I came up with the idea of a lockbox for Social Security. Once my friend, Senator GRAMM, saw it, a few words of congratulations and a few thoughts on how to make it perhaps a little better, we stood shoulder to shoulder that we wanted to save the Social Security trust fund. Nothing has changed. Nothing has changed.

The Senator from New Mexico is proud of the budget that is going to operate for the year 2000, the new millennium. It is going to be a tough budget, and we are going to try to live with it. But I do not believe we should leave the floor today with a lot of Americans, if they were listening, thinking that the budget of the United States is out of control.

Sometimes my good friend from Texas overstates the case. And by overstating the case, sometimes, instead of being as effective as he could be, he is a little less effective.

Nobody looking at the budget of the United States as it pertains to the accounts we are talking about, defense and appropriated domestic accounts, thinks it is out of control. As a matter of fact, the whole world looks at this budget, the one that the Senator from Texas is saying is out of control, and says, how do you do it? You are doing so well.

As a matter of fact, the defense spending which is in this budget—part of the budget that the Senator is talking about—is at the lowest level and under control, the lowest level since World War II, the end of World War II, in terms of the percent of our gross domestic product that goes to defense. Likewise, the domestic spending that he is alluding to, out of control, says he, well, let me tell you, it is the lowest in history in terms of the percent of GDP. We are doing a great job of controlling this part of the budget.

He and I may come to the floor and discuss another issue where we might agree, but it has nothing to do with this bill, nothing to do with these ideas that he is alluding to today about the budget. They have to do with entitlements and mandatory spending. So for those who think the budget has gotten kind of big, we have to face up to where it is that it is getting its pot belly. It is not getting it from these two accounts, defense and domestic discretionary spending. That is the truth.

The Senator referred to families and their budgets. I noticed some people were listening to him almost enraptured thinking about their own checkbooks. To compare a family checkbook with a great American country that has a war going on in Kosovo that we didn't know about 6 months ago and expect us not to have to spend some money for that is to compare an individual American family in their kitchen with their checkbook to a country that is at war and needs money to fight the war. That is what is principally behind this appropriations bill. The overwhelming percentage of this spending is for the defense of our Nation, if that is why we are in Kosovo, because we have something to defend. And whether you like the war or you don't like the war, it costs money. It isn't predicted in the family checkbook that in the middle of the month you are going to have a war, because families don't have wars. They don't go out and buy more tanks and more airplanes, when they have a disaster.

That is point No. 1—the budget is not out of control.

Point No. 2—the overwhelming percentage of this particular bill is for the defense of our Nation. Many of us are proud that we put more money in than the President had asked us for. We thought the President low-balled the request because he didn't want to be embarrassed about this war, and so he has far too little money. We put in $5 billion more in this bill. Take that to the American people and ask them: Would you do that, or would you not do that? Would you believe Senator GRAMM's reasoning for saying let's cut some other American programs to pay for that?

By the way, the sequester which he is speaking about, the across-the-board cut which will be done by the Office of Management and Budget, the President's people, it will not be 1.25 percent for all the rest of the accounts. Because the year is so far down, it will be almost 4 percent, 3.75 percent, or some $3 billion. Is that what we should do when we have emergencies, cut all of Government across the board 3.75 percent, not when the budget starts, but when the budget year is half over with or more than half over with, just say we are going to cut it? Families do not do that either, if you want to talk about families. They don't come along when they have all their children's bills paid for and everything else and say that we are going to cut 3.75 percent out of it and spend it for something else. They don't have that kind of problem. That is what we are going to be confronted with for American programs in education, in construction, in highways, in everything.

It is just not worth it, in this Senator's opinion. The longer you wait and delay this bill, the more the demands are going to be, not less. They will be more.

Let me just give you one more. If we are out of control, every country in Europe and every industrial democracy in the world has already gone out of this world. They are all spending more than we are as a percentage of their budgets. Their budgets are much higher than ours. And that is why we are doing so well—because our budgets are low, and our taxes must remain low.

To be sure on my comments about how low defense spending is and how low domestic spending is versus other years and other nations, I have that on two pieces of paper. I ask that those two documents be printed in the RECORD.

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

Total government—Federal, State, local—spending as a percentage of GDP (1998)

	Percent
United States	31
England	40
France	54
Germany	47
Japan	37
Canada	42

	Percentage of GDP	
	Defense	Nondefense
1980	5.0	5.2
1985	6.2	4.0
1990	5.3	3.5
1995	3.8	3.8
1998[1]	3.2	3.4

[1] The lowest percentage since WWII, both defense and nondefense.

Mr. DOMENICI. The issue now is not whether you want to vote for this bill or not. The issue is whether you want to support a motion to waive the point of order, a very specific, new point of order; I helped draft it. It is a nice point of order. Whether you want to waive it or not, that is the issue. If you want to vote against the bill, you can still do that but, frankly, you should move to waive this so that when those people who want to vote for this bill vote for it, they are not confronted with having to cut Government 3.75 percent in order to accomplish the purposes suggested here by my good friend from Texas, Senator GRAMM.

How much time do I have remaining?

The PRESIDING OFFICER. Six minutes 4 seconds.

Mr. DOMENICI. I will yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank my colleague and friend from New Mexico for helping me see that in an effort to derail this point of order that we didn't do something that could undercut the whole budget. I am very grateful for his help on that.

I want to disagree with the points that have been made by my two colleagues and do it in such a way as to not be disagreeable.

First of all, our dear colleague, the chairman of the Appropriations Committee, says that the violating expenditures here that are not offset are only sixteen-hundredths of a percent of overall Government spending. Well, my point is, if it is that small an amount of money, why don't we pay for it? In a budget of $1.7 trillion, we are in essence saying that $3.4 billion of nondefense spending is so important we are willing to violate the budget in terms of spending beyond our cap. But it is not important enough that we are willing to cut somewhere else to fund it? It seems to me if it is that important, we ought to be willing to pay for it.

As to whether the budget is out of control relative to much of the world, our budget is not out of control. I agree with our colleagues. I am not making a statement trying to send the stock market down at 2, nor do I think any statement I could make would be capable of doing that. But I am not comparing America to Honduras. I am not comparing America to Japan. I am comparing what America is doing relative to what Congress promised the American people we would do.

I do say that when we are spending, in emergency spending in 1999, three times as much as we have ever spent before, that suggests to me that something is out of control. As we all know, we read every day in the paper where Members are saying there is no way we can live up to these spending caps, and that this is only the beginning of our violation of the budget. My view is this ought to be the beginning of the fight to preserve the budget numbers we adopted.

Let me tell you how the budget is out of control. It is not out of control the way we keep our books, even though we are beginning to lose control by designating all the spending as an emergency. But if we used accrual accounting, like American business has to, with Medicare and Social Security, we would be running huge deficits today.

I agree with our colleague from New Mexico. Many of our worst problems are in areas like Social Security and Medicare. But the point is, we have to have Presidential leadership, we have to put together a program to deal with those problems; and it takes a concerted effort to do that. But the one area that we can control by ourselves is discretionary spending. The point is, if we don't have the will to prevent $3.4 billion of new spending, how are we going to have the will to reform Social Security or Medicare?

In terms of comparing the checkbook of a family to a great nation and a great economy, I think it is a good comparison. In fact, Adam Smith once observed:

> What is wisdom in every household can hardly be folly in the economy of a great nation.

Where can we find a better blueprint for fiscal responsibility than looking at working American families sitting around the kitchen table? The fact that they are dealing with thousands of dollars and we are dealing with billions of dollars doesn't fundamentally change things. They have to set priorities. They have to say no. And they have to say no to their children, the people they love, and to real needs.

All I am saying is that we need to say no more often so that working families can say yes more often. I want to save Social Security so we don't have to double the payroll tax. I want to save Social Security so we don't have to cut benefits for the elderly. But we can't do that if we keep spending the Social Security surplus.

In terms of across-the-board cuts, if it is not worth cutting to pay for, then why is it worth spending? If it is not worth taking it from a lower priority, is Social Security the lowest priority? Is taking this money out of the Social Security surplus of lower significance than funding all the thousands of other programs we fund? I don't think so.

The final point. This is a point of order under the Budget Act against the nondefense portions of this bill. I would have raised a point of order against all the emergency designations in the bill had the point of order existed. I don't want people to think this is somehow nondefense versus defense. I believe in a strong defense. My dad was a sergeant in the Army for 28 years 7 months and 27 days. I have voted for defense. I have helped write budgets that rebuilt defense. But I want to pay for defense.

I think where the difference is, I am willing to cut other programs to fund defense. But I don't understand why we are not willing to take it away from something else to fund defense but we are willing to violate our spending caps to fund defense. And if this war is so vitally important—let me make it clear that I don't see the vital national interest here. I don't see this as a vote on the war. But let me make it very clear, if this war is so vital, we ought to be willing to cut other Government programs to fund it. The idea that we ought to take the money out of Social Security to fund this war, I think, is wrong.

So, again, this is a hard issue. I don't doubt the sincerity of our colleagues who are trying to do a difficult job in writing these appropriations. But there are two reasons I am here making this point of order. No. 1, we busted the budget by $21 billion on the last day of the last Congress. We are already at almost $30 billion of busting it now. We have to stop this from happening at some point. Let's do it now.

Mr. STEVENS. I ask that the Senator yield me 2 minutes.

Mr. DOMENICI. I yield 2 minutes to the chairman.

Mr. STEVENS. Mr. President, let's go back to what we are talking about. If a family had a $16,000-a-year income and had a 16 one-hundredths of 1 percent overage in their expenditures that year, they would have to borrow $20. We are talking about 16 one-hundredths of 1 percent in excess of the budget. And it is for items that are emergencies. What family would not borrow $20 to meet an emergency? Is it disaster relief emergency? Yes. Is the Central America-Caribbean expenditure an emergency? Yes. The Wye River accord for Jordan, was that an emergency? Yes. Is farm country in trouble? Is that an emergency? Yes. All we are saying is we are going to deal with that $20 out of $16,000. That is the comparison for an average family.

Mr. President, the thing that bothers me most about this is, we have to contemplate change. I will make one statement to you. If the New Madrid Fault that runs through the center of this country suffers an earthquake again—the last time it went off, the church bells rang in Boston because of an earthquake that took place going through the area west of the Mississippi. It changed the Mississippi River. It went backwards. It started a new channel which it has today. Can you imagine the amount of money we

would have to have? That is why the Budget Act provides money for emergencies. If the Senator is trying to say you have to have 60 votes to overcome that, now, that is wrong. I hope we have them today, Mr. President. This is an emergency, and this money is needed by the Department of Defense, and the agencies need it.

Thank you very much.

Mr. DOMENICI. Does the Senator from Texas have any time remaining?

Mr. GRAMM. I don't think I have any.

The PRESIDING OFFICER. The Senator's time is up.

Mr. DOMENICI. Mr. President, in conclusion, Senator GRAMM makes a lot of good points. I believe we make some good points, also. I don't believe we ought to, at this stage of the budget year, adopt a point of order that will send us back to all of the Government programs, some of which many of us don't like, some of which many of us love, most of which are halfway through a year. I don't believe we ought to go back and have them cut 3.7 percent across the board.

One thing about missing our budget targets—the so-called caps, Mr. President—the overwhelming percentage of supplemental appropriations have been for real emergencies, or emergencies that the President of the United States asked us for and in which we concurred. That is what the Budget Act says; caps are binding except for emergencies; emergency money is not subject to caps. That is what we have here.

I hope we pass this appropriations bill today and fund what our military desperately needs to replenish the Kosovo war and replenish the military equipment and the time that was spent in Central America for the disaster that killed 10,000 of our neighbors in Central America. Those are predominant items in this bill. There are a lot of small ones that are difficult to justify, but in a real sense they don't really amount to the essence of this bill, which is emergencies we cannot contemplate.

I yield back whatever time I have.

Mr. ENZI. Mr. President, I rise to offer my support to Senator GRAMM's point of order against the supplemental appropriations conference report. As I have said before, we must provide the offsets for the nonemergency portions of this conference report. There is currently $13.3 billion of nonemergency spending that has not been offset, in violation of the Budget Act. I believe that Congress must protect the Social Security surplus and ensure that the money is there for future generations, not spend it on items that are clearly nonemergency items.

We have been spending the last few years talking about fiscal discipline and the spending caps. Now that we have a surplus, Congress must resist the temptation to circumvent the regular appropriations process. Many of the items contained in the report should have been considered by the appropriations subcommittees and debated on the floor of the Senate. Congress must allow the regular process to take place and not sneak things into appropriations bills.

I tried to offer legislation that would provide those offsets, but an objection was raised. I want to ensure that Congress does the right thing and preserves the Social Security surplus. This is what the lock box legislation would prevent. This is what my legislation would prevent. I ask my colleagues not to waive the Budget Act.

Mr. FEINGOLD. Mr. President, I supported Senator GRAMM's point of order because, while some of the spending programs in this bill may have merit, they should not be funded by Social Security Trust Fund balances. The point of order would not prevent these programs from being funded, but would force Congress to find adequate offsetting spending cuts to pay for those programs, or those spending cuts would be imposed automatically at the end of the fiscal year.

Mr. STEVENS. Mr. President, I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the vote take place at 15 minutes after 2, in 7 minutes, and I yield that time until the vote to the Senator from Pennsylvania, Mr. SPECTER. The vote will take place at 2:15, in 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The vote will be at 2:15.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank my distinguished colleague, the chairman of the Appropriations Committee, for yielding me the time.

I support the waiver on the point of order. The conference committee labored extensively and diligently to come up with the bill that is on the floor at the present time. It was a tough, contentious, argumentative conference. While not perfect, we conferees did the very best we could. At some points on Wednesday night of last week, it looked a little like ''Saturday Night Live,'' except it was Wednesday. C-SPAN was in the conference room recording and videocasting across the country to the few who might have been inclined to watch.

Having been a party to that conference and having struggled through the issues of the necessity for military spending and the emergency programs that are involved in Hurricane Mitch and the tragedies in Oklahoma and Kansas—Kansas being my native State—the conference committee did the very best it could.

This bill ought to be enacted in toto. Since that requires a waiver initially, that ought to be undertaken.

We are really looking at broader, complex issues as we face the appropriations process for fiscal year 2000.

We have recently seen the allocations in the House of Representatives. The allocations in the Senate are portending for very, very severe cuts.

I chair the Subcommittee on Labor, Health and Human Services. The President's budget is slightly in excess of $90 billion. The allocation preliminarily marked up for my subcommittee is $80 billion. If that is to happen, we are going to have some really drastic, drastic cuts, cuts which the American people are going to have to evaluate as they are making their wishes known in our representative democracy to the Members of the House and Senate.

We have budget caps. I would like to live within those budget caps. But to do that, we are going to be looking at these kinds of reductions in spending:

On Safe and Drug-Free Schools, there would be a cut of $66 million from the Drug and Violence Prevention Program.

Here we are today on a juvenile crime bill where we are trying to deal with the problems of juvenile crime, and at the same time we are looking at a budget which is going to cut funding of $66 million from the guts of that kind of a program—drug and violence prevention.

We are looking at cuts on the Job Corps of $150 million from a $1.3 billion program.

When we talk about the Job Corps, here again we are talking about dealing with juveniles who may have gone astray.

If you have a juvenile offender without a trade or a skill, a functional illiterate who leaves prison, that individual is going to go back to a life of crime, and is going to get the first gun he can put his hands on. And here we are talking about an enormous cut in the JOBS Program, which is designed specifically against that problem.

We have enormous cuts in child care—$131 million in our efforts to whip the welfare program and send welfare mothers to work. Child care is indispensable.

Special education—a favorite of all Senators—would be cut by $480 million.

The National Institutes of Health, the crown jewel of the Federal Government, perhaps the only jewel of the Federal Government—instead of having a $2 billion increase, which the Senate said we ought to have in the sense of the Senate, the National Institutes of Health would be reduced by $1.8 billion, which would result in approximately 6000 fewer grants at a time when medical research is on the verge of solving enormous problems of Parkinson's with the new stem cells estimated within the 5- to 10-year range.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. I thank the Chair. Some of those who were called to order may be the ones who ought to be listening to what needs to happen in our appropriations process if we are to achieve the goals of our lofty rhetoric.

But interrupting, the juvenile violence bill on the culture of violence-

we have programs which are designed to deal with that. The way we are heading, we are going to be cutting the heart out of the precise programs intended to deal with that culture of violence.

These are issues which I hope the American people will understand so that their views may be felt in our representative democracy.

We would all like to stay within the caps. We would all like to economize. But when we take a look at a $10 billion cut which hits labor, safety programs, and health and education, those are matters which have to be decided by this body reflecting the views of our constituency.

I again thank the chairman for yielding the time.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 70, nays 30, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—70

Akaka	Durbin	Mack
Baucus	Edwards	McConnell
Bayh	Feinstein	Mikulski
Bennett	Frist	Moynihan
Biden	Gorton	Murkowski
Bingaman	Grassley	Murray
Bond	Harkin	Reed
Boxer	Hatch	Reid
Breaux	Helms	Roberts
Bryan	Hollings	Rockefeller
Byrd	Inouye	Sarbanes
Campbell	Jeffords	Schumer
Chafee	Johnson	Shelby
Cleland	Kennedy	Smith (OR)
Cochran	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Coverdell	Landrieu	Thurmond
Craig	Lautenberg	Torricelli
Daschle	Leahy	Warner
DeWine	Levin	Wellstone
Dodd	Lieberman	Wyden
Domenici	Lincoln	
Dorgan	Lott	

NAYS—30

Abraham	Graham	McCain
Allard	Gramm	Nickles
Ashcroft	Grams	Robb
Brownback	Gregg	Roth
Bunning	Hagel	Santorum
Burns	Hutchinson	Sessions
Crapo	Hutchison	Smith (NH)
Enzi	Inhofe	Thomas
Feingold	Kyl	Thompson
Fitzgerald	Lugar	Voinovich

The PRESIDING OFFICER. On this vote the yeas are 70, the nays are 30.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, if we could, for the orderly presentation of the balance of the argument on this bill, I inquire, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Alaska has 12 minutes. The Senator from West Virginia has 42 minutes. The Senator from North Dakota has 15 minutes.

Mr. STEVENS. I ask the Senator from West Virginia if we can make a list of who is going to be recognized, because almost all the time is allocated, as I understand it. I yield 5 minutes of my time to the Senator from Virginia, Mr. WARNER. I reserve 7 minutes of the time. Can the Senator allocate his time?

Mr. BYRD. Yes. Let me see how much time I have left. I have 45 minutes promised.

Mr. STEVENS. The Senator has 42 minutes, but I will give him 3 of my minutes.

Mr. BYRD. All right.

Mr. STEVENS. Please tell us what they are.

Mr. BYRD. Senator CONRAD, 5 minutes; Senator LANDRIEU, 5 minutes; Senator HARKIN, 8 minutes; Senator GRAHAM, 7½ minutes; Senator DODD, 5 minutes; Senator DURBIN, 5 minutes; Senator WELLSTONE, 5 minutes; Senator BOXER, 5 minutes.

Mr. STEVENS. Is the Senator reserving some time for himself?

Mr. BYRD. Senator DORGAN has 15 minutes for himself outside this.

Mr. STEVENS. Does that allocate fully the Senator's 42 minutes?

The PRESIDING OFFICER (Mr. ENZI). It does.

Mr. STEVENS. I urge the Senators to take their time starting now.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, as I begin, I pay tribute to the Senator from Alaska, the chairman of the Appropriations Committee, Mr. STEVENS, and the Senator from West Virginia, Mr. BYRD, and other of my colleagues. I see the Senator from Mississippi on the floor, Mr. COCHRAN, and so many others who in that conference spent hour after hour, day after day hammering out a conference agreement. Especially the chairman and the ranking member. I recall one evening sitting there at 1 in the morning, and they were still there exhibiting the kind of patience that is quite extraordinary in order to resolve all of these many issues.

Much of the discussion was about the victims of Hurricane Mitch, the responsibility to respond to our neighbors in this hemisphere who have been hit with such a terrible disaster, the military needs with respect to the airstrikes in Kosovo, and the prosecution of that conflict, the needs for spring planting loans in farm country, and a range of other issues.

I support many of those areas, but I am not going to support the conference report because I believe, as I indicated in the conference committee, that if there are resources above that which was requested for the Defense Department for the prosecution of this conflict in Kosovo, if there were $2 billion or $3 billion or $5 billion or $6 billion more available, then I believe we should have a better debate on the priorities of the use of those funds. I, for one, believe we have an urgent, urgent need in rural America to provide a better safety net to give family farmers a chance to make it through this price depression. I believe that is the priority.

We had a vote in the conference on the Senate side, and we lost 14–14 on a proposal that would have added nearly $5.5 billion for some price supports to build a bridge across those price valleys during these troubled times in rural America. We lost 14–14. I wish we had won.

Nearly $5.5 billion to $6 billion was added to this package for defense spending that was not requested. It is not that the money is not available, it is that a different priority was attached to the spending of this money.

I will tell you why I feel so strongly about this. I come from rural America. I come from a small town. We raised some cattle and horses. Last Thursday, my brother called a florist in a little town called Mott, ND. Mott, ND, is 14 miles from my hometown of Regent. Regent has 300 people and Mott is a bigger town and always was, even when I was growing up. Mott is about 800 people.

My brother called the florist on the Main Street of Mott. There is one little florist shop. He said: My brother and I want to order flowers to be delivered to the cemetery at Regent for our mother and father for their graves on Memorial Day. We do that each year, and we also do so on Mother's Day and Father's Day.

My brother said he told the woman who runs and owns the floral shop: By the way, I forgot to call you this year on Mother's Day. I was going to have you deliver some flowers for Mother's Day.

Incidentally, this floral shop always apologizes when we call because she says: We have to charge you a $2 delivery fee. It is 28 miles.

My brother said: I forgot to call you this year to deliver flowers for our mother's grave on Mother's Day, but I would like you to deliver them on Memorial Day.

The woman who owns the flower shop said: That's all right, we delivered some on Mother's Day because we know you call every year and we thought you just forgot. Later on, we were going to send you a bill, and if you paid it, that was all right, and if you did not, that's all right, too.

That probably does not happen across America, but it happens in my part of the country, in rural America, where family farmers and Main Street merchants work together in a lifestyle that is really quite wonderful. People do things, people help each other, but there is no amount of help in farm country these days that can reach out

and say to family farmers who are struggling to make a living: We will help you with the price of your grain. We know you are trucking that grain to the elevator these days and are told there is no value; we will help you.

That is not what is happening. In fact, they are going to the elevators today to find out the grain market has collapsed and they are getting Depression-era prices, at the same time the current farm program, freedom to farm, is pulling the rug out from under these farmers with respect to the safety net. We need to help.

If we want family farmers in our future, we need to help. If we want to preserve this kind of lifestyle, yes, of family farms and Main Street of our small towns, we need to do something to help.

I want to read a few things from Ted Koppel's program ''Nightline'' on Tuesday, May 18. They did a program on the farm crisis. They pointed out—while all of the good news comes to the Washington Post and the New York Times, just open them up and read all the wonderful news, our economy is growing, unemployment is down, inflation is down, virtually everything else is up, a lot of good news—but the farm belt does not experience that good news. Family farmers are in desperate trouble and small towns are shrinking. The rural economy is in desperate trouble.

Ted Koppel on his program had farmers and others talking. I will share some of that with my colleagues:

Here's what many farmers see happening, the prices they can sell their crops for falling and predicted to stay low. . . . wheat prices are down 42 percent.

Now, ask yourself, how would you feel or your family feel if you had a 42-percent cut in your income? Would you feel that the economy is doing real well?

Corn prices are down 38 percent. Oats and barley down 32 percent.

In constant dollars, these are prices that we received in the family farm in the Great Depression.

At the start of the program, Ted Koppel interviewed a fellow. He talks about a guy who works with farm families, tries to help them. Willard Brunell said:

I think the scariest one was back a few years when I got a phone call from a farm wife [who] said my husband just left with a gun and he's driving away. He said he's going to his tractor. [He said] I was there with him 20 minutes and it was quite a ways away. I got him out of his tractor. He sat in my little car and we spent two hours in that car trying to talk him down and he told me exactly how he was doing, going to do it. He had the gun with him. . . .

They get more than 50 calls a month in this fellow's church talking about that kind of desperation.

In Minnesota and North Dakota, where Ted Koppel's program was taped, is some of the richest farmland in the entire world. Last year, one in every three farmers grew a crop that cost more to produce than they could sell it for. For many, it was the fourth, fifth year that happened.

Lowell Nelson was interviewed on this program. He is one of those farmers.

He was born, raised and had his own sons on this land, a fertile 400 acres he bought from his brothers 35 years ago after his dad died. But this spring [is the first spring] he's not planting anything.

He cannot. He is ruined. He said:

Well, I had been putting it off [this decision] for quite [a long] time and I had gotten a lot of urging, you know, from my wife to make a decision and I had just been putting it off. It's a decision I didn't want to make.

His wife said:

One night he was out in the field and all of a sudden called me on the [shortwave] radio and wanted me to come over just to ride with him [on the tractor] and I knew something was wrong and it was shortly thereafter that he decided he'd better get some medical help.

The interviewer asked Mr. Nelson:

How badly did you scare yourself?

He said:

Real bad.

The interviewer asked:

What do you mean?

He said:

Thinking that it may be better off not being here.

The reason I mention the ''Nightline'' program, they interviewed these folks. These are real people in desperate trouble—just in desperate trouble. We have a country whose economy is growing and thriving and rising—full of good news. The stock market hits record highs. Everybody says this is a terrific economy. Then you drive out down a country road, and talk to a family who has struggled for 20, 30, 50 years, and you see what is happening.

A big guy stood up at a meeting I had one day. He had a big beard, a tall fellow, a strong fellow. He said: You know, my granddad farmed my farm. My dad farmed it for 40 years. And I have farmed it for 23 years. Then his eyes teared up and his chin began to quiver, and he could not continue anymore. When he finally got the words out, he said: And I can't keep going anymore. I'm broke, so I have to sell the farm.

That may not matter to some, but it matters to me.

A woman wrote me a couple of weeks ago and said: We had our auction sale on our farm, and my 17-year-old son would not get out of bed to come downstairs. He refused to come down and help at the auction sale because he was so heartbroken. He knew he would never be able to do what his dad did. He knew he would never be able to farm that farm. She could not get him out of bed he was so heartbroken.

I tell you all of that because we pass a supplemental bill and we say: All right, on defense, the Defense Department needs $6.1 billion to prosecute this war in Kosovo. We must restore munitions and planes and do other things. And I am for all of that. I support all of that. I support our men and women in uniform and support this mission.

But then we also say there is another $5 or $6 billion we want to add to that. And I say, if there is $5 or $6 billion around that can be used in this discretionary way, then I want the priority to say: We want to continue to invest in America's family farmers.

You think this country is going to be a better, stronger place when we don't have family farmers left? When corporations farm America from California to Maine, you think food prices are not going to go up? And it is more than just farming. These folks contribute in every way to their community. They contribute to a way of life that we are losing in this country. Yet, somehow, when we talk about all of these fancy economic theories, nobody talks about the family as an economic unit—nobody.

The economic unit in this country is the large corporation. They are all getting married, as you know. There is all this corporate romance going on all over America. Every day you wake up and see a new couple of corporations have decided to get hitched and get bigger.

What about the economic unit that really matters in the center of this country in America's farm belt that grows America's food? That makes America's communities strong? That helps build America's churches? That puts life on main streets on Saturday night? What about those economic units? What about family farmers?

Last year, we passed an emergency bill. About half of that money is not yet in the hands of family farmers. It will be there in a matter of weeks, I guess, through the USDA, through this formula. But it is $1.5 billion short of what was promised. We should have at least added that to this piece of legislation. We should have at least added some additional support to say to family farmers, when prices collapse at Depression-level prices, we are going to reach out a helping hand, extend a helping hand to you to say you matter to this country.

We had an opportunity to do that and did not. A 14-to-14 vote, and how I regret losing that vote—but in this business, in this system, you win some and you lose some. My hope is that those who felt it not appropriate, those who felt it was not the time to respond to this need now will, a week from now or a month from now, decide that it is time to respond.

This is not Democrat and Republican. We have had bad farm programs under all kinds of administrations—Democratic administrations, Republican administrations. I want the farmers to get the price from the marketplace as well. That would be my fervent hope. But when the marketplace collapses, we must help.

Let me make a final point. I think it is fascinating that at a time when

somehow the economic unit of the family, with respect to agriculture, does not seem to matter, that which the family farm produces in this country is used by everybody else to make record profits—the railroads make record profits hauling it; the cereal manufacturers make record profits putting air in it and puffing it up and putting it on the grocery store shelves and calling it puffed wheat—the farmers go broke. The manufacturers get rich. Or they sell a steer for a pittance or sell a hog for $20, an entire hog. You can buy a hog for $20 at the bottom of the hog market, and then go to the store and buy a ham that cost you $30 or $40. Buy a small ham at twice the price you bought the entire hog for.

Something is fundamentally wrong, and farmers know it. So everybody who touches these products make record profits and are getting bigger and richer; and the folks who start the tractor and plow the ground and plant the seed, and then hope all summer it does not hail, the insects don't come, that it rains enough and doesn't rain too much, and that they, by the grace of God, might get a crop, wonder whether they will be able to sell it in the fall and make any kind of profit.

So I cannot vote for this conference report. But having said that, I deeply admire the work of the Senator from Alaska and the Senator from West Virginia and others who participated in it. The priorities, in my judgment, needed to include the priorities I have just discussed with respect to helping family farmers, and they do not, regrettably.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in strong support of this conference report. I say to my good friend from North Dakota, I had oriented myself to one set of remarks, but I listened carefully to his, as I frequently do. He certainly speaks from the heart about his people. I remember the floods that his State experienced years ago. I feel as if I am on the farm, the family farm, with him. And you talked about that family.

So while we may be at odds on this bill, I want to take the same theme and talk about a family. I want to talk about a military family. This bill has in it provisions for a military family.

I want to talk about that wife here in the United States, or in other places of the world, with their children, whose husband is flying an aircraft right at this minute in harm's way. It could be the reverse, because women are flying aircraft in harm's way in this conflict over the Balkan region, over Iraq.

Mr. President, this country is at war. And for that wife at home, war is hell. For that individual in the cockpit, war is hell.

The purpose of this emergency legislation is to provide the dollars necessary to alleviate to some extent the strain on the families and those in the cockpits.

Every Member of the Senate has young men and women involved in the conflict in Kosovo or over the general Balkan region or over Iraq or standing guard, as they are, in other far, remote areas of the world to protect freedom. That is what this bill is all about.

Let me add one other feature, and then I will yield the floor, because many are anxious to speak.

Each year, the Department of Defense plans for the next year and the year following as to how many aviators, for example, they will train to keep the cockpits filled. Last year, the number of pilots we had to keep to maintain the flying status of sufficient men and women fell by 1,641. That number of young men and women trained as aviators decided they no longer could remain on active duty and would return to civilian opportunities. Many of those decisions were dictated by their concern for their families. But stop to think of what it costs every American taxpayer to replace that individual in that airplane, to train the number of new recruits to be pilots or navigators or to take to sea in those combat airplanes.

I ran that calculation. It costs roughly between $2 million to $6 million, depending on the type of aircraft, to train a man or a woman to become an aviator, $2 million to $6 million. If you multiply the average of that times 1,641, it is $9 billion just to replace the aviators. That same drain on trained manpower, womanpower in the military occurs in other branches of the service where perhaps their training is not as costly to the taxpayer but $9 billion just to close the gap for those flying aircraft.

Let us think about the families, as my good friend from North Dakota described, the farm community. Let us talk about the military, what those wives and their children, what those aviators are doing in harm's way today. They are carrying out the orders of the President of the United States, as Commander in Chief of the Armed Forces. This Nation is but one of 19 nations locked together in the first combat operation in the 50-year history of the North Atlantic Treaty Organization.

This is a critical moment for families, be they farm families or military families.

Mr. President, as I said, support the emergency supplemental appropriations bill now before the Senate. As chairman of the Committee on Armed Services, I join with my colleague and close working partner on defense matters, the chairman of the Appropriations Committee, to urge all our colleagues to support our military forces by voting for this bill.

I support this bill for one simple reason—we are at war. As we speak, we have military forces engaged in combat—going in harm's way—in the skies over the Balkans and Iraq. Whether or not there is agreement on how these risk-taking operations are being prosecuted is not now the question. We must support our military forces who are risking their lives daily to carry out the missions they have been assigned.

Mr. President, the conflict in Kosovo has been ongoing since March 24, when the NATO use of force began. Since that time our pilots and the pilots of our allies have flown thousands of combat missions against Milosevic's military machine. We have already spent billions of dollars—on both aircraft operations and munitions—in support of Operation Allied Force. These funds are now coming out of the readiness accounts of our military services. Without this supplemental, there would be further and unacceptable degradation of the readiness of our forces.

The conference agreement provides $10.9 billion for defense, including $2.2 billion above the President's request for aircraft flying hours, spare parts, depot maintenance and munitions, including sophisticated precision-guided missiles and bombs, which allow our pilots to be more effective at reduced risk—both to them and to innocent civilians on the ground.

Mr. President, I know that some of my colleagues have expressed concern regarding the funds provided in this bill for pay raises, pay table reform and retirement reform. I firmly believe that all my colleagues would agree that we have very serious problems of recruiting and retention in our military services. I believe the problems are of such magnitude—indeed, we have a hemorrhaging of skilled personnel leaving our military—that this situation qualifies as an emergency. As an example, both the Army and the Navy failed to meet their 1998 recruiting goals and the Army, Navy, and the Air Force project that they will not meet their recruiting goals for 1999.

Last year, 1641 more pilots left the service than the Department of Defense projected. It costs about $6 million to train a single pilot. The cost to replace these 1641 pilots is more than $9 billion. We must act to stop this hemmorhage of pilots and other skilled military personnel. We must send a signal now that we in the Congress intend to take care of our military personnel and their families.

I know that there are Senators who are concerned about this process, and there are Senators who disagree with some of the items in this emergency supplemental. I share some of these concerns. But, Mr. President, as I stated earlier, our Nation is at war. We can argue the process and our other concerns at another time.

I believe that now is the time for the Senate to show its support for our men and women in uniform who are, as we speak, carrying out their assigned missions under difficult and dangerous conditions. I will vote for this bill, and I strongly urge my colleagues to do likewise.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator from West Virginia. I appreciate his work on this very important measure for our country at this time.

I was here in the Chamber and got to hear the remarkable speech of the distinguished Senator from North Dakota. He is absolutely correct. There is not enough money in this supplemental appropriations bill to address the devastation that we are experiencing throughout rural America. My State in particular has been hard hit because of weather-related disasters, the worst drought in over a century occurred last year.

It is my hope that in the months ahead we will all, on both sides of this aisle, Democrats and Republicans, be more mindful of the tremendous difficulty that rural America is experiencing and come up with additional and real ways of helping that lead us to a more market-oriented approach but recognize that there are some safety nets and some bridges that need to be put in place that are not there yet, and it is causing great pain throughout America.

However, I want to point out that in this supplemental, partly because of the fine work by the Senator from North Dakota and others, we have added a half billion dollars for much-needed farm relief. It is not enough, but it is better than nothing. Farmers in my State in Louisiana and in many States around the Nation are depending on us today to vote favorably toward this measure and to send them this help. Every day in my office the phone rings with farmers needing their emergency assistance that was promised to them last year but not forthcoming.

It is estimated from our agriculture commissioner that there are over 300 to 400 farmers that are just barely holding on, waiting for these checks and this assistance so that they can make future plans.

It is important. It is not enough money in this bill, but it is better than what it started out to be. Because of the leadership, a half billion dollars has been added. I am happy to say that a great deal of that money will go to help Louisiana and other States in our area.

This package includes much-needed emergency assistance to farmers in Louisiana and other agriculture States still reeling from last year's extreme weather conditions.

Mr. President, I will never forget the faces of farmers in my home State as they showed me acre after acre of scorched row crops, or how shocking it was to see the horrible cracks and craters in what was once fertile soil.

This package, Mr. President, includes additional assistance to replenish the fiscal year 1999 emergency loan account, which has been depleted due to the severity of this crisis.

Hundreds have received help but, right now more than 300 farm families in Louisiana are waiting for their emergency loan applications to come through. And although more assistance may still be needed, those loan payments are crucial to help our farmers stay in business.

Mr. President, hurricane victims in Central America are also waiting on this emergency package. In fact, they've been waiting for more than 6 months.

The winds and rains of Hurricane Mitch claimed the lives of more than 10,000 people, and left an estimated 1 million homeless. It completely wiped out hundreds of schoolhouses, bridges, roadways, and churches. But after visiting Honduras and Nicaragua, I can assure you the numbers fail to convey the full extent of the devastation.

Besides the obvious humanitarian reasons, helping our Central American neighbors recover serves the long-term interests not only of the United States but the entire Western Hemisphere.

Within the past few decades, we have seen Central America move from conflict to peace, from authoritarian governments to democracies, from closed to open economies. Now this progress is at risk.

In the past, the United States has played a strong role in encouraging economic development in Central America.

Nearly four decades ago, President Kennedy traveled to Costa Rica to announce his ''Alliance for Progress'' to promote the expansion of agriculture exports throughout the region.

Since then we have pursued a variety of other measures designed to help these countries diversify their economies and boost exports.

While these policies have not always been successful, the United States has always shown its willingness to help lift these economically depressed nations to a more prosperous standard of living.

The point is—the United States has a long history of helping our Central American friends move further down the path of development. Now—perhaps—that friendship is being tested by the devastation that has decimated their towns and villages and the commerce that flows through them.

But, as we all know, friendships become stronger when they are tested. And I am glad that the United States is responding like good friends should.

I am also particularly pleased that this supplemental package will be used in part to addresses the problem of permanent housing in Central America.

During a historic meeting—hosted by Senators LOTT and COVERDELL—held in the LBJ Room several months ago, four Central American Presidents made it clear that permanent housing is among the highest priorities for their recovery. The numbers say it best: Mitch destroyed 700,000 homes, severely damaged 50,000 and left 35,000 people in temporary housing—tents, schools, churches.

I will be working—along with other colleagues on both sides of the aisle—to see that we do all we can in the area of housing in Central America.

Helping Central America rebuild is of special concern in Louisiana. With one of the largest Honduran communities outside Honduras, New Orleans is sometimes referred to as ''the third largest Honduran city.''

Brought to our State through trade with the port, these enterprising people have been a source of strength to our community for many years now. So this package is of utmost importance to them and so many others back home.

Before yielding the floor, Mr. President, let me also express my support for the increase in military spending in this supplemental.

Over the last decade, we have seen a slow, steady decline in the recruitment and retention of our military men and women. We have allowed the disparities between military and private sector to grow so large that our service men and women are being lured away.

For instance, B–52 pilots at Barksdale Airforce Base in Shreveport, LA, can go right down the street to the Shreveport International Airport and sign on with a commercial airline with better salaries, pensions, and benefits.

It is imperative that we reverse this trend. Mr. President, my hope is that these military spending increases will mark a good step forward in helping us recruit and retain the best and the brightest.

In closing, let me say again how important this Emergency Supplemental Package is to farmers in Louisiana and other rural communities in America. And as we consider the interests of our Nation and this hemisphere—and the future of the fragile democracies in them—on the edge of this new century, let us make sure we honor our ties of friendship with the nations of Central America.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois, Mr. DURBIN.

Mr. DURBIN. Mr. President, first, I thank the Senator from West Virginia and my leader on the Appropriations Committee, and my friend, Senator STEVENS from Alaska, who is not present on the floor; he is also the chairman of this important committee.

You can measure the values of a nation by the way it spends its money. If you take a look at this bill, you will see that the values of America are strong in many areas. We are prepared to spend $6 billion to make sure that the men and women in uniform in Kosovo have the very best. Were it my son or daughter, I would demand nothing less. I am sure we all feel the same.

We are spending hundreds of millions of dollars for humanitarian relief. Isn't it typically American that no matter what our sacrifice, we are willing to help others, whether it is the refugees

in Kosovo or those suffering from the hurricane in Central America.

Many other good things are in this bill. I was happy to be part of an effort to provide financial assistance to those who have been in the pork production industry and have been hard hit during the last year. Senator BOND and I have worked for $145 million to try to help some of these farmers to face the toughest times in their lives. Net farm income in Illinois is down 78 percent. Farmland in Illinois is some of the best in the country, yet farmers have seen this dramatic decline in income. With all these good things in the bill, it would seem fairly obvious to vote for it without reservation. I wish I could. I plan on voting for it, but with serious reservations. Let me tell you what they relate to.

When this bill came from the White House, the President asked for $6 billion for military and humanitarian assistance, and then the House added $5 billion in military spending which the President didn't ask for. Among other things in this bill is $500 million for military construction around the world that is not authorized, not requested. It is put in here.

When I went to the conference with Senator BYRD and Senator STEVENS, the Senate side of the aisle said we are going to propose an amendment that I offered—$265 million for American schools. You have heard of all the things I have mentioned. There is not a penny in this bill for American schools—nothing. Are schools on our minds? You bet they are. Cities like Conyers, GA; Littleton, CO; Jonesboro, AR; West Paducah, KY; Pearl, MS; Springfield, OR. The sad roster of schools in America that have been hit by school violence continues to grow.

I produced an amendment for $265 million for two things—not radical new suggestions but tried and true things such as school counselors so that kids who are troubled and have a problem have somebody to turn to, and after-school programs so that kids are supervised in a positive, safe learning environment. The House conferees rejected that. Not a penny for schools, not $265 million. Not a penny for schools, but $5 billion more in military spending than this President requested.

Where are our values? Where are our priorities? If our priorities are not in the schoolrooms and classrooms of America, if they are not with our children, where are our values?

I salute what is in this bill. Much is good. But it pains me greatly to stand on the floor of the Senate and say that in a conference committee only a few days ago the idea of sending money to America's schools for America's schoolchildren was soundly rejected by the House conferees. That makes no sense whatsoever.

We will talk in the juvenile justice bill about how to reduce crime in America, how to reduce violence, and we should. We will talk about gun control, and I support it. But there is more to it. We have to be able to reach out to those kids who show up at school every day with a world of hurt, a world of problems, kids who probably see school as the only shelter, the only nurturing environment, in their lives. These kids need a helping hand, and with this helping hand they can be better students and better Americans.

We missed an opportunity in this bill by denying one penny for those schools. We missed that opportunity. I am sorry to say that this bill does not include it. But I promise you this. As long as I serve in the Senate, I will join with those in the Senate and, I hope, others in the House, who come to the realization that there is no greater priority than our children.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Virginia, Mr. ROBB.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I thank the distinguished Senator from West Virginia and the ranking member on the Appropriations Committee. Like our other colleagues, I commend him and the distinguished Senator from Alaska for their hard work on this particular proposal we will be voting on today.

I regret that I am not able to support this particular bill because there is so much in it that I do support. I clearly recognize the critical need for additional spending for our military. Indeed, we are not spending enough on our military today, even with the emergency spending that is legitimately included in this bill for the crisis in Kosovo. We are going to have to spend even more if we are going to meet our commitments around the world and provide the national security that we're expected to provide—and indeed that we profess to be able to provide. We are not spending enough money on ships, or planes, or ammunition, or on quality of life improvements for members of our Armed Services. We are going to have to address those needs, even beyond what is provided in this bill.

I am embarrassed by the fact that we're just now getting around to funding the emergencies that occurred as a result of Hurricane Mitch, and the needs of our farmers are acute and critical. There is simply no excuse for the delay in providing the emergency funding in these areas. The concern I have is with the process. We cannot continue to do business this way. If we determine that this is an emergency spending measure, we ought to make sure that what we are funding are true emergencies and take care of our other priorities through the normal authorization and appropriations process.

We have the promise of a surplus. We ought not to abandon the fiscal responsibility that brought us that promise and has given us the chance to make real progress on debt reduction. We should not use the fact that we have our men and women in harm's way overseas as an excuse to go on a spending binge here at home. Many of the projects in this bill have merit. If it is an emergency, it ought to be in this bill. And we ought to take out the nonemergency spending, pass a clean bill, and get the emergency spending where it is needed, especially to our military.

In short, Mr. President, providing substantial emergency funding for our troops in Kosovo is the right thing to do. Providing long-overdue emergency funding for the victims of Hurricane Mitch is the right thing to do. And providing desperately needed emergency funding for our nation's farmers is the right thing to do. But combining these legitimate emergency requests with billions of dollars of nonemergency spending—no matter how meritorious the individual project—is the wrong way to do it.

With that, I yield back any time I may have. With great regret, I announce that I am unable to support the bill, although I fully support many of the priorities the bill includes.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 7½ minutes to Mr. GRAHAM.

The PRESIDING OFFICER. The Senator from Florida.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, first, I ask unanimous consent that Colton Campbell be afforded floor privileges during the duration of my remarks.

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

Mr. GRAHAM. Mr. President, I will reluctantly support this legislation because it contains important issues. It contains the funding for our troops in the Balkans. It contains the funds to meet our humanitarian responsibilities to our neighbors in Central America and the Caribbean. It also retains a provision—which I know the Presiding Officer has strongly supported—to clearly state that the funds the States secured through their tobacco settlements will be funds to be managed, administered, and prioritized at the State level.

Mr. President, I share many of the concerns of my colleague from Virginia. I share those concerns because what we are doing is to chip away at the financial security of 38 million Americans—38 million Americans who receive Social Security income. Forty percent of those 38 million Americans would have fallen below the poverty line but for Social Security.

Why is this relevant to this debate? It is relevant because we are on the verge of draining an additional $12 billion from the Social Security fund through this legislation. We had three choices when we started this debate. One choice was to do the tough thing, to reprioritize our spending, to say that if it is important that we spend money on our humanitarian needs in

Central America and the Caribbean, then let us reduce spending somewhere else.

I am pleased to say that for that account we in fact have done so.

We had another choice, which was to say let's raise revenue. If we can't find an area where we think it is appropriate to reduce spending, then let's be prepared to pay for this emergency.

Third, we could say let's use the accumulated surplus that we have, which today is a 100-percent surplus generated by the Social Security trust fund. As to the $12 billion in this legislation, we have elected the third course of action.

Mr. President, this is not the first time we have done so. In fact, it is not the first time in the last 8 months that we have done so.

Last October, in the waning hours of the budget negotiations, Congress passed a $532 billion omnibus appropriations bill.

Tucked into that bill was $21.4 billion in so-called emergency spending.

The effect of that designation then—as it is today—was to relieve Congress of the necessity of finding some other reprioritized spending to eliminate in order to pay for this emergency.

But because of the emergency designation, the $21.4 billion in October could be approved without offsets, and because of the emergency designation today, we will approve an additional $12 billion of expenditure without offsets.

Let's look at the numbers.

In 1998, Social Security was $99 billion. The first use of that money was to offset $27 billion in deficit in the rest of the Federal budget. An additional $3 billion was used to pay for emergency outlays, leaving us with a total surplus not of $99 billion but of $69 billion.

This year, 1999, we are projecting a $127 billion surplus.

Again, we have used $3 billion to offset deficits elsewhere in the budget, $13 billion for emergency outlays, and we are about to spend another $14.6 billion for emergencies, reducing our surplus from $127 billion down to $96 billion. And for the year 2000, we have already carried forward some of the emergency spending from 1999.

Again, we will be reducing the Social Security surplus by $10 billion. This is from where we are paying for these emergencies.

Mr. President, the repetitive misuse of the emergency process is continuing to erode the Social Security trust fund. This misuse is done in a manner that precludes most Members of Congress from any meaningful role in what has traditionally been accepted as emergencies. We have been denied the opportunity to participate in a determination as to whether the proposed emergency expenditure met the standards of being sudden, urgent and unforeseen needs, which is the standard that has traditionally been used for emergencies.

The same Congress that claimed to be saving the surplus for Social Security—committed to a ''lockbox'' for Social Security—is again actively participating in raids on the Social Security trust fund through the back door.

Willie Sutton once was asked, ''Why do you rob banks?'' His answer: ''That's where the money is.''

We may manufacture the strongest vault to protect the Social Security surplus from Willie Sutton. But if we let Jesse James continue to steal the money on the train before it gets to the bank, we will have the same result. The money will not be there for our and future generations of Social Security beneficiaries.

Social Security is a federally mandated program. We have a legal obligation to our children and grandchildren to secure the surplus for its intended purpose—Social Security. We must assure that the budget surplus is not squandered on questionable emergency items in the future.

Mr. President, with your support and that of Senator SNOWE of Maine, we have introduced legislation which has as its objective to establish permanent safeguards that will assure that nonemergency items are subject to careful scrutiny and not inserted into emergency spending bills to circumvent the normal legislative process.

I urge our colleagues' support for this legislation.

Mr. President, as we adjust to the welcome reality of budget surpluses—after decades of annual deficits and burgeoning additions to the national debt—we must never forget how easily this valuable asset can be squandered.

For too long, the Federal Government treated the budget like a credit card with an unlimited spending limit.

Private citizens are warned against falsely dialing 911. Congress should exercise the same restraint in using its emergency authority.

Thank you, Mr. President.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that an additional 10 minutes be authorized for debate on this measure, and that 8 of those minutes be under the control of the Senator from West Virginia, Mr. BYRD, and 2 minutes be under the control of this Senator.

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

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I yield 5 minutes to the distinguished Senator from Iowa, Mr. HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, let me just say that being for or against this bill is basically a tossup, as far as I am concerned. It is one of those 51–49 types of propositions. So that is how I am going to come down on the 51-percent side, and vote for the conference report.

First of all, this is not a time to indicate anything less than full support for our troops in Kosovo and the surrounding areas.

There is also in this conference report some much-needed farm assistance and disaster assistance for the United States and Central America. However, I must say there are parts of the bill to which I register my stiff opposition.

First, this bill forfeits the opportunity to ensure that tobacco settlement money is used to fight smoking and to promote health—that is not in here. In fact, just the opposite.

Second, the bill provides only a fraction of critically and urgently needed farm assistance. Let me just talk for a moment about that subject.

This is an emergency supplemental appropriations bill. We take care of emergencies in Central America and other places. But one of the very biggest emergencies facing us today is the emergency in American agriculture. Export prospects are dismal. Exports for this year are projected to fall to $49 billion, which is a 19-percent decline from 1996. Asia still hasn't recovered. Net farm income for major commodities could drop to $17 billion compared to an average of $23 billion a year for the previous 5 years. Net farm income for major field crops will be 27 percent below what it was for the last 5 years.

It is true that there is some farm assistance in this package, and I was pleased to work with my colleagues to get it in the bill. But it is not enough, and it is too late.

The White House sent up the supplemental appropriations request for additional farm loan funds and Farm Service Agency funding on February 26. Now here we are just getting to it, nearly three months later.

This money was critically and urgently needed for the planting season. Now we are just getting around to it, even though the planting season is well over halfway past. The farm assistance that we have in the bill is good. Sure, an aspirin is good, if you have a major illness and you have some pain. But it doesn't get to the real root cause of it, and neither does the assistance in this bill. It falls far short of what is needed.

I offered an amendment in the conference committee to address the deepening crisis in the farm economy. The amendment addressed a range of farm income problems in the crop, livestock and dairy sectors, and it dealt with agriculture's economic crisis around our nation, not just in one or two regions. Regrettably, that amendment failed on a 14–14 tie vote of Senate conferees.

The amendment lacked just one vote. So we will be back again on whatever measures we can get up on the floor this year to provide critically and urgently needed economic assistance to our farm families and our rural communities.

All I can say is that when it came to the issue of Kosovo, we were willing to meet our obligations and respond to the emergency. In fact, the conferees had no trouble coming up with $5 billion more than what was asked for in

military spending. But we couldn't come up with the money needed to help our beleaguered farmers and the rural economy.

Finally, I also want to say a word about offsets for this bill. For the small portion of the bill that is offset, there was a beeline to go after programs that are vital to the most vulnerable in our society: food stamps and housing. Hunger and poverty remain persistent and pervasive problems in our society. Now we know these rescissions are not genuine offsets, since there are not outlay reductions associated with them. So perhaps there is no harm, but clearly these offsets should not lay the groundwork or create a precedent for future rescissions that actually reduce program benefits.

Again, on the whole, I will vote for the conference report.

I just want to register my objections to two major portions of the conference report, farm assistance and tobacco, which I consider to be totally inadequate.

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

NEEDED SUPPORT FOR THE PAN AM 103 FAMILIES

Mr. KENNEDY. Mr. President, a significant provision in the 1999 Kosovo supplemental appropriations bill will enable the Justice Department to pay for the travel expenses of the Pan Am 103 families who wish to attend the upcoming Lockerbie bombing trial in The Netherlands this summer. Existing law prevents the Department from using federal funds to pay for this travel.

Under this provision, the Justice Department's Office of Victims of Crime will be able to use an existing reserve fund to pay for the transportation costs, lodging, and food at government per diem rates for immediate family members of the Pan Am 103 victims. The Department also plans to establish an 800 number and a web site to keep family members informed during the trial. In addition, the Department plans to establish a compassion center, staffed with counselors, at the base in The Netherlands where the trial will be held, in order to help the families cope with the emotional strains of the trial.

The families of the victims of this terrorist atrocity have been waiting for more than ten years for justice. They have suffered the deep pain of losing their loved ones, and that pain has been compounded by the Libyan Government's refusal for many years to surrender the suspects accused of the bombing. Now the suspects are finally in custody and the trial will begin soon. We can never erase the pain of the loss that the families have suffered, but we can enable them to attend the trial and see that justice is finally done. I commend the House and Senate conferees for including this important provision to help these long-suffering families.

Mr. FITZGERALD. Mr. President, in the past, American presidents have argued that a congressional appropriation for U.S. military action abroad constitutes a congressional authorization for the military action. I will not vote for an authorization of money that may be construed as authorizing, or encouraging the expansion of, the President's military operations in Kosovo. I will oppose the appropriation of almost $11 billion for a war I have consistently spoken out against.

On March 23, I voted against President Clinton's decision to launch the air campaign in Yugoslovia. On May 4, I voted against a resolution that would have given the President blanket authority to expand the operation. To date, I have not been convinced that this war is necessary to protect a vital national security interest, and I have opposed efforts to escalate the conflict.

I have a number of secondary considerations with respect to this legislation. I am concerned, for one, about plundering the Social Security trust funds to pay for a war that involves no vital national security interest. If I believed that vital national security interests were at stake, I would consider the argument to fund the war from the Social Security trust fund surplus. But in the absence of a vital national security interest, I do not believe the Congress should pay for the war out of the Social Security trust funds.

I am also concerned about some of the anti-environmental riders added to the emergency supplemental bill in conference. These provisions should have been fully debated, and should have gone through the normal legislative process, instead of being slipped into the bill in the dead of night.

I am disappointed that I can't support this bill, because it contains funding for farmers hit by low commodity prices. Some of this is funding that I've argued for and, in fact, voted for in earlier instances, including S. 544. But my opposition to funding the military action in Kosovo is firm. I can endorse neither the authorization for the war, nor the appropriations process that is its genesis.

The PRESIDING OFFICER (Mr. INHOFE). Who yields time?

Mr. BYRD. I yield 5 minutes to the distinguished Senator from Connecticut, Mr. DODD.

Mr. DODD. I thank the distinguished Senator from West Virginia.

Mr. President, I rise to support the Conference Report of H.R. 1141—the Emergency Supplemental Appropriations Bill before us today. I do so reluctantly, however, because of the many special interest riders that have been attached to this emergency legislation. In the final analysis I will support the conference report because it provides critically important funds to assist American farmers, to support ongoing action against Yugoslavia, to relieve the suffering of Kosovar refugees, and to help Central America recover from the devastating effects of Hurricane Mitch.

In light of all the other measures that have been added to this bill, many of dubious merit, I deeply regret, Mr. President, that the Speaker of the House refused to allow House conferees to accept a Senate amendment that would have freed up monies for payment of the United States debt to the United Nations. I find it somewhat puzzling that House Republicans are on record calling for a negotiated settlement of the Kosovo conflict, yet are not prepared to provide overdue payments to the organization that will likely play a central role in implementing any peace agreement. I would like to dwell on two major provisions of this bill which I support, namely the aid to help Central America recover from the damage caused by Hurricane Mitch and the funds to sustain our ongoing efforts in the Balkans.

The funds aimed at helping Central America recover from Hurricane Mitch stem from an emergency request the President made back in February. It is extremely embarrassing that it has taken until May for the Congress to finally get around to passing the necessary legislation to provide relief for a natural disaster that occurred last fall.

I cannot overstate the degree to which the storm ravaged Nicaragua, Honduras and other nearby nations. In less than a week, Hurricane Mitch claimed at least 10,000 lives—possibly as many as 20,000, left more than a million others without adequate food or shelter, and set the economies of Nicaragua and Honduras back as much as a generation. The need for long-term international assistance is great.

In late October and early November 1998, Mitch carved a slow, meandering and deadly path through the Caribbean. At the hurricane's apex, Mitch's storm clouds stretched from Florida to Panama and wind gusts topped 200 miles per hour. Meteorologists labeled Mitch a ''Category 5 Hurricane,'' the highest such designation.

Unlike other hurricanes, Mr. President, it was not Mitch's winds which proved so deadly. By the time the storm crossed the Honduran Coast on October 29, 1998, its winds had slowed to 60 miles per hour and the storm's movement to a mere crawl. The torrential rain, however, did not abate. The storm's slow speed allowed it to continually pound the same area day after day. By the time the skies cleared, Mitch had dropped five feet of rain onto Honduras and Nicaragua.

The massive flooding which followed claimed the lives of at least 10,000 Central Americans. That number, Mr. President, is certainly shocking. Yet, sadly, it is probably an understatement of the actual loss of life. As many as twelve thousand other people in the region are still missing and presumed dead. The Honduran government has declared 5,657 dead and 8,052 officially missing. In Nicaragua, at least 3,800 died. Smaller numbers perished in El Salvador, Guatemala and other countries in the region.

Mr. President, not since the Great Hurricane of 1780, nearly 220 years ago, has a storm claimed so many lives in the eastern Caribbean.

Mitch also destroyed or damaged 338 bridges, 170 in Honduras alone, leaving much of Honduras and Nicaragua accessible only by helicopter. The lack of helicopters in the region and their limited capacity left thousands without adequate food and water for weeks while some of the food provided by international aid organizations rotted at the airport.

Those who survived face the task of piecing the economy and mangled infrastructure back together. Meanwhile, more than a million people throughout the region, including one out of every five Hondurans, had to rebuild their homes and replace their personal possessions.

Honduran and Nicaraguan agriculture—a vital component of both economies—was decimated. Hurricane Mitch destroyed a quarter of Honduras's coffee plantations and 90 percent of the country's banana plants. The entire shrimp farming industry was destroyed. Damage to sugar and citrus crops was similarly heavy. The factories and farms of Honduras's Sula Valley, which normally contribute 60 percent of the country's GDP, were all flooded. While Nicaragua was not as badly damaged, the effects are still staggering: 20 percent of the nation's coffee plantations were destroyed. Newer crops such as citrus were completely annihilated.

The process of rebuilding the shattered lives, infrastructure and economies of Honduras and Nicaragua will be long and expensive. The World Bank and the United Nations Development Program estimate the total damage to the region at more than $5.3 billion. While these numbers are difficult to comprehend, they are even more daunting given that the GDP of Nicaragua is only $9.3 billion and that of Honduras only $12.7 billion.

I commend my colleagues for finding the resources to assist our neighbors to the south who have called upon the international community in their hour of need. It is not only in their interest, it is in our interest to assist them. It deserves our strong backing.

The original intent of the President's request for emergency appropriations from the Congress was to provide our men and women in uniform with the equipment and materiel they need to effectively strike the Yugoslav military. While I am heartened by recent reports of a possible diplomatic solution, we must remain prepared to continue our military efforts in the absence of an enforceable diplomatic solution which meets NATO's conditions.

Mr. President, we must never take the decision to send our service men and women into harm's way lightly. If a situation which is such an anathema to the United States that it calls for military action presents itself to us, however, we must vigorously support our soldiers, sailors and airmen through both word and deed.

As I just mentioned, the decision to send our military into battle is one of the most solemn that this body or this nation ever faces. And so, before I go on, let me reiterate why the situation in Kosovo justifies, in fact demands, American military involvement.

Slobodan Milosevic has carved a place for himself amongst history's most despicable tyrants. Serb forces have murdered least 5,000 ethnic-Albanian civilians and burned six hundred villages. To date, approximately 80 percent of Kosovar Albanians—more than 1.3 million innocent men, women and children—have fled their homes in a desperate attempt to outrun Serb military and police forces. Nearly 750,000 Kosovar Albanians have made it to the relative safety of neighboring countries and are now living under the most difficult of conditions.

These numbers, however horrific, tell only part of the story. They cannot express the pain of a family torn apart by blood-thirsty paramilitary policemen or the pain of a young woman gangraped by Serb soldiers. They do not express the tears of a young child who spends each day wandering between the tents of a Macedonian refugee camp searching for his or her missing parents. They do not describe the pain, both physical and psychological, the victims of torture feel each day.

Many members of Congress, myself included, have traveled to the region and visited the refugee camps. We have seen the pain in the eyes of the refugees fortunate enough to have made it out of the killing fields of Kosovo. Mr. President, the look in the eyes of these refugees defies description.

The ongoing genocide in Kosovo is antithetical to the most basic principles on which the United States stands. By acting to preserve the fundamental rights of Kosovar Albanians, the United States is reaffirming our belief that all people are endowed with certain inalienable rights, including the rights to life, liberty and the pursuit of happiness. If, however, the United States chose to stand idly by in the face of such grotesque evil, we would draw into question our dedication to human rights and our resolve to oppose dictators around the globe.

Our military, however, cannot effectively combat this evil if we in the Congress fail to offer them our support. One month ago, President Clinton sent a request to Congress for $6 billion in order to fund our military operations through the end of the fiscal year. That money is included in this bill.

As we debate this issue, people far beyond the walls of this chamber are listening to our words and watching our actions. Our men and women in uniform throughout the region who are putting their lives on the line each day want to know whether we in the Congress will seize this opportunity to support them. They need and they deserve the very finest equipment our nation can muster—the type of equipment the President's original request will pay for.

In capitals across Europe, our allies are listening and looking to the United States for leadership. They want to know whether the United States will maintain its commitment to NATO and to this important operation.

In refugee camps in Albania, Macedonia, Montenegro and elsewhere, hundreds of thousands of Milosevic's innocent victims are listening; hoping that we will reaffirm our commitment to them.

In the hills and forests of Kosovo, men, women and children who are hiding from soldiers and policemen are listening to American radio broadcasts on portable radios. They are looking to the United States for hope and support in their most desperate hour.

And finally, tyrants around the world, but especially in Belgrade, are judging our dedication to human rights and freedom.

Mr. President, we must send the same message to all: The United States will not back down in the face of unspeakable evil.

Just a moment ago, I mentioned that the President requested $6 billion for the ongoing operation in the Balkans. In just one month, however, that $6 billion bill has ballooned into a $14.9 billion monstrosity. The President's original request now represents well under half of the total bill.

Regretfully, the majority of the new spending is for non-emergency programs which fall far outside the original intention of the legislation. Such programs should rightfully be left to the regular appropriations process. The issues this bill was intended to address are simply too important to be embroiled in political spending. Thus, while I continue to support strongly the President's original request, I support the legislation before us with reluctance due to the expensive, non-emergency riders that were added during the House/Senate conference on this measure.

Mr. President, the provisions of this bill relating to Kosovo and Central America deserve our immediate attention and support. The victims of mother nature's fury in our own hemisphere and of Slobodan Milosevic's genocide in Europe, as well as the brave American men and women fighting under the American flag, need and deserve America's support. For that reason I intend to vote to support passage of this conference report despite its imperfections.

Mr. BYRD. Mr. President, the distinguished Senator from North Carolina, Mr. HELMS, has a very distinguished guest whom he wishes to present. I therefore yield for that purpose.

I ask unanimous consent that no time be charged to the remaining speakers because of that fact, and I ask unanimous consent following the introduction by Senator HELMS, there be a recess of 3 minutes so Senators may personally greet the distinguished guest.

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

VISIT TO THE SENATE BY KING ABDALLAH BIN HUSSEIN

Mr. HELMS. Mr. President, the distinguished Senator from West Virginia, as always, is gracious, and I thank him very much. As he indicated, we have today a distinguished son of a distinguished father who has visited many times. His Majesty, King Abdallah bin Hussein of Jordan.

He has been visiting with the Senate Foreign Affairs Committee and I present him to the Senate.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent the Senate stand in recess for 3 minutes.

There being no objection, the Senate, at 3:37 p.m., recessed until 3:42 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer.

Mr. BYRD. Mr. President, I yield 5 minutes to the very able and eloquent distinguished Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I rise for the first time since I have been in the Senate to oppose a supplemental appropriation. It hurts my heart because there is so much in this bill that is good. But I have to say there is a lot in this bill that does not belong in it, and there are some things left out of this bill, one or two things, that I thought were real emergencies that should have been in there.

What started out as requests to fund unexpected emergencies has turned into a flurry of spending and riders that simply do not belong in this bill. The one area that I particularly cared about, violence in our schools—which is an emergency by anybody's measure when parents are telling us, 75 percent of them, they are concerned about their children when they go off to school—a very modest proposal by the Senator from Illinois was turned down by the House members of the conference after it was approved by the Senate members of the conference. So all kinds of dollars were found for many things, but they could not find it in their hearts to do something about violence in the schools by providing some counselors, some afterschool money so desperately needed in our country today.

I am happy for the Senator from West Virginia, that he was able to get a commitment for a crisis he is facing in the steel industry in his State. I agreed with him, that particular piece of legislation and those funds should have been placed into this bill, and they were not. So I found this a very strange conference. I miss the Appropriations Committee. I was on it for two beautiful years. So I sat and watched at 1 in the morning as Senators and House Members debated. You may wonder, why would the Senator from California do that? Very simple: It is a very important bill that is before us.

I believe in what NATO is trying to accomplish. I agreed with the President that we needed to find about $6 billion for the military. It turns out it is almost double that, that winds up in this bill. The pay raise is taken care of. I wanted to do an even higher pay raise, but that pay raise—it is not an emergency, it is an obligation. We have to back the pay raise in the regular appropriations bills. This is just another way to push dollars around.

I do not think it is fair to say that is an emergency. I supported the funds in there for America's farmers, for Hurricane Mitch; those things were fine. But some of the riders in this bill really were wrong, not only wrong in substance but wrong to put in this bill. For example, the rider that deals with the tobacco funds from the tobacco lawsuit. It is not that I object that the Federal Government will not get a share of that—because I am willing to say it is fine, the Governors are the ones who put their names out there and they should get these funds. But to say to the Governors who are getting our part of the reimbursement: By the way, spend it any way you like—we are going to see Governors use that money to put a swimming pool in the Governor's mansion; we are going to see Governors use that to build a little street in the neighborhood where maybe some of their donors live.

I do not come from the school of thought that Governors are better than Senators. I think we run on a platform and most of us, most of us from both parties, believe we need to take care of the health care needs of our people. Comes along this bill, comes along a rider that says: Governors, you can spend that any way you want. Build a running track for your friends around the Governor's mansion? Fine, no problem, no strings. I have a problem with that. We should make sure our Governors are taking care of the health needs of their citizens since part of that money rightly comes from a recovery that included Federal programs—Medicaid, as an example.

Then there are three riders that deal with the environment in one way or the other. One has to do with oil royalties. This is about the third time that antienvironmental rider has been placed in this bill, because colleagues know they cannot get the votes here. It is stopping the Interior Department from collecting the rent payments or the royalty payments from oil companies who drill on Federal land, taxpayers' land. That money is being stolen from us. How do I know that? Because there have been lawsuits. And every time the Federal Government wins those lawsuits—I ask for 1 additional minute, if I might.

Mr. BYRD. Mr. President, how much time do I have remaining under my control?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. BYRD. I yield 1 more minute to the Senator.

Mrs. BOXER. So here we have a situation where the Interior Department could use the money to help with our parks and open space, and the oil companies get another special rider on this bill. It is the third time that has happened. Mr. President, I do not think that is the way to legislate.

Then we have an environmental rider placed in the bill by Senator GORTON who now, I understand, is not even going to vote for this bill which has his rider in it that does tremendous damage to the State of Washington by permitting a mine up there.

There are so many things in this bill that do not belong in it. So it is with a heavy heart I say to my friends, for whom I have great respect, I cannot vote for this. I do not think everything in there is truly an emergency. Yet I think those things that were emergencies were left out.

I look forward to working with my friends in the regular order so we can debate some of these important measures outside this so-called emergency designation.

I yield the floor.

Mr. CLELAND. Mr. President, I will vote against the pending conference report because I believe it, and the policy and process behind it, represent a shameful failure on behalf of our American servicemen and women now in harm's way in the Balkans.

This legislation before the Senate today displays exactly what's wrong with Washington, including the United States Senate. There is much in the pending conference report on Supplemental Appropriations which is urgently needed and which I support. American farmers need and deserve the disaster assistance included in this legislation. The Kosovar refugees need and deserve massive resettlement and reconstruction assistance, of which the pending measure provides at least a down payment. Our servicemen and women need and deserve the pay raise it provides and above all, those who are on the front lines in the Balkans and elsewhere in the world need supplies and equipment.

However, in spite of these positive features, I will be voting ''no'' because of the bill's funding for an expanded, open-ended war against Yugoslavia, which in my opinion, has not been adequately and appropriately considered by the Congress, and also because this important legislation has been used for petty provincial interests. In effect, our servicemen and women are being held hostage while the bill has been loaded up with narrow amendments to assist special interests, such as a gold mine in Washington state, a dormitory for Congressional pages, and reindeer ranchers.

While I have certainly observed this same game of special interest influence on the legislative process all too often since I have been in the Senate, this current case is particularly egregious

because of the boldness of the special interests and the apparent willingness of too many of our national leaders to allow those interests to be placed above consideration of the interests of our troops in the field.

Our troops deserve better from all of us.

I have spoken before my reservations about NATO's current policy in the Balkans and Congress' abdication of our Constitutional responsibilities with respect to war powers. To say the least, neither of those reservations have been alleviated in this conference report.

Our leadership, including both the Clinton Administration and NATO, have failed to clearly state what our mission is in the Balkans, what specific goals we intend to achieve, and how we will end this mission.

As perhaps the leading military analyst of the Vietnam War, Colonel Harry Summers, wrote in his excellent book ''On Strategy: The Vietnam War in Contest:''

The first principle of war is the principle of ''The Objective.'' It is the first principle because all else flows from it. . . . How to determine military objectives that will achieve or assist in achieving the political objectives of the United States is the primary task of the military strategist, thus the relationship between military and political objectives is critical. Prior to any future commitment of U.S. military forces our military leaders must insist that the civilian leadership provide tangible, obtainable political goals. The political objective cannot merely be a platitude but must be stated in concrete terms. While such objectives may very well change during the course of the war, it is essential that we begin with an understanding of where we intend to go. As Clausewitz said, we should not ''take the first step without considering the last.'' In other words, we (and perhaps, more important, the American people) need to have a definition of ''victory.''

Colonel Summers continues:

There is an inherent contradiction between the military and its civilian leaders on this issue. For both domestic and international political purposes the civilian leaders want maximum flexibility and maneuverability and are hesitant to fix on firm objectives. The military on the other hand need just such a firm objective as early as possible in order to plan and conduct military operations.

Mr. President, we've been here before, and speaking personally, I know all too well the kind of price that is paid by our men and women in uniform when our political leaders fail to lay out clear and specific objectives. More than thirty years ago, in Vietnam we also lacked clear and specific objectives. We attempted to use our military to impose our will in a region far from our shores and far from our vital national interests, and without ever fully engaging the Congress or the American people in the process. The result was a conflict where the politicians failed to provide clear political objectives, but intruded in determining military strategy, and where our policy was never fully understood or fully supported by the American people.

Too many Americans never came home from that war, and others came home unalterably changed in mind or body. I cannot in good conscience sit here and watch it all appear to be happening again. I will not support putting American ground troops into Kosovo, and I cannot vote for this conference report which, in my opinion, moves us further in that direction.

Mr. KOHL. Mr. President, I rise in strong opposition to the conference report before us. It uses funds for undeniably urgent needs—our operations in Kosovo, our rescue of struggling family farmers, our efforts to dig out from the hurricanes of last year and the tornados of this month—to mask spending on unnecessary and unbudgeted urges. That is more than dishonest; it is disgraceful. It is like agreeing to let your neighbors use your car to take their sick child to the hospital—if they also agree to pick up and pay for your groceries, your dry cleaning, a set of new tires for the car, and a pizza.

It is no surprise that people are cynical about talk that comes out of Washington. By adopting this conference report, we prove our work means very little. We prove that the budget we endorsed just two months ago was not a promise—it was posturing. We prove that we are more interested in sound bites than sound accounting.

Mr. President, I understand that there are genuine emergencies that require us to spend beyond what we had anticipated for a given fiscal year. I will vote to fund such emergencies immediately and work out the budget details later. I also understand that there are supplemental spending requirements that can come up during the year. And I will also support passing supplemental appropriations bills and paying for them within the budget limits we have set for ourselves. What I find unconscionable is what we are doing here today: attempting to get around the draconian budget resolution we passed in March by stuffing as much supplemental spending as possible in this bill and then treating it as an emergency.

Given my strong feelings on this, I would like to clarify my vote to waive the Gramm point of order. Senator GRAMM, rightly I believe, raised many of the same issues that concern me. His point of order, however, did a surgeon's job with a hatchet. His point of order would have brought down spending that was truly emergency, and therefore was not offset—spending for humanitarian aid for the Kosovar refugees, for infusions of cash into the struggling farm credit system, for helping areas hit by natural disaster. The point or order would also have brought down domestic spending that was not an emergency, but that the Appropriations Committee went to great pains to offset. There are over $2 billion in offsets in this bill, and the great majority come from cuts in nondefense programs.

So, while I understand Senator GRAMM's desire to make this bill fiscally honest and responsible, I cannot support his methods. Instead, we should defeat this bill and start again—passing only what the Department of Defense says they need to continue their operations in Kosovo, only what is truly a domestic emergency, only what is non-emergency and offset.

I have voted in support of the use of air power in Kosovo, a decision I made solemnly, and I am willing to vote to support funding the mission. This conference report, however, contains money the Pentagon never asked for and that will never have an impact on the situation in Kosovo. Almost five billion dollars in non-emergency defense spending has been attached to the President's request without even allowing the Senate an opportunity to vote or debate these additions. Calling some of these new military construction projects an ''emergency'' is shameful. Those projects cannot compare with the urgency in hurricane ravaged Central America, the economic hardship faced by our family farms, or the plight of refugees on the desolate hillsides of Albania.

Obviously a great deal of munitions, fuel, and material have been expended in our mission over Yugoslavia. The need to fund these operations, however, should not be an excuse to fund other special-interest projects that were never high enough priorities to be placed in the tight military budget. Suddenly these projects are so important they are given emergency designation, when a few months ago they hardly deserved mentioning, and were certainly not worth including in the budget resolution Congress adopted in March.

It is wrong for those who want a much larger defense budget to hold hostage the emergency funds needed for the Kosovo operation, Central America, and the devastated rural America—and it is wrong to go to the American taxpayers to pay their ransom.

Thus, it is with some regret that I must vote against this conference report. Regret, because there are a number of very good things in this bill, including funding that I worked hard to ensure would be there to help respond to the desperate situation of our family farmer.

This bill provides $43 million for Farm Service Agency personnel and $110 million and for the farm credit program requested by the Administration in response to the tremendous credit crunch facing our Nation's farmers. The Farm Service Agency funds are needed to provide the support staff so USDA can deliver disaster assistance promised to farmers last fall. The additional $110 million for USDA's farm credit program will provide essential loan guarantees to farmers as they struggle through historically low prices.

The conference report also includes $63 million for FY 1999 and FY 2000 to

allow the USDA to provide technical assistance to landowners as they enroll in USDA's Natural Resource Conservation Service environmental programs. Because of funding shortfalls, Wisconsin's NRCS has already stopped providing technical assistance. That means thousands of acres of land, ready to be returned to their pristine state through the joint efforts of farmers and the USDA, are lying fallow.

Finally, I want to highlight another provision I worked on in this conference report: food assistance to the Kosovar refugees. We have all seen the news accounts, the pictures, and have heard the terrible stories of tragedy that the people in the Balkans are facing daily. Reports from that region include hunger as another major problem that is hitting hardest among the children, the elderly, and the most vulnerable. Humanitarian food assistance, or PL–480 funds, have been diverted to Kosovo from other regions of the world where serious needs exist. Funding for Kosovo food assistance was not included in initial versions of this bill, but without it, people in Africa, Bangladesh, and other troubled regions will continue to suffer from hunger and deprivation. It is never good policy or sense to rob Peter to pay Paul, but it is disgraceful when Peter and Paul are innocent, starving children on opposite sides of the world.

However, even with all these good things, this conference report is the harbinger of terrible things to come. By trying to slip so much non-emergency spending into this bill, the conference committee has acknowledged that we cannot meet the genuine needs of our citizens within the budget that was laid out in March.

Mr. President, the American people deserve an honest budget, and they deserve to know that we will meet their emergencies in a forthright manner. I regret that we could not do that today. If we pass this conference report, we will further and deservedly lose the trust of those who send us their hard earned tax dollars. I urge my colleagues to vote no.

Mrs. MURRAY. Mr. President, I will reluctantly vote for this supplemental appropriations bill for three primary reasons: to provide our agricultural producers at least a portion of the support they need; to support our troops in Kosovo; and to assist the desperate Kosovar refugees and Hurricane Mitch victims. I strongly oppose the mining rider added in the middle of the night to this emergency spending bill and am saddened this Congress will not require States to spend of the tobacco settlement funds on actually preventing teen smoking or protecting public health.

I very enthusiastically support the $109 million in this bill for direct and guaranteed loans to provide credit for American agricultural producers. This and the other agriculture-related provisions in this bill are vitally important to our growers, providing more than $700 million for important agricultural programs. Every single dollar of this aid is all the more critical because Congress failed to support a funding level that would help producers weather these difficult economic times. I support the Harkin-Dorgan amendment to add $5 billion to this agricultural aid package during the conference committee's consideration of this bill. Unfortunately, the amendment was rejected. Meanwhile, our growers are left waiting for more meaningful assistance as they struggle under the so-called Freedom to Farm Act.

This bill also contains vital funding for our military forces in the Balkans. I strongly support the Administration's original request for monies to support the Kosovo effort. I am fully prepared to meet our responsibilities to our troops and personnel involved in this important NATO effort. It is unfortunate the House insisted on adding billions of additional, unrequested funding for defense projects, many of which are unrelated to the NATO action in the Balkans. I also endorse our commitment to assist the millions of refugees, who are victims of this unfortunate conflict.

I, too, am pleased this bill provide critical assistance to the victims of Hurricane Mitch. This deadly and destructive hurricane decimated several Central American countries, and has been particularly difficult on families already surviving on subsistence levels. The U.S. should have long ago signaled our commitment to lead the international effort to aid the victims of Hurricane Mitch.

These important issues aside, I strongly oppose the rider on mining included in this bill. I do not accept the argument put forth by several of my colleagues on the conference committee that the supplemental appropriations bill was the proper place to address an administrative interpretation of the 1872 Mining Law. Within this bill are two provisions that simply are not emergencies and do not belong. One is the further blockage of the Department of Interior's implementing regulations on hard-rock mining.

The other provision is particularly troubling to me for it affects a proposed mine in my State of Washington. Included in this bill is a provision that blocks the Department of Interior from enforcing a recent solicitor's opinion interpreting allowable mill site acerage. That opinion reinterpreted the 1872 mining law and limited the amount of mining waste companies could dump on public lands. For many years, my constituents and people across the nation have been calling for true reform of the 1872 mining law. This late-night change is not what they have been asking us to do. The industry knows these provisions would not win approval in the normal legislative process, so they sought riders on a military and disaster relief appropriations bill. These are issues that deserve to be debated in full and in public, not in a mere 10 minutes, late at night among conferees without the necessary expertise to determine whether this is the correct policy.

I want to add that I have spoken with officials at the White House who have shared their concern about these mining provisions. I told them we must not allow this action to be a precedent for how we authorize new open pit mines on our public lands. We should debate reform of the 1872 mining law fully and in the bright spotlight of public review. Protecting the public's interest in their federal lands must be a top priority. They agree.

I am also extremely disappointed this bill will allow the states to allocate the federal share of the multi-state agreement (MSA) with the tobacco companies to any program or project they desire. I strongly believe we have missed an historic opportunity to reverse the destruction caused by smoking. It is tragic to think that every day we delay reducing underage smoking, 3,000 children will try this deadly habit. Five million children today will face illness and premature death due to smoking. Yet we are allowing the states to spend the federal share on any program they may chose.

I am proud that in Washington state, the state legislature and Governor Locke chose to do the right thing and spend the settlement money working to eliminate the plague of tobacco. However, Washington state is only one of three states using the MSA settlement funds to support public health efforts and smoking cessation.

There is some irony in this debate about the role of the federal government in spending so-called settlement monies. The tobacco companies win immunity from future prosecution or liability from the states of federal government and because of states' inaction, the companies will be guaranteed a whole new generation of smokers. By not standing firm and using these monies to eliminate underage smoking and reduce adult rates, the cost of care for these individuals will be the burden of the federal government and federal taxpayers. As members of the Senate, we will have to find the additional funding to pay for increases in Medicare, FEHBP, CHAMPUS, and VA health care costs.

I am disappointed that we could not reach an acceptable compromise that would have protected our children, allowed states' reasonable spending discretion, and shielded the federal budget. I am hopeful we can continue to work at the federal level to enact tough, anti-tobacco restrictions, including FDA regulation of tobacco and increased efforts by CDC to help the states reduce the burden of tobacco.

Let me address one more topic. This bill transfers the Disaster Recovery Initiative (DRI) program, commonly known as the unmet needs program, from HUD to FEMA. While I do not oppose this transfer, my concerns about

it grew as Congress delayed its consideration of this supplemental bill. President Clinton declared two disasters in Washington state during calendar year 1998, including a slow-moving, on-going landslide in the Aldercrest community in Kelso. For a variety of reasons, FEMA public assistance dollars will not reach Aldercrest victims for some time. That makes the unmet needs money—now administered by FEMA—all the more critical. While I am frustrated with the delay in this process, I am pleased we are moving forward once again. This conference report highlights the conferees interest in ensuring Aldercrest victims get this disaster assistance as quickly as is possible.

Mr. President, this is a very difficult vote for me. I chose not to sign the conference report, but I support the bill to help our ailing agricultural producers, support our troops, and provide assistance to refugees and disaster victims.

EFFECTIVE HUMAN RIGHTS RESPONSE TO KOSOVO

Mr. KENNEDY. Mr. President, an important provision in the Statement of the Managers on the 1999 Kosovo Emergency Supplemental Appropriations Act recommends $13 million above the administration's request for the International Criminal Tribunal for the Former Yugoslavia. It also recommends $10 million more than the administration requested for the State Department's Human Rights and Democracy Fund.

The conferees on this legislation have recommended these additional resources to help support a more effective human rights response to the Kosovo crisis. Many of us are deeply concerned over the escalation of human rights abuses in Kosovo since the breakdown of the Rambouillet negotiations. The additional funding for the War Crimes Tribunal will enable it to expand its investigative efforts to see that justice is done.

Justice Arbour has made a strong case that this funding is needed immediately for forensic investigative teams, mass grave exhumations, investigations, Albanian translators, equipment, and other associated costs. America is the strongest support of the War Crimes Tribunal, and it is essential for us to provide provide the additional resources the tribunal needs without delay to ensure that those responsible for the gross violations of international law in Kosovo are brought to justice.

I also strongly support the work of the State Department's Human Rights and Democracy Fund. The HRDF's ability to respond quickly to emergencies has enabled the Department to begin documenting mass executions, rape, deportations, and torture. Unfortunately, its resources are stretched thin as a result of the large scale of these atrocities.

the additional funds recommended by Congress for the HRDF will enable the State Department to enhance its ability to obtain information promptly and methodically from fleeing refugee victims and witnesses and provide the information to the U.S. Government, the War Crimes Tribunal, and the public to ensure that those responsible for these atrocities will be held accountable.

The funds will also enable the State Department to provide documents to refugees whose passports, identity papers, and property titles were stripped from them when Serb forces compelled them to leave Kosovo. Doing so will help counter President Milosevic's cynical policy of ''identity cleansing'' and facilitate the return of the refugees to their homes. The funds are also intended to enhance our government's efforts to ensure that victims receive proper counseling for the unconscionable trauma they have suffered.

I commend the conferees for making these additional resources available to achieve an effective human rights response on Kosovo.

Mr. LEAHY. Mr. President, in 1996, I authored the Justice for Victims of Terrorism Act to provide assistance to victims of terrorism and mass violence, wherever it occurred. This assistance is limited to victims who are citizens or employees of the United States who are injured or killed as a result of a terrorist act.

Unfortunately, that legislation is not doing the job as we intended. There are still too many victims of terrorism who are not getting the help they need and deserve—the help that Congress meant to give them in 1996. Among those left out in the cold are the families of those killed in the downing of Pan Am flight 103 over Lockerbie in 1988, and the victims of last year's embassy bombings in West Africa.

Section 3024 of the emergency appropriations bill will provide a limited but immediate response by providing much-needed assistance to the families of the Americans who were killed in the bombing of Pan Am 103. I am proud to have worked to get this emergency provision included in the conference report.

Currently, in cases involving terrorist acts occurring outside the United States, the Office of Victims of Crime (OVC) may only give supplemental grants to the States, for compensation of state residents. This formulation has not provided the intended help to victims of terrorism who reside overseas and do not have a clear State residence, even though they are U.S. citizens. It is of little assistance to the non-citizen victims employed by our embassies in Kenya and Tanzania, who also deserve our support and assistance. And due to an overly restrictive interpretation of the 1996 law by the Department of Justice, it has not provided help to the victims of the Lockerbie bombing and other victims of terrorist acts that occurred before the Justice for Victims of Terrorism Act went into effect.

The current law has led to slower implementation than I intended when emergency aid is desperately needed, and has not enabled OVC to provide emergency relief, crisis response or training and technical assistance for victim service providers, as I intended.

Accordingly, this week I offered an amendment to the juvenile justice bill, S. 254—which was accepted in the mangers' amendment—which would improve the law even further. It would ensure that OVC can provide efficient and effective assistance—and really make a difference—for Americans whose lives are torn apart by acts of terrorism and mass violence occurring outside the United States.

In the meantime, the trial in the Pan Am 103 case is getting under way, and the families of those victims need our help *now*. This is an urgent matter, and I am glad that we are addressing it in this emergency bill.

OUTSTANDING CLAIMS

Mr. INOUYE. I have a few questions for my colleague from Alaska on Section 3021 of the bill which authorizes the Attorney General to transfer funds available to the Department of Justice to pay outstanding claims of Japanese Americans under the Civil Liberties Act of 1988 and outstanding claims of Japanese Latin Americans under the settlement agreement in the case of *Carmen Mochizuki et al* .v. *United States* (Case No. 97–294C, United States Court of Federal Claims).

Am I correct that this provision would allow the Attorney General to pay redress of $20,000 to Japanese Americans who were interned by the United States during World War II and who filed a timely claim for redress under the Civil Liberties Act of 1988?

Mr. STEVENS. That is correct. Under the Civil Liberties Act of 1988, the United States has paid redress to more than 82,000 eligible individuals over the 10 year life of the program. Eligible individuals under this Act had to file a claim for redress by August 10, 1998. There were a number of individuals, however, who did not complete the documentation necessary for the Department of Justice to determine, prior to the termination of the Civil Liberties Public Education Fund and the expiration of the redress program six months later, whether they were eligible for redress under the Act. This provision would allow those individuals, if they filed timely claims, to provide any necessary information to the Department of Justice, and allow the Department to complete its review of their files. If the Department determines that they are eligible, this provision allows the Attorney General to pay the claimants restitution under the Act.

Mr. INOUYE. In the case of Carmen Mochizuki et al versus United States, plaintiffs brought a class action against the United States seeking redress for Japanese Latin Americans who were interned by the United States during World War II. The United States settled this case. The settlement provides that each eligible class

member would receive a $5,000 restitution payment, to the extent there were funds available in the Civil Liberties Public Education Fund. Even though this Fund has now terminated, does this provision also allow the Attorney General to pay restitution to Japanese Latin American individuals who are found eligible under the Mochizuki settlement agreement and who filed timely claims covered by the agreement?

Mr. STEVENS. That is correct. Some of the class members in this lawsuit were paid $5,000 restitution before the funds in the Civil Liberties Education Fund were exhausted. However, there are a number of class members who filed timely claims under the Mochizuki settlement who were not provided with restitution because there were no funds remaining. In addition, some class members were not able to complete the documentation necessary for the Department of Justice to determine, prior to the termination of the Civil Liberties Public Education Fund and the expiration of the redress program six months later, whether they were eligible for redress under the settlement agreement. This provision would allow those individuals, if they filed timely claims, to provide any necessary information to the Department of Justice, and allow the Department to complete its review of their files. If the Department determines that they are eligible, or has already done so, this provision allows the Attorney General to pay them restitution under the settlement agreement.

Mr. INOUYE. I thank my colleague from Alaska for the clarification on this provision in the bill.

CLEANUP FROM SPRING TORNADOES

Mrs. LINCOLN. Mr. President, I would like to thank my colleagues, Senator COCHRAN and Senator KOHL, the chairman and ranking member of the Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, for their help regarding clean up needs in my state following the devastating tornadoes that struck on January 21, 1999. On that day, an estimated 38 tornadoes touched down in at least 16 counties in Arkansas, a one-day record for the number of tornadoes in a single state in one day. Eight deaths and scores of injuries resulted. The storms damaged or destroyed two thousand homes, at least 126 businesses, and various utilities in eleven counties. As you might imagine, a tremendous amount of debris is scattered throughout the damage area.

When the Senate considered S. 544, the supplemental appropriations bill which is now before us as the conference report to H.R. 1141, an amendment of mine was adopted that would direct the Natural Resources Conservation Service (NRCS) to assist in the removal of debris left from those storms. It is extremely important that we provide assistance necessary to remove this debris in order to help restore lands to a more productive state, but even more importantly, to prevent more serious emergencies that will result if this debris is allowed to obstruct stream flows and cause flooding, erosion, and other economic and environmental problems. Could the Senators please explain how his conference report addresses this situation.

Mr. KOHL. I thank the Senator for her comments and I understand her concern about the need to provide debris removal assistance following the violent storms in her state and other states. The amendment of the Senator, to which she refers, would have expanded the statutory authority of NRCS to exercise debris removal activities on lands not covered by current law. This would not only have included the lands of which the Senator speaks, but could be interpreted to cover a wide array of other lands. It is our understanding that statutory authority does exist for the debris removal activities about which the Senator speaks, making bill language unnecessary. However, certain administrative actions by the Department will be necessary before these activities can be carried out.

From time to time, we are asked to provide emergency funds in response to natural disasters. Too often, there is a human cost to these disasters that we have no power to compensate. In other instances, the level of our assistance is appropriate and necessary for the task. There are times, however, when the sums required could have been reduced had a little prevention been in place before the crisis struck.

Obviously, the force of a tornado is such that mankind may never be able to control or overcome. The devastation we all have witnessed this Spring in several states including Arkansas, and more recently Oklahoma and Kansas, was of such a magnitude in economic and human costs that calls for our assistance must not go unheard. Now, however, we are faced with choices about actions that might, at this point, prevent future damage and future costs.

The debris of which the Senator describes is not only that which currently is obstructing stream flows or causing flooding or erosion, but it also includes debris located in the immediate vicinity of those streams and waterways. It takes little imagination to envision another, far less intensive storm in the region that would cause that debris to be removed directly into the steambed with substantial damage and cost as a result, costs for which we and the American taxpayers might very well be asked to compensate in the near future. in this case, a little prevention today may save substantial sums tomorrow. That is why the Senator is precisely correct and why we must ensure these needs are met.

The conference report now before the Senate does not include the bill language the Senator offered earlier due to the fact that, as mentioned above, the statutory authority for those activities of concern to her and to others currently exists. The Statement of Managers makes that point. However, the purpose of her amendment is well taken in bringing to the attention of the Department that necessary administrative actions must be taken immediately to address the emergency situation that remains. We do not here suggest that the Watershed and Flood Prevention Operations authorities be broadened to include ''any'' lands. Instead, it is important for us all to recognize that reasonable steps by the Department should be taken to remove the debris in question before it becomes the cause of more substantial losses in the future.

Mr. COCHRAN. I thank the Senator from Arkansas for raising this issue and I appreciate the comments of my other colleagues on this subject. I agree with the Senator from Wisconsin that the Department should exercise any preventive measures practicable as the best way to avoid more costly restoration and rehabilitation in the future.

Mrs. LINCOLN. I thank my colleagues for this explanation.

Mr. GRAMS. Mr. President, I rise to oppose the 1999 Supplemental Appropriations legislation. Let me make a few brief remarks explaining why I will vote against it. I do so reluctantly because some of this funding is necessary, such as the agriculture spending, and some is offset. I co-sponsored and strongly supported the Enzi amendment to fully offset spending in this bill. Since our colleagues on the other side of the aisle blocked this effort to be fiscally responsible, thereby giving their support to this spending of Social Security surplus funds, I cannot endorse this irresponsible spending.

The Concord Coalition, a bipartisan watchdog of fiscal policy, calls this bill a ''SAYGO'' bill, and SAYGO stands for spend-as-you-go. According to the Concord Coalition, ''Congress is using the emergency spending loophole to create a new budgetary concept—spend as you go (SAYGO). I fully agree with the Concord Coalition. Sadly, the term ''SAYGO'' has captured the essence of this legislation.

However, there is nothing new about this practice. Congress has repeatedly used this old trick on the American taxpayers as a way to expand government programs and escape budget disciplines.

Let me remind my colleagues about what happened last year.

As you recall, Mr. President, despite the rhetoric of President Clinton and Congress to use every penny of the budget surplus to save Social Security, last year, we spent nearly $30 billion of the Social Security surplus for alleged ''emergency spending.'' This was more than one third of the entire Social Security surplus for 1998. In last year's omnibus spending legislation alone, Congress spent $22 billion, and nearly $9.3 billion in regular appropriations was shifted into future budgets, a new

smoke-and-mirrors gimmick, since we are now hearing how impossible it will be to live within budget caps for FY 2000. No wonder!

In addition, few of these ''emergency spending'' items were true emergencies. Many of these dollars could have been included in the annual appropriations process.

Last year's irresponsible spending used up the Social Security surplus we were supposed to save, broke the statutory spending caps we promised to keep, and as a result made the caps even tighter for this year.

Clearly, that was a big mistake. That's why many of us believe we should end this practice before it becomes automatic and even more egregious in the future. In fact, that's why we passed this year's Budget Resolution with a new enforcement mechanism which allows any Senator to raise a point of order against non-defense emergency designations in an appropriations conference report. In my judgment, this should include defense as well.

Unfortunately, Mr. President, we are repeating the same mistake in the 1999 Supplemental Appropriations bill. It includes $15 billion of spending with an estimate of only $2.5 billion actually outlayed this fiscal year. So it is quite obvious this spending is a way to relieve some of the pressure on the FY 2000 spending caps. If the spending caps need to be lifted, let's vote on that up front, not this way. I would not vote to lift the caps anyway, but it is a more responsible way of handling what some believe is a budget crisis.

The legislation was originally intended to provide disaster relief to Central America and was later expanded to cover our military action in Kosovo, which are necessary and important spending. Even the agriculture spending is necessary. But conferees also added significant funding that is not emergency-related and was not requested by the President in the conference report.

The conference report for this year's emergency spending bill includes $15 billion with only $1.9 billion offset. This means Congress is spending $13 billion of the Social Security surplus, which is over 10 percent of this year's Social Security surplus.

The President requested $5.5 billion for military operations in Kosovo and Southwest Asia. But the conferees have doubled that amount. As a result, American taxpayers now have to pay $10.9 billion additional for defense, much of which should be considered in FY 2000 appropriations and was not an emergency. These add-ons include $1.84 billion for military pay and pension increases and $2.25 billion for spare parts, depot maintenance and readiness training.

I believe we must allocate sufficient resources to ensure our national security and I am concerned about readiness. We must provide adequate funding to maintain our military operations and support our troops in Kosovo and elsewhere. However, I don't believe we can use our immediate needs as a vehicle for non-emergency defense spending. General defense readiness needs, such as a military pay raise and a pension benefits increase, is not an emergency and should be handled through the normal budget, authorization and appropriations process. Again, if the spending cap is a problem, we should deal with that problem head on, not by this back-door approach.

Further, this conference report is a Christmas tree that's loaded not with ornaments, but with plenty of non-emergency spending items under the guise of an emergency, totaling over $200 million. Even some emergency related funding is far above what is needed and requested. For example, the President requested $370 million funding for FEMA, but the conference report has almost tripled that amount. This is not right. Attached is a copy of Senator MCCAIN's list on the objectionable provisions contained in this conference report.

My biggest concern is that we have promised the American people we will save every penny of the Social Security surplus exclusively for Social Security. In the recently-passed budget resolution we included a provision to lock in $1.8 trillion of the Social Security surplus to save and strengthen Social Security. We are continuing to pursue Social Security lockbox legislation to prohibit Washington from continuing to loot the Social Security surplus for unrelated government spending. Now we are backing off from that promise, claiming we will make it up next year. I've heard that before. I believe this will damage our credibility and accountability with the American people, as well as further endanger our already damaged Social Security system.

As I mentioned earlier, there are some good provisions I strongly support in this bill. Frankly, some of the provisions and funding will help my own state of Minnesota. But the non-emergency spending which is not offset overshadows these good provisions. I cannot in good conscience vote for this legislation.

Finally, the Concord Coalition challenges us, I quote: ''Fiscally responsible Members of both parties should put an end to SAY–GO by rejecting this emergency supplemental.'' They are right. Above all we must maintain the fiscal discipline and responsibility we promised the American people. We must keep our commitment to protect Social Security. I hope my colleagues will reject this measure.

Mr. President, I ask unanimous consent this list of objectionable provisions in H.R. 1141 be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS CONTAINED IN H.R. 1141, THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR RECOVERY FROM NATURAL DISASTERS AND FOREIGN ASSISTANCE FOR FISCAL YEAR ENDING SEPTEMBER 30, 1999

BILL LANGUAGE

Bill language directing that funds made last year for maple producers be made available for stream bank restorations. Report language later states that the conferees are aware of a recent fire in Nebraska which these funds may be used. (Emergency)

Language directing the Secretary of the Interior to provide $26,000,000 to compensate Dungeness crab fisherman, and U.S. fish processors, fishing crew members, communities, and others negatively affected by restrictions on fishing in Glacier Bay National Park, in Alaska. (Emergency)

A $900,000,000 earmark for ''Disaster Relief'' for tornado-related damage in Oklahoma, Kansas, Texas, and Tennessee. This earmark is a $528,000,000 increase over the Administration's request and is earmarked for ''any disaster events which occur in the remaining months of the fiscal year.'' (Emergency)

Report language providing FEMA with essentially unbridled flexibility to spend $230,000,000 in New York, Vermont, New Hampshire, and Maine, to address damage resulting from the 1998 Northeast ice storm. Of this amount, there is report language acknowledging the damage, and the $66,000,000 for buy-outs, resulting from damage, caused by Hurricane George to Mississippi, and report language strongly urging FEMA to provide sufficient funds for an estimated $20,000,000 for buy-out assistance and appropriate compensation for home owners and businesses in Butler, Cowley, and Sedgwick counties in Kansas resulting from the 1998 Halloween flood. (Unrequested)

$1,500,000 to purchase water from the Central Arizona project to maintain an appropriate pool of stored water for fish and wildlife purposes at the San Carlos Lake in Arizona. (Added in Conference)

An earmark of an unspecified amount for Forest Service construction of a new forestry research facility at Auburn University, Auburn, Alabama. (Unrequested)

Language directing that the $1,000,000 provided in FY 99 for construction of the Pike's Peak Summit House in Alaska be paid in a lump sum immediately. (Unrequested)

Language directing that the $2,000,000 provided in FY 99 for the Borough of Ketchikan to participate in a study of the feasibility and dynamics of manufacturing veneer products in Southeast Alaska be immediately paid in a lump sum. (Unrequested)

Language directing the Department of Interior and the Department of Agriculture to remove restrictions on the number or acreage of millsites with respect to the Crown Jewel Project, Okanogan County, Washington for any fiscal year. (Added in Conference)

Language which prohibits the Departments of Interior and Agriculture from denying mining patent applications or plans on the basis of using too much federal land to dispose of millings or mine waste, based on restrictions outlined in the opinion of the Solicitor of the Department of Interior dated November 7, 1997. The limitation on the Solicitor's opinion is extended until September 30, 1999. (Added in Conference)

Specific bill language providing $239,000 to the White River School District #47–1, White River, South Dakota, to be used to repair damage caused by water infiltration at the White River High School. (Unrequested)

A $3,760,000 earmark for a House Page Dormitory. (Added in Conference)

A $180,000,000 earmark for life safety renovations to the O'Neill House Office Building. (Added in Conference)

An earmark of $25,000,000 to provide for the construction and renovation of family housing units at Fort Buchanan, Puerto Rico. (Unrequested)

Bill language, added by the conferees, directing that $2,300,000 be made available only for costs associated with rental of facilities in Calverton, NY, for the TW 800 wreckage. (Added in Conference)

$750,000 to expand the Southwest Border High Intensity Drug Trafficking Area for the state of New Mexico to include Rio Arriba County, Santa Fe County, and San Juan County. (Unrequested)

Bill language directing $750,000 to be used for the Southwest Border High Intensity Drug Trafficking Area for the state of Arizona to fund the U.S. Border Patrol antidrug assistance to border communities in Cochise County, AZ. (Added in Conference)

A $500,000 earmark for the Baltimore-Washington High Intensity Drug Trafficking Area to support the Cross-Border Initiative. (Added in Conference)

Earmarks $250,000 in previously appropriated funds for the Los Angeles Civic Center Public Partnership. (Unrequested)

Earmarks $100,000 in previously appropriated funds for the Southeast Rio Vista Family YMCA, for the development of a child care center in the city of Huntington Park, California. (Unrequested)

Earmarks $1,000,000 in previously appropriated funds for the Maryland Department of Housing and Community Development for work associated with the building of Caritas House and for expansion of the St. Ann Adult Medical Day Care Center. (Added in Conference)

Bill language permitting the Township of North Union, Fayette County, Pennsylvania to retain any land disposition proceeds or urban renewal grant funds remaining from Industrial Park Number 1 Renewal Project. (Added in Conference)

$2,200,000 earmark from previously appropriated funds to meet sewer infrastructure needs associated with the 2002 Winter Olympic Games in Wasatch County, UT, for both water and sewer. (Unrequested)

$3,045,000 earmarked for water infrastructure needs for Grand Isle, Louisiana. (Added in Conference)

The conference report language includes a provision which makes permanent the moratorium on the new entry of factory trawlers into the Atlantic herring and mackerel fishery until certain actions are taken by the appropriate fishery management councils. (Added in Conference)

Additional bill language indicating that the above-mentioned limitation on registered length shall not apply to a vessel used solely in any menhaden fishery which is located in the Gulf of Mexico or along the Atlantic coast south of the area under the authority of the New England Fishery management Council for so long as such vessel is used in such fishery. (Added in Conference)

Bill language directing Administrator of General Services to utilize resources in the Federal Buildings Fund to purchase, at fair market value, not to exceed $700,000, the United States Post Office and Federal Courthouse Building located on Mill Street in Fergus Falls, Minnesota. (Added in Conference)

REPORT LANGUAGE

A $28,000,000 earmark in FY 99, and a $35,000,000 earmark in fiscal year 2000 to the Commodity Credit Corporation to carry out the Conservation Reserve Program and the Wetlands Reserve program. (Emergency)

The conference agreement provides $70,000,000 for the livestock assistance program as proposed by the Senate, and adds language providing that the definition of livestock shall include reindeer. (Emergency)

$12,612,000 for funds for emergency repairs associated with disasters in the Pacific Northwest and for the full cost of emergency replacement of generating equipment at Midway Atoll National Wildlife Refuge. (Emergency)

Report language acknowledging the damage caused by Hurricane George to Kansas. (Unrequested)

Report language urging FEMA to respond promptly to the appropriate disaster needs of the City of Kelso, Washington. (Unrequested)

Language where the Conferees support the use of the emergency supplemental funds to assist organizations such as the National Technology Alliance for on-site computer network development, hardware and software integration, and to assess the urgent on-site computer needs of organizations assisting refugees. (Unrequested)

$200,000,000 earmarked for the Coast Guard's ''Operating Expenses'' to address ongoing readiness requirements. (Emergency)

Report language detailing partial site and planning for three facilities, one which shall be located in the mid-Atlantic region, to house non-returnable criminal aliens being transferred from the Immigration and Naturalization Service (INS). (Unrequested)

A $1,300,000 earmark, for the cost of the World Trade Organization Ministerial Meeting to be held in Seattle, WA. (Added in Conference)

$1,000,000 earmarked for the management of lands and resources for the processing of permits in the Powder River Basin for coalbed methane activities. (Unrequested)

$1,136,000 earmarked for spruce bark beetle control in Washington State. (Unrequested)

A $1,500,000 earmark to fund the University of the District of Columbia. (Added in Conference)

$6,400,000 earmarked for the Army National Guard, in Jackson, Tennessee, for storm related damage to facilities and family housing improvements. (Unrequested)

A $1,300,000 earmark of funds appropriated under P.L. 105–276 under the EPA's Programs and Management for Project SEARCH water and wastewater infrastructure needs in the state of Idaho. (Unrequested)

Report language clarifying that funds appropriated under P.L. 105–276 under the EPA's Programs and Management for Project SEARCH water and wastewater infrastructure needs for Grande Isle, Lousiana, may also be used for drinking water supply needs. (Added in Conference)

Report language which authorizes the use of funds received pursuant to housing claims for construction of an access road and for real property maintenance projects at Ellsworth Air Force Base. (Unrequested)

The conference agreement includes language proposed by the Senate directing a statutory reprogramming of $800,000 for preliminary work associated with a transfer of Federal lands to certain tribes and the State of South Dakota and for cultural resource protection activities. (Unrequested)

The conference agreement includes a provision proposed by the Senate that clarifies the scope of certain bus and bus facilities projects contained in the Federal Transit Administration's capital investment grants program in fiscal year 1999. The conferees direct that funds provided for the Canton-Akron-Cleveland commuter rail project in the Department of Transportation and Related Agencies Appropriations Act for fiscal year 1999 shall be available for the purchase of rights-of-way in addition to conducting a major investment study to examine the feasibility of establishing commuter rail service. (Unrequested)

Mrs. LINCOLN. Mr. President, this marks the third time I have been to the floor to discuss the emergency supplemental bill. For months now I have been trying to get my colleagues' attention about the extreme urgency of the items included in this bill. There are provisions included in this bill that were deemed an ''emergency'' back in March of this year. In addition to the tornado-related funding we just referenced, I have received call after call from farmers who have been anxiously awaiting the loan money that is tied up in this supplemental appropriations bill. Mother Nature does not wait for Congress to act. The ideal planting window has already come and gone for several commodities in the South, and yet, many producers have not been able to put a crop in the ground because they do not have adequate funds for operating expenses. The money is included in this bill and it is critical that we act on this matter as quickly as possible.

While I am pleased that these funds are included, I am disappointed that more assistance is not provided to the agriculture community. If ever there was an emergency in this country, we are seeing one now in rural America. I commend the distinguished ranking member of the Senate Agriculture Committee, Senator HARKIN, on his efforts to provide additional assistance to farmers. I hope that my colleagues will be ever mindful of the potential consequences this country will face if we allow our producers to simply die on the vine, and I strongly urge this body to revisit the agricultural crisis as soon as possible.

Some of my colleagues have chosen to use this bill, which is designed specifically for emergency needs, to fund projects that would have a hard time passing the laugh test of emergency spending. In spite of this, I will be casting a vote in favor of this bill on behalf of the brave servicemen and women representing our nation in the conflict in Kosovo, and on behalf of our nation's family farmers.

I thank the President, and I yield the floor.

EMERGENCY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

Ms. SNOWE. Mr. President, I rise regarding the conference report language in the supplemental bill regarding the transfer of emergency Community Development Block Grant funding from HUD to FEMA.

January 1998 will long be remembered in the State of Maine because of the extraordinary and historic Ice Storm that crippled the State. The combination of heavy rains and freezing temperatures left much of the State under a thick coat of ice which downed wires, toppled transformers and snapped utility poles in two. At the peak of the storm more than 80 percent of the entire State was literally in the dark. Vice President GORE best summed up the situation during his visit on January 15, 1998, when he said,

''We've never seen anything like this. This is like a neutron bomb aimed at the power system.''

The response from the federal government to our plight was for the most part remarkable. The Federal Emergency Management Agency (FEMA), the Small Business Administration, and the Department of Defense all answered Maine's call for immediate help. In addition, utility workers from up and down the East Coast came to work in freezing temperatures and hazardous situations to kill live wires and free remaining wires from downed trees and poles. These men and women worked side by side with Maine's utility companies around the clock until the lights were back on in every house in the State.

I am here today, however, because while the storm brought out the best in people across the State and in many federal agencies, we still have not received the assistance we need from the Department of Housing and Urban Development. In fact the lack of help from HUD has surpassed the storm in many people's minds as the truly extraordinary event.

To understand fully, one has to know the history. The Stafford Act which provides FEMA's guidelines for assistance covers public power companies. It will reimburse 75 percent of the costs related to a disaster. Because Maine and much of the Northeast have utilities that are investor-owned rather than government-owned, we were ineligible to receive assistance from FEMA for this purpose, despite the fact that, FEMA's own Ice Storm ''Blueprint for Action'' noted that the greatest unmet need from the storm is the cost of utility infrastructure. The ''Blueprint'' also noted that ''(The) HUD Community Development Block Grant Program can supplement other federal assistance in repairing and reconstructing infrastructure, including privately-owned utilities . . .''

Utility reimbursement is of great concern to Maine as it was not only the largest unmet need from the Ice Storm, but ratepayers in our State already pay the fourth highest utility costs in the country. Without some federal help, ratepayers would have been called on to cover utility infrastructure repair costs through increased rates.

So the Maine Congressional Delegation joined with the delegations from Vermont, New Hampshire and New York to obtain funding in the 1998 Supplemental Appropriations Act to provide money for the CDBG program to help our States complete their recovery from the Ice Storm. Working with Senator BOND, Chairman of the VA/HUD Appropriations Subcommittee, Senator MIKULSKI the Ranking Member; and Appropriations Chairman STEVENS, we secured $260 million in the Senate's 1998 Supplemental.

When the Senate considered this legislation, members from the Northeast spoke of the need for, and reasons behind, this additional funding and in a colloquy between Senators BOND and D'AMATO, it was noted that $60 million of this funding was meant specifically for the Northeast to help with the recovery costs from the Ice Storm. During the subsequent conference, that amount was dropped to $130 million, as the House version of the bill only contained $20 million for this purpose.

The Supplemental was signed into law on May 1, 1998. On November 6, 1998, 11 months after the disaster and six months after the bill had been signed into law, HUD announced that it was allocating approximately half of the $130 million, including $2.2 million for Maine. With an unmet need of more than $70 million, this funding was simply unacceptable and made all the more so because HUD would not or could not explain the rationale behind the numbers. Phone calls were made, meetings were held, letters were sent and still we received no explanation.

In the 1999 Omnibus Appropriations bill adopted by Congress at the end of the 105th Congress, $250 million was provided for emergency CDBG money to cover disasters occurring in both FY98 and FY99. Secretary Cuomo told me in a phone conversation on March 2, 1999 that he would use some of this money to allow States dissatisfied with their original allocation to reapply. This discussion occurred a few days before the Senate Appropriations Committee marked up the 1999 Supplemental that included language to transfer the remaining CDBG emergency funding from HUD to FEMA because, according to the Senate Appropriations Committee report,

> The Committee is concerned over HUD's continuing failure to implement an effective emergency disaster relief program for the ''unmet needs'' of states with Presidentially-declared natural disasters. Instead, the Committee believes that FEMA is the appropriate Federal agency for addressing these unmet disaster needs since FEMA has primary responsibility for assessing and responding to all natural disasters and for administering most primary programs of disaster assistance.
>
> In particular, FEMA is urged to review and respond appropriately to the needs of the Northeast for damage resulting from the ice storms of last winter. HUD failed to respond properly to these needs despite congressional concern over the ice damage.

On March 5, 1999 I spoke again with Secretary Cuomo when he called to express his concern that he could not publish the notice as OMB said that the Senate Appropriations Committee's actions on March 4 to transfer the money from HUD to FEMA prevented him from doing so. After conversations with OMB, I sent a letter to the Secretary detailing OMB'S response that it was permissible to publish the notice as long as funding was not allocated.

On March 10, the Federal Register (p. 11943 to p. 11945) contained a notice from HUD that provided a review for states unhappy with their original funding allocation. Maine began work at once on an application for this funding.

On March 23, we learned that HUD had allocated the rest of the money from the 1998 supplemental and that Maine was slated to receive another $2.158 million. HUD took this action despite the fact that they had been informed by the VA/HUD Subcommittee Chair and Ranking member, Senators BOND and MIKULSKI respectively, that they ''wait for final action by the Congress on the program structure for the award of emergency funding for ''unmet'' disaster needs'' and that ''because of a number of outstanding program issues, we believe that HUD should ''hold'' all final award allocations pending final congressional action on S. 544.'' So HUD's allocation announcement was somewhat confusing as they did not have the authority to release the money. I request unanimous consent that a copy of the HUD notice be included in the RECORD.

Secretary Cuomo told me on March 24 that the State should get their application in response to the March 10 Federal Register in as soon as possible, and the State delivered it to HUD on March 25.

On May 4, as conferees were working on the Supplemental, I received a letter from Cardell Cooper, Assistant HUD Secretary for Community Planning and Development, announcing that Maine would receive an additional $17,088,475 based on the State's March 25 application under the March 10 Federal Register notice. This letter also noted that Maine's money was subject to Congressional action.

Mr. President, mere words cannot explain the frustration that Mainers have experienced with HUD throughout this process. I am deeply grateful for the leadership that Senator BOND, Senator MIKULSKI, Chairman STEVENS and the entire Senate Appropriations Committee have demonstrated in their willingness to work with us and to help us address Maine's unmet needs.

The conference report language on this bill states that:

> The Department is directed to award the remaining funds in accordance with announcements made heretofore by the Secretary, including allocations made pursuant to the March 10, 1999 notice published in the Federal Register, as expeditiously as possible.

This language directs HUD to live up to its March and May promises of funding for Maine to help pay for the unmet needs of the Ice Storm.

Mr President, with passage of the Supplemental, Maine's fifteen month journey for equity will hopefully end. We can now complete the recovery that began in January, 1998 and has dragged on far too long.

Mr. ROCKEFELLER. Mr. President, I would like to comment today on the Emergency Steel Loan Guarantee Program which my distinguished colleague from West Virginia, Senator BYRD, worked so hard to have included in the Senate-passed Emergency Supplemental Appropriations bill. Despite his tireless efforts, the measure was stripped from the bill at the eleventh hour for reasons which are beyond me.

I take umbrage with the misleading moniker that some Members of the House Leadership have shamelessly placed upon this vital program for partisan political purposes.

This program, far from being a handout for any one company in my state of West Virginia or anywhere else, would provide emergency relief for more than a dozen American steel producers who have been stricken by the effects of the unprecedented surge in steel imports into the U.S. over the last year. This crisis, which has caused as many as 10,000 layoffs at steel factories across the nation and threatens as many as 100,000 more jobs, has unfairly injured the credit ratings of America's steel manufacturers by forcing them to compete with dirt cheap foreign steel, which is often being sold in the U.S. at costs below that of production.

If you ask me, this important crisis, without question, is appropriately classified as an ''emergency''. If you ask the steelworkers who've either been laid off or who are the next to go, I bet they say the same thing. Ask their families and communities if this is an emergency, and you'll get the same answer. The emergency is that our American steel industry is being pummeled by illegal foreign competition, and that the imports are taking a very real and devastating toll on the people who depend on steel for their livelihood.

The program that Senator BYRD proposed in the Senate-passed version of the Supplemental Appropriations bill would have made it possible for many of the most financially-unstable steel producers in this country to persevere until we in the Senate can take decisive and comprehensive action to address the underlying cause of our domestic steel industry's current predicament—imports. The Emergency Steel Loan Guarantee Program would have made much-needed capital available to those companies who have been the hardest hit by the import surge, and it would have done so at minimal expense to the American taxpayer. The program just made good sense, and I was extremely disappointed to hear that Members of the House Leadership insisted that it be eliminated.

The argument was, from what I hear, that Senator BYRD's provision was too expensive and of benefit only to Weirton Steel Corporation in West Virginia. The fact is, Mr. President, that Weirton was just one of more than a dozen companies which the Department of Commerce determined would be eligible for loans under this program. All of these distressed companies have been doing everything in their power to survive the current crisis. I know first hand the great lengths to which Weirton Steel has gone through simply to keep its head above water. In my state alone we've had nearly 1,000 layoffs as a direct result of the import surge. The Emergency Steel Loan Guarantee Program would have made it possible for companies across the nation to make upcoming debt payments which many steel producers are in jeopardy of defaulting on because of the current crisis. Moreover, the cost of the program was $140 million to leverage $1 billion in loans—that's a good investment. I deeply regret that the unwillingness of some Members of Congress to open their eyes to the plight of America's steelworkers has resulted in the loan program being removed from this vehicle. That is very bad news for the many steel companies who stood to benefit from the program. Some of them are now that much closer to joining the other four major American steel producers who have already been forced into bankruptcy by this crisis.

However, there remains time to reverse this mistake. I hope that the Members of Congress, who did not understand the details of how this loan program functions or the benefits that it would bestow upon a large number of steel companies across the nation, will reassess their position. We still have an opportunity to support this important program. I intend to work with Senator BYRD in moving this program on another legislative vehicle.

Each of my colleagues knows how strongly I believe that this body must act to address the import surge in a comprehensive way. However, I also know how vital the Emergency Steel Loan Guarantee Program is to many U.S. steel producers. It is a critically important stop-gap measure which would allow companies like Weirton steel to remain in business long enough for the United States Senate to take the tough and comprehensive action which is necessary to protect our domestic industry from unfair foreign competition.

Mr. President, I truly hope that we seize the opportunity to take up this measure again. Without it, steel companies in a number of different states may soon find themselves the next victims of our failure to aggressively enforce our unfair trade laws.

Mr. NICKLES. Mr. President, I do not support the adoption of the conference report on H.R. 1141, the fiscal year 1999 emergency appropriations act.

My decision to oppose this bill was not an easy one, Mr. President. This legislation contains funding for our U.S. military forces in Kosovo, Iraq, Bosnia, and elsewhere around the world. Regardless of my deep concerns about NATO's Kosovo operations, I realize that our military, already stretched to the limit by numerous foreign deployments, needs the resources provided by this legislation. Further, this bill contains funding to help farmers in Oklahoma who are finding it hard to get credit, and it will make sure disaster assistance for Oklahoma tornadoes does not deplete FEMA's funding reserves.

Unfortunately, it is also fiscally irresponsible.

H.R. 1141 provides $15 billion in new spending authority, $13 billion of which is provided for fiscal year 1999 and $2 billion of which is provided for fiscal year 2000.

The outlays flowing from this budget authority will reduce our budget surplus by $14.6 billion over the next five years. In fiscal year 1999 and 2000, when the entire budget surplus is attributable to the Social Security trust fund, this bill spends $11 billion of the surplus.

Additionally, $14.7 billion of the bill's total spending is designated as emergency spending, so that it is outside of the spending caps. $10.9 billion of the emergency spending is attributable to defense.

Unfortunately, the efforts of my colleague Senator GRAMM to remove the nondefense emergency designations failed earlier today. I supported him in that effort, and I am disappointed that more of my colleagues did not join us.

This legislation makes a mockery of our budget process. I believe Congress cannot continue to squander the economy's good fortune on a bigger, more invasive government. I believe the fiscal restraints we all agreed to in 1997 should be enforced, and I believe the budget we passed just a few weeks ago must be complied with.

A soaring economy and the 1997 budget agreement combined last year to produce the first budget surplus since 1969. What was Congress' reaction?

We abandoned all fiscal restraint and passed a monstrous Omnibus spending bill which included a record $22 billion in emergency spending.

With CBO predicting an even bigger budget surplus this year, $111 billion, we are rushing to enact a $15 billion emergency spending bill.

Since spending caps were instituted in the 1990 budget deal, Congress has appropriated $132 billion in emergency spending; $70 billion since the end of the Gulf War. The average annual emergency appropriation from 1993 to 1997 was $8 billion.

I believe that Senators must decide if they truly intend to abide by the budgets we pass, or simply ignore them.

As I have already mentioned, this bill includes $1.13 billion in new spending for the Federal Emergency Management Agency, partially offset by a $230 million transfer from the Community Development Block Grant program. This $1.13 billion is in addition to the $1.2 billion Congress has already appropriated to FEMA for fiscal year 1999.

While I support the work FEMA is doing to help my state recover from massive tornado damage, I believe the funding in this supplemental is far more than the agency needs. In fact, after touring Oklahoma tornado damage two weeks ago, the President asked for an additional $372 million for FEMA. I have been assured by FEMA that they do not require resources beyond this request to accommodate the Oklahoma disasters.

Unfortunately, the conferees on the supplemental decided to pile on $758 million more than the President requested. This extra funding has nothing to do with FEMA's current needs.

It has everything to do with the appropriations committee's desire to ''prefund'' the agency in an attempt to avoid the fiscal year 2000 spending caps.

Mr. President, I commend the majority leader for his efforts to keep the cost of this bill down and remove some of its objectionable provisions. However, I deeply regret that I cannot support this emergency supplemental spending bill. I believe we are losing our grip on fiscal sanity, and I fear that worse is coming later this year. I plan to work aggressively throughout this year to make sure we comply with the budget we enacted last month.

Mr. REED. Mr. President, I rise in support of the supplemental appropriations conference report.

Mr. President, this bill is not perfect, and I realize that some of my colleagues do not believe it is worthy of support. I disagree. This legislation meets several pressing demands that we have a responsibility to meet. First, this compromise provides essential funding for our military operations in Yugoslavia as well as humanitarian aid for Kosovo refugees. Without this funding our fighting men and women will face equipment and material shortfalls and view a ''no'' vote as a lack of support for them and their mission. Second, this legislation follows through on a commitment we made to provide a long-overdue pay raise for our troops. Third, this legislation provides disaster assistance to help our Latin American neighbors recover from the hurricane which struck that region so viciously earlier this year, and it contains funds to aid recovery from the recent spate of tornadoes here at home. Lastly, it extends the Airport Improvement Program which helps our nation's airports reduce aircraft noise and ensure aviation safety.

However, I am disappointed that the Conference Committee decided to retain the Hutchison-Graham tobacco settlement recoupment provision in this year's Supplemental Appropriations bill. This amendment clearly does not deal with an ''emergency'' situation and should, therefore, not be included in this legislation. I am also deeply concerned that we have not thoroughly considered the potential impact this provision will have on the federal budget in years to come.

In essence, this provision usurps the ability of the Congress to engage in a healthy debate about the use of the federal share of the tobacco settlement. While many argue that the federal government has absolutely no claim to this money, those assertions simply are not true. Current law dictates that the federal government rightly has a say over the percentage it contributes to the Medicaid program. Yet, instead of bringing this matter to the floor and considering it in an honest fashion, we are allowing an unprecedented opportunity to make a real difference in the lives of millions of Americans completely slip away from us. It is unfortunate that proponents of turning over the federal share of the tobacco settlement to the states without any guidelines have taken this backdoor approach.

In essence, we have allowed our hands to be tied by the states, who wish to use this money to cut taxes, fix roads and build new buildings, among other things. According to a recent survey conducted by the Campaign for Tobacco Free Kids, the majority of states, as of today, have no definite plans to spend a portion of the settlement on programs to prevent children from starting to smoke or to help current smokers quit the habit. This action is in direct contrast with the desires of the majority of Americans who would like to see a major portion of this money set aside for tobacco prevention and cessation programs and health care to cover the cost of tobacco related illness. In my state, Rhode Islanders have resoundingly supported dedicating a significant amount of the settlement for tobacco related activities.

I am saddened that we appear to have lost sight of the fact that the process of suing the tobacco companies was not so states could get more money for roads or schools, but because for decades these companies purposefully deceived the American public about the dangers of smoking. As a result, generations of Americans have suffered the adverse health effects of this campaign of deceit, and the federal government spent billions addressing the health care needs of these folks. While states were triumphant in reaching this monumental agreement, what will the effort have been for if there is no change in teen smoking rates in this country?

Lastly, I am concerned that the conference report contains a number of dubious environmental riders that should be more fully debated as well as several budgetary off-sets that raise a number of questions. In particular, as a Senator who serves on the Banking, Housing, and Urban Affairs Committee, I believe that the rescission of $350 million worth of Section 8 funds could jeopardize the renewal of affordable housing contracts for thousands of elderly and low-income Americans, which would be a step backwards in our effort to increase the amount of affordable housing in our nation.

Thank you, Mr. President.

Mr. KERRY. Mr. President, I regret that I have to come to the floor to cast my vote against the emergency supplemental appropriations bill before the Senate today. When we face crises in this country, when you have American men and women serving courageously in Kosovo, when you have the borders in Macedonia and Montenegro overflowing with refugees, and when you have hundreds of thousands of hurricane victims in Central America, you would expect that the U.S. Senate would be capable of coming together—unanimously—to address these challenges. It used to be that way in the Senate. It's not that way anymore. Now we fund our operations in Kosovo, and we help the refugees, and we aid the hurricane victims, but at the same time we practice legislative extortion—we say to every Senator, ''You want to vote for Kosovo? You want to vote for aid for hurricane victims? Go ahead—but you have to vote to cut vital housing programs for working Americans across this country. And you need to vote to eliminate environmental regulations.'' That's not the way we ought to do business in the U.S. Senate, and I think it's time we start to talk about changing that course before it contaminates public life any further. That is why I will cast my vote against this emergency supplemental appropriations bill: to register my frustration and my sadness with the way we now do business in the U.S. Senate.

Before I say more about the damage this bill does to so many of the vital areas of public policy in the United States, I must tell you that in many respects I only have the liberty of voting against this bill—of casting a symbolic stone against legislative blackmail—because I know this bill will pass the Senate overwhelmingly. Critical investments for our troops in Kosovo—which, as a veteran, as a citizen, and as a senator, I have aggressively supported—will be made in spite of my vote against this bill. The truth is, if this were not the case, if my vote would have undermined in any respects our efforts in Kosovo, I would have had to vote for this bill, in spite of the damage it does. I would have had to—regrettably—support this bill because we have a responsibility to support the American troops we have committed overseas, and I would never stand by and allow the Senate to send what I believe is the wrong message to our troops, and the wrong message to Slobodan Milosevic about American resolve . I believe the United States, and NATO as a whole, must remain united against the systematic killing, raping and pillaging of innocent Kosovar Albanian men, women, and children at the hands of Serb forces. The funding included in this supplemental appropriations conference report will provide support for the U.S. service men and women who are putting their lives in jeopardy and will, I believe, give them a greater capacity to achieve our military objectives in Kosovo. It will also provide the desperately needed relief for humanitarian efforts already underway to assist the refugees in that region. And these investments will be made by the U.S. Senate, reflected in our final tally.

I believe this Nation must have a bipartisan foreign policy, and that we can not afford to allow politics to endanger our troops. But I wish that more of my colleagues on the other side of the aisle, those who included provisions which cut directly against the interests of low income working Americans and our environment, would

also have a commitment to bipartisanship on domestic issues of tremendous importance to so many working Americans struggling to keep their heads above water even in this great economy we celebrate on the floor of the U.S. Senate. The rescissions and changes in policy included in this Conference Report will eventually hurt the poorest Americans and will immediately hurt our environment. That should not be acceptable in a Senate which prides itself on its ability to do what is right for all Americans. I can not in good conscience support these measures.

I question what it says about our commitment to helping those who are being left behind in this new economy, that we could find the resources to provide $983 million in disaster relief for those whose lives were disrupted when Hurricane Mitch struck the Central American nations of Honduras, Nicaragua, El Salvador and Guatemala and when Hurricane Georges struck in the Caribbean last year—but we are cutting critical investments in housing for working Americans. Hurricanes in Central America have left almost 10,000 dead and have driven millions from their homes. The cost of damages to businesses, hospitals, schools and individual homes have been enormous. We are right to provide assistance to the victims of these hurricanes. But we ought to be able to do it without abandoning thousands of our neediest citizens here at home.

Today there are more than five million low-income Americans facing severe housing needs, receiving federal housing assistance. At least another 15 million Americans qualify for help but do not receive it because of limited budget appropriations. They suffer from homelessness—600,000 Americans homeless each night; 5.3 million Americans pay rents that are more than 50 percent of their household income, or live in severely substandard conditions—these are the severe housing problems we once hoped to address. These families are one misfortune away from homelessness. A child gets sick, a parent gets laid off—even for a week or two, the car breaks down, and that family ends up on the streets. So what are we doing in this supplemental appropriations bill? We're rescinding $350 million from the Section 8 program that helps these families who are working through the tough times—and we're rescinding this money in spite of the fact that the HUD budget in FY1999 will already be almost $1 billion less than it was in FY1994. This rescission will result in a shortfall that will cause the loss of subsidy and the displacement of approximately 60,000 families. 60,000 families. It will make the current waiting list crisis, where families must sometimes wait years to find some relief, even more difficult to solve.

This isn't the first time this has happened. Year after year, HUD's budget is raided—targeted for cuts in 1995, in 1997, in 1998, and again this year—to pay for emergencies which, by their nature and by law, are not required to be offset with budget cuts. Only a very small portion of this $15 billion bill is offset with spending cuts. I am disturbed, really, that some of my colleagues have chosen to make cuts to this program because they believe it is politically vulnerable. HUD's budget should not fall victim to this type of spending cut—and families struggling to stay off the streets shouldn't fall victim to this kind of politics.

I am not new to this game. I have fought year in and year out against substantial cuts that have been made to the HUD budget. These cuts have jeopardized the existing public housing services and have undermined HUD's capacity to continue the Secretary's ambitious program of reform or even just to make up for previous underfunding of capital needs to meet our Nation's demand for affordable housing. Last year, the Congress passed the first new section 8 vouchers in 5 years. This rescission would reverse in large part the down payment Congress made in addressing unmet housing needs. At least 100,000 new vouchers are needed to begin to address the outstanding needs. This rescission moves us in the wrong direction.

As the ranking member of the Housing Subcommittee, as someone who sees first hand in Massachusetts the struggles of so many families working their fingers to the bone and trying to stay off the streets, I can not support these draconian cuts in housing.

But this bill doesn't stop there. Some of my colleagues have included dangerous environmental riders in this bill—in a practice that is becoming all too common in this Senate. It wasn't this way 15 years ago when I came here, it wasn't that way 30 years ago when Democrats and Republicans worked together to write our first environmental laws, but it's that way now—even basic environmental protections have become a partisan fight—and the riders in this bill do serious damage to our environment. Specifically, the conference report includes three environmental riders that I believe will set back environmental progress, unnecessarily limit federal revenues and undermine the legislative process—and I oppose all of them.

The conference report extends the moratorium on issuing a final rulemaking on crude oil valuation until October 1, 1999. It restricts the implementation of the Department of the Interior Solicitor's opinion on mining that limits the number of millsites to one five-acre millsite per patent.

The environmental rider that I find most egregious prevents the Department of Interior from issuing new rules for hardrock mining on public lands. This is the third time the Senate has attached such a provision to an appropriations bill. As a result, the hardrock mining industry continues to cause environmental damage and costs the taxpayer.

The extraction of hardrock minerals like gold, silver and copper usually includes the excavation of enormous pits and the use of toxic chemicals like cyanide, and its results have been destructive. According to the General Accounting Office, there are almost 300,000 acres of federal land that have been mined and left unreclaimed. Abandoned mines account for 59 Superfund sites and there are more than 2,000 abandoned mines in our national parks.

The Mineral Policy Center estimates that the cleanup costs for abandoned mines on public and private lands may reach $72 billion. Rather than reform the industry through comprehensive legislation or proper execution of existing executive branch authority, we will once again block reform through a rider.

It is time that we put an end to this policy of undermining the environment, of gutting environmental protections, by slipping riders through the back door of every spending bill. We ought to be a better Senate than that. We ought to have our debates on the floor, in public, and if you want to promote a vision of an America where we turn the environment over to polluters, over to those who would destroy our natural resources, if that's your vision, then let's debate it—and let's end the practice of environmental degradation through appropriations bills.

Before I yield the floor, I do want to draw our attention to something in this supplemental bill which I believe is an important victory for Massachusetts, and for our fishermen. I am pleased that $1.88 million was included for NOAA's National Marine Fisheries Service, NMFS, to promote cooperative management and research activities in the Northeast multispecies fishery. These funds will complement the $5 million in emergency assistance that was appropriated for Gulf of Maine fishermen last November.

Many in this Chamber know that too many fishermen in New England are experiencing economic hardship due to new groundfish regulations recently imposed in the Gulf of Maine. In order to help alleviate the negative effects of these new regulations, fishermen have joined with NMFS in developing a spending plan for the $5 million in emergency assistance. The plan proposes to compensate fishermen for lost fishing opportunities that have resulted from inshore groundfish closures. Fishermen, in return, will make their vessels available to take part in cooperative research projects. A portion of the $1.88 million will be used to fund the cooperative scientific projects that will be conducted by NMFS and other institutions. In addition, some of the new funding will be used to employ fishermen as scientific observers. This new partnership will have a twofold benefit. Cooperative research activities will keep fishermen employed on the water while groundfish stocks recover,

and this plan will promote a more constructive relationship between fishermen and NMFS with the goal of improving management activities in the Gulf of Maine groundfish fishery. I express my very real appreciation for the support of Senate Appropriations chairman, Senator TED STEVENS and the Democratic ranking member, Senator BYRD, for including this provision in the conference report and for their continued steadfast support of the New England fishermen.

In conclusion, let me just say that I fully support the American men and women who are putting their lives in jeopardy in the Kosovo region for a mission which I believe in very deeply—as a veteran, I support their interests very personally in fact. I would have liked to have seen the Senate produce an Emergency Supplemental Appropriations Bill that we could all vote for, unanimously. But this bill is a far cry from that kind of legislation, a far cry from the kind of bipartisan foreign policy we demand from our leaders in the United States. I am entirely disappointed that some members of the Senate have used this bill as a vehicle to hurt low-income working families and damage the environment we all share.

Mr. President, we are a great country of Americans who care about each other, who believe that we have a national purpose and that part of the reason we are a special nation is that we help each other make it through the times and make the most of our own lives. We're a great nation. We ought to be a great Senate that reflects that sense of commitment to one another, and I look forward to the day when those values return to this Chamber.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I have three additional speakers. I sent word to them. Does the distinguished Senator from Mississippi have any suggestions at the moment?

Mr. COCHRAN. Mr. President, I intend to reserve our time until just before the vote, if that is satisfactory.

Mr. BYRD. Mr. President, if it is agreeable with the distinguished Senator from Mississippi, I ask unanimous consent there be a recess for 3 minutes and it not be charged against the time.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. We would just suggest the absence of a quorum for that time.

Mr. BYRD. We can't call off a quorum in 3 minutes if anybody objects.

Mr. COCHRAN. I do not intend to object and I hope no one would.

Mr. BYRD. Mr. President, I agree with the Senator. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the time will not be charged.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I have no more requests for time. I yield my time back.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, there has been some conversation about disaster assistance for farmers and complaints that this bill does not go far enough to address the needs in the agriculture community for disaster assistance.

I point out to Senators that there are funds in here that will provide guaranteed loans for those farmers who are having difficulty getting financing for this year's crop so that the Government will guarantee the repayment of that loan. That will allow them to get loans they otherwise would not be able to get because of the inability to show that this year's crop will produce a profit.

This is a real problem, and we are sensitive to that. We have had hearings on that subject, and we are aware of it. In this conference report, we spell out, in addition to the funds I have talked about already in the bill, the following:

> The conferees recognize the problems facing agricultural producers today and understand that the actual needs for disaster assistance funds provided last year likely will exceed the projections of the Department of Agriculture. The Department of Agriculture has projected that net farm income will decline $3 billion below last year. The conferees expect the administration to monitor the situation closely and if necessary, submit requests for additional funds to the Congress for consideration.

This acknowledges that the problems are real. We know they are real. Last year was a big disaster in agriculture, and the Congress and the administration agreed to respond with a multibillion-dollar disaster assistance program. Some of the farmers have not gotten the benefits of that program yet. We provide funds to accelerate the availability of those benefits from the Department of Agriculture, and we are meeting every request that has been submitted by this administration for additional funds for that purpose.

The conference is sensitive to those needs. We did reject an amendment that was offered to increase the funding, and we hope the administration will let us know if additional funds are truly needed.

In many cases, it is impossible to determine what the assistance needs will be until after the crop year has begun. In many places, we have not even seen planting, but we do think this is responsive to that problem.

Mr. DOMENICI. Mr. President, I rise in support of the conference report accompanying H.R. 1141, the fiscal year 1999 emergency supplemental appropriations bill.

The pending bill includes emergency funding to finance the United States participation in NATO military operations in Kosovo and Yugoslavia. This supplemental makes available $11.0 billion in emergency, and contingency emergency, defense appropriations based on the crisis in Kosovo and the closely related readiness crisis in our armed forces.

Of these funds, $10.8 billion are appropriated to the Department of Defense:

The supplemental provides the $5.5 billion the President requested for military operations in Kosovo and Department of Defense refugee assistance.

It also provides some very needed readiness funding, specifically: $1.0 billion for procurement of depleted munitions stocks; $1.1 billion for spare parts, stocks of which have reached crisis proportions for some weapon systems; $700 million for overdue maintenance of these same weapons systems; $100 million for recruiting to address DoD's retention crisis; $200 million to improve the declining training of military personnel in high priority military specialties, and $200 million to repair aging bases.

These are important additions that clearly merit this additional funding and an ''emergency'' designation. Some will argue that these adds for defense are too much; others will argue, correctly I believe, that these readiness increases are overdue. I have received both official and unofficial reports of extremely serious readiness problems in our armed forces. This additional funding will just begin to address these problems correctly.

The legislation also makes $475 million available to the Secretary of Defense for Military Construction for him to use, under proper controls, as he sees fit. Another $1.8 billion is provided for military pay and pensions, subject to authorization legislation that Congress may choose to enact.

Both of these latter additions are deemed ''contingent emergencies.'' The money will only be expended if the President agrees that the needs constitute an emergency and the funds should be spent for the stated purpose. The President need not spend these funds if he so selects. This, I believe, is an appropriate way to make these funds available.

I strongly support these funds for our troops in the Balkans and for those in other parts of the world who may soon find themselves also involved in this troubling conflict. Regardless of our views regarding the conflict in the Balkans, we must fully support our armed forces being employed there and ensure that their equipment and training is fully and completely supported. It would be dangerous and foolish to do anything less.

The conferees also provide $1.1 billion for humanitarian assistance to refugees from Kosovo. Congress provided an additional $548 million above the President's request to aid refugees that have fled Kosovo and the 20,000 that are temporarily resettling in the United States. This is a significant infusion of

resources to address an increasingly desperate situation in the nations bordering Kosovo.

I commend the managers of the conference report for including the emergency aid to Central American countries who suffered form the ravages of Hurricane Mitch. This aid is for our neighbors who faced devastation of Biblical proportions last fall. The final aid package totals $814 million for the region.

I remind my colleagues that the United States has worked for more than a quarter of a century to help develop democratic movements in this region. The need to move quickly and pass this funding cannot be overstated. When I visited the region in December, I was gratified to hear government agencies and relief groups emphasize over and over again, ''We want your help, not forever, but so we can begin to help ourselves and continue building stable and democratic societies.''

In addition to these critical items, the final bill addresses the President's request for a $100 million appropriation for Jordan under the Wye Peace Accord. The Congress also provides an additional $574 million for aid to America's farmers following the $5.9 billion in emergency aid approved by Congress last October. It is also important to note that the conferees have taken swift action to ensure that sufficient disaster aid through the Federal Emergency Management Agency, FEMA, is available for Oklahoma, Kansas, and other Midwestern states that have been severely damaged by recent tornadoes.

Mr. President, I will ask unanimous consent to print in the RECORD at the conclusion of my remarks a table by the Congressional Budget Office that summarizes the spending in the pending bill.

Mr. President, including offsets to some of the nondefense emergency and non-emergency spending in the bill, the net total of the final bill is $11.35 billion in BA and $3.7 billion in outlays for fiscal year 1999. An estimated $2.0 billion in BA and $7.4 billion in outlays will be expended in fiscal year 2000 according to CBO estimates of the bill.

Finally, I address an issue raised by the inclusion of a provision in the conference report concerning the Overseas Private Investment Corporation, OPIC. Because this language in the conference report attempts to change the way we treat an OPIC program under title V of the Budget Act (The Federal Credit Reform Act), it violates section 306 of the Budget Act.

We have consulted with CBO and OMB, and both agencies say they will not change their treatment of OPIC programs from past practices because of this provision. Therefore I will not challenge this language, because I do not think the conference report will have any practical effect on credit reform or our budgetary treatment of OPIC programs.

I support this bill. It is largely an emergency spending package that responds to serious natural disasters at home and abroad, and to the NATO military campaign in the Balkans and the resulting tragedy of thousands of Kosovar refugees displaced during this conflict. I urge the adoption of the conference report.

Mr. President, I ask unanimous consent that the table to which I referred be printed in the RECORD.

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

SUMMARY OF FY 1999 SUPPLEMENTAL APPROPRIATIONS, H.R. 1141

[Conference agreement, by fiscal year, in millions of dollars]

		1999	2000	2001	2002	2003	2004	2005	Beyond	Total
Discretionary:										
Emergencies:										
Defense	BA	9,049	1,838							10,887
	O	2,509	6,168	1,437	438	174	18	10	4	10,758
Nondefense	BA	3,733	43							3,776
	O	1,073	1,090	741	497	346	226	24	10	4,007
Total emergencies	BA	12,782	1,881							14,663
	O	3,582	7,258	2,178	935	520	244	34	14	14,765
Non-emergencies:										
Defense	BA	1								1
	O	19	17	−13	−13	−4	−1	−1	3	7
Nondefense	BA	−300	74	8	8	8	8	8	8	−178
	O	76	85	18	−4	−5	−4	−4	−351	−189
Total non-emergencies	BA	−299	74	8	8	8	8	8	8	−177
	O	95	102	5	−17	−9	−5	−5	−348	−182
Total discretionary:										
Defense	BA	9,050	1,838							10,888
	O	2,528	6,185	1,424	425	170	17	9	7	10,765
Nondefense	BA	3,433	117	8	8	8	8	8	8	3,598
	O	1,149	1,175	759	493	341	222	20	−341	3,818
Total	BA	12,483	1,955	8	8	8	8	8	8	14,486
	O	3,677	7,360	2,183	918	511	239	29	−334	14,583
Mandatory [1]	BA	−1,135								−1,135
	O									
Total Bill	BA	11,348	1,955	8	8	8	8	8	8	13,351
	O	3,677	7,360	2,183	918	511	239	29	−334	14,583

[1] Includes Food stamp rescissions of −$1,250 million (assigned to appropriations committee) and grants-in-aid for airports supplemental of $115 million (assigned to authorizing committee).

Source: Congressional Budget Office.

KOSOVO: A LONG ROAD TO NOWHERE?

Mr. MURKOWSKI. Mr. President, we will soon vote on a $15 billion spending bill that will, among other things, further fund the war against Yugoslavia. Although the Administration requested some $6 billion for military and humanitarian needs for the Kosovo operation, this amount has almost doubled, and is well over $11 billion. Sadly, this higher figure will not get our readiness back where it needs to be—where we could, at the drop of the hat, successfully wage two full scale wars at the same time—as directed in the ''Quadrennial Defense Review.''

It also illustrates something seriously gone wrong here in Washington, D.C. Only a small amount of these funds are subject to offsets—its as if there is this notion, both in the Administration and in Congress, that this is ''free money.'' Well it's not, Mr. President. For every dollar spent, another priority loses out. And I can think of a whole host of areas where this money would be better spent than in fighting a war in a part of the world where most Americans can't clearly identify on a map. Tax cuts, Social Security, Education, to name just a few.

I will vote against this bill for two reasons: (1) our Kosovo policy is seriously flawed and the only way we in Congress can truly voice our opposition is voting where it hurts the most—the pocketbook; and (2) this is a spending bill gone mad—there is no fiscal accountability here, nor is there any notion of fiscal responsibility.

This vote, at least for me, will be one of the toughest I have had to cast in my tenure in the United States Senate. I strongly support our military, and am proud of our men and women in uniform. I certainly do not want to jeopardize our people who are charged with carrying out this war. But even so, this is not a vote against our military—rather, it is a vote in opposition

to the Administration's seriously flawed, if not inept Kosovo policy.

No one disputes that Milosevic is a bad person and that he should be stopped. His brutal, persistent attacks on the Albanian Kosovar people is akin to Germany in the Second World War. But air strikes alone are not going to do it—they will level Yugoslavia, destroy most of its infrastructure, terrorize its civilian population, and most likely, not be successful stopping Milosevic.

I do not believe that our war fighters' are being given sufficient latitude to make this mission a success. Their decisions are subject to dual-review: (1) the ''political'' review of the White House; and (2) the ''consensus'' of our NATO allies through every step of the war.

A few examples. General Clark's request to deploy gunships continues to be denied by ''senior military advisors in Washington, D.C.'' Who are these people? The Joint-Chiefs of Staff? Or Sandy Berger and Madeleine Albright?

It took over a month to get Apache helicopters to the region; and they sit grounded because the ''polls'' show no support for a ground campaign.

It seems to me that one of the first priorities in waging a war is to cut off the supply lines of the other side—and oil, in particular, so that they cannot fuel their tanks and planes.

Unbelievably, the NATO alliance refused to cut off the flow of fuel that fires Milosevic's war machine. Although the U.S. proposed a blockade to stop the oil, it was defeated by France which opposed implementing a blockade without a formal declaration of war.

We are executing massive, full scale air bombings every day; people are being killed; but the French believe a declaration of war must be a precondition for a blockade.

Our bombs have gone off course several times, hitting refugee convoys, the country of Bulgaria, and the Chinese embassy in Belgrade—which is technically Chinese soil in Yugoslavia.

At least in the case of the Chinese embassy, it wasn't the bombs at fault, it was our intelligence. Although the tourist maps in Belgrade accurately place the Chinese embassy in that locale, our intelligence was using an outdated map that led them to believe it was a procurement center for the Serbian military.

The Chinese people are outraged, and well they should be. But the American people should be just as outraged—not just by this bombing, but by the continued incompetence which has come to typify this policy.

I fail to understand how waging this war by NATO consensus is getting us anywhere except more deeply involved militarily, and less likely to find a diplomatic solution to this crisis. Mr. President, wars should not be waged by consensus, and diplomacy should not be directed by polls.

Internationally, the world is a much less stable place than it was even two months before. There was a sense of optimism that Russia might help broker a diplomatic solution to Kosovo. The possibility remains, but Russia is far less stable than previously thought: President Yeltsin survived an impeachment proceeding, but he has again disbanded his government to the degree that it is unclear who in Russia has the power to help negotiate an end to this crisis.

The Chinese are no longer just a sideline observer. While China has opposed the NATO bombings from the outset, it didn't have a dog in this fight until we bombed their embassy in Belgrade. If a deal on Kosovo is reached, it will have to pass muster with the Chinese who hold veto authority on the U.N. Security Council.

We continue to bomb Iraq daily—stretching our Air Force readiness even further. Saddam Hussein shows no signs of letting up, and will most likely use this as an opportunity to push us even further.

And last, but not least, the Korean Peninsula continues to be a crisis in waiting. Starvation in North Korea is rampant, food supplies are gone, and the country is undergoing one of the worst droughts in history. If the North Koreans decide to engage us militarily, we will be fighting three wars at the same time—beyond that envisioned by our military strategists in the Quadrennial Defense Review, and perhaps much more than we are currently prepared to do.

Again, we will soon vote on this supplemental funding package. Over $15 billion. And when the war is over, we will be asked to vote on additional funding to rebuild Yugoslavia. We will probably vote to rebuild the Chinese embassy in Belgrade. And if we approve additional funds for the military campaign, the end costs of rebuilding Yugoslavia will only continue to mount.

My vote does not undermine my support, concern or pride for our military. But I do believe that a diplomatic solution to this problem should have been found, can still be found, and must be found if we are to avoid the further escalation of this war. Failure to do so will cost us precipitously—not just in dollars, but in American lives.

I yield the floor.

Mr. ASHCROFT. Mr. President, I rise in opposition to the $15 billion supplemental appropriations conference report before us. The supplemental spends far more than is necessary to support our effort in Kosovo and, worse, will take vitally needed money out of the Social Security surplus, thereby raiding the Social Security Trust Fund.

Protecting the Social Security trust fund is one of my highest priorities. The Social Security system is expected to go into deficit in 2014 and we will need every dollar of that surplus today in order to be prepared for the tomorrows ahead of us.

Until this point, the Senate has been headed in the right direction on Social Security. The Budget Resolution, which I strongly supported, called for reduced debt and taxes, increased funding for education and national defense, and maintaining the spending caps so necessary to control spending.

Perhaps most importantly, the budget resolution built in on-budget surpluses from the year 2001 and beyond. This is significant because surpluses that are accumulating in the Social Security Trust Funds will no longer be used to finance on-budget operations of government. Social Security surpluses should not be used to finance deficits in the rest of government.

The Budget Resolution stood in stark contrast to President Clinton's budget, which, over the next five years, proposed spending $158 billion of the Social Security surpluses on non-Social Security programs.

The Budget Resolution, in addition to preserving every penny of Social Security surpluses, also contained procedural hurdles blocking future budgets from spending Social Security surpluses.

These procedures included a point of order against on-budget deficits and an amendment calling for reducing the debt ceiling by the amount of the Social Security surplus—the lockbox provision.

The Senate voted in favor of both the point of order and the lockbox by unanimous votes during the budget resolution.

In addition, the Abraham-Domenici-Ashcroft lockbox legislation, which is still pending in the Senate, would put these procedures into law, and ensure that Congress could not spend the Social Security surpluses on non-Social Security purposes.

Unfortunately, the supplemental appropriations package before us would undo some of the good work that we have already done this session.

By not offsetting $13 billion of the spending, the supplemental takes money from the Social Security surpluses, money that is necessary to protect the Social Security trust funds.

Thus far, Congress has been committed to stopping the raid on Social Security. This Congress has passed a budget that is balanced without using Social Security funds.

This conference report, however, not only spends Social Security funds, but also contains $1.2 billion in traditional pork spending.

I refer to such spending as $45 million for Census funding, $3.76 million for the House page dormitory, and $1.8 million for the O'Neill House building.

If this bill were just for Kosovo and true emergency spending, I would vote for it. If this bill were fully offset, I would vote for it. But this bill is neither all emergency nor all offset. This bill, like the $21 billion omnibus appropriation last fall, is an abrogation of our responsibility to protect the Social Security surplus.

Mr. President, this is not the way that we should handle Congress' responsibility over the federal purse

strings. If we face real emergencies, we should fund those emergencies.

But funding those emergencies is not free. We need to pay for all spending, emergency or not. This is why I support Senator ENZI's attempt to make sure that this entire appropriation is offset.

If we do not offset our spending, the money comes out of the Social Security surplus. There is no getting around this fact. We must pay for any new funding. If we do not pay for it, it comes out of the Social Security surplus.

The Social Security program is too important to be raided. While I recognize the importance of emergency funding, particularly for Kosovo, I also recognize that spending needs to be paid for.

Mr. President, this request is not unreasonable. All across this great land, when families face unexpected expenses, they must offset their spending by readjusting their priorities. No family in America would react to an unexpected crisis by going out and spending more money on other discretionary, non-budgeted items. All I am asking is that the Congress do the same.

This supplemental spends too much money and offsets too little of it. If we are to keep our financial house in order, and to protect the Social Security trust funds, it is time that we in Congress started to change our behavior.

If we are to maintain our Social Security obligations, we need to learn how to spend less money, and offset more. It is with regret that I feel obligated to oppose this conference report.

Mr. LAUTENBERG. Mr. President, I support this supplemental emergency appropriations bill. It is far from perfect, and I have serious reservations about some provisions. At the same time, the legislation would provide vitally important funding for our operations in Kosovo, as well as several other important provisions. So, on balance, I have concluded that the bill deserves my support.

Mr. President, of the $15 billion in new spending this bill contains, $12 billion is to support our important mission in Kosovo, to punish Slobodan Milosevic for his brutal policy of ethnic cleansing, compel a political settlement, and facilitate the return of the Kosovar Albanian refugees to their homeland. The tragedy in Kosovo represents a turning point for NATO, European security, and American leadership in the 21st century. I am glad that Congress has shown its support for the President with the funding contained in this bill for the military operation and the humanitarian assistance.

The bill also contains funds to ensure that the International Criminal Tribunal for former Yugoslavia can effectively investigate and prosecute the perpetrators of the atrocities committed in Kosovo and those in Belgrade who ordered them to carry out this campaign of terror. They must be brought to justice.

I am also glad that after a long delay we have provided the necessary assistance for Central American countries to recover from the devastation imposed last fall by Hurricanes Mitch and Georges.

Mr. President, this bill also contains a provision that helps family members of the victims of the terrible Pan Am 103 bombing to attend the trial of the charged criminals before the Scottish court in the Netherlands. As you know, Mr. President, many New Jersey natives were on that flight. These families have waited too long for justice to be brought, and I am glad that they will be able to see it rendered firsthand.

The bill also provides $100 million for Jordan, to help support its role in advancing the Middle East peace process. The region stands at a critical juncture after the death of King Hussein and the election of Ehud Barak as Israeli Prime Minister. I am glad we provided this down-payment for Jordan. Now we must follow through on our commitment for Israel and the Palestinian Authority per the Wye River Memorandum the U.S. helped broker.

Mr. President, despite these positive elements, the bill before us has many flaws.

It contains more than $6 billion in unrequested defense spending, far in excess of what it will take to prosecute the air war against Milosevic. It stretches the definition of what constitutes an ''emergency'' to such an extent that it mocks the notion of fiscal discipline.

This year's concurrent resolution on the budget established five explicit criteria to guide the use of the emergency designation, which allows funding beyond the discretionary caps. These criteria relate to whether an item is (i) necessary, essential, or vital (not merely useful or beneficial); (ii) sudden, quickly coming into being, and not building up over time; (iii) an urgent, pressing, and compelling need requiring immediate action; (iv) unforeseen, unpredictable, and unanticipated; and (v) not permanent, temporary in nature.

Unfortunately, it is difficult to see how some of this defense spending constitutes an emergency. For example, while increasing military compensation may be a laudable goal, it hardly represents an emergency under these criteria.

I also am disturbed by the apparent disparate treatment of offsets. As my colleagues know, under the Budget Act, funding for emergency spending does not count against the discretionary caps and therefore does not have to be offset. For some reason, however, the Majority feels that offsets are necessary—but for only for the agriculture and humanitarian emergencies, not the military portion. This double standard defies logic. If something is an emergency, no offsets should be required. If it is not an emergency, then we should not use the emergency designation and we should pay for it with spending reductions.

However, of all the problems with this bill, I am most disappointed in the provisions related to the recent multistate tobacco settlement. These provisions waive the Federal government's right to recoup its share of recovered tobacco Medicaid costs without any guarantees that State governments will spend even a penny of these settlement funds on tobacco control programs.

Mr. President, these provisions—stuck into this large emergency supplemental appropriations bill—hand the tobacco industry a big victory. The tobacco lobby wanted to avoid an effective, nationwide anti-youth smoking effort. And unfortunately, it looks like their wish was granted.

Mr. President, some have characterized this recoupment of Federal Medicaid dollars as a Federal ''money grab'' of State dollars. Nothing could be further from the truth.

It is without question that a large portion of the state settlements with the tobacco industry represents a recovery of Federal funds. I should know, because I have been working with the state attorneys general on these cases since they were filed.

In fact, I introduced the first ''Tobacco Medicaid Waiver'' bill back in 1996. At that time, I was joined by Mississippi Attorney General Mike Moore and Minnesota Attorney General Skip Humphrey at the introduction of a bill that would allow States to keep part of the Federal share of Medicaid. At the time, there were only ten states suing, and my bill was aimed at urging more States to bring claims.

Mr. President, back then, none of these pioneering state officials ever said that the Federal Government had no right to Medicaid recoupment. It is a preposterous argument. The states sued under the Federal Medicaid statute—they knew that then and they know that now.

Mr. President, there is no question under current law that a portion of these settlements are Federal funds. It is also important to note that the tobacco settlement signed by the States blocks the Federal government from seeking reimbursement for Federal Medicaid costs caused by tobacco company misconduct in the future. So, in other words, the States waived our rights too.

Let me be clear: I think we should ultimately give this money back to the States—but we must have guarantees that a portion of this tobacco recoupment will be used to reduce youth smoking, assist children and promote public health.

Mr. President, the provisions stuck into this bill are bad policy and primarily benefit one party: the tobacco industry. The losers will be America's children. Because of this provision, more young people will begin to smoke. And many of them, ultimately, will die as a result.

Mr. President, that's not right. And I hope Congress will reconsider this decision in the future.

Still, Mr. President, this conference report does contain several other important provisions, including funding for our operations in Kosovo. So, while I do so with some reluctance, I will support it.

Mr. COCHRAN. Mr. President, I yield the remainder of our time to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. How much time do I have?

The PRESIDING OFFICER. Three minutes 12 seconds.

Mr. STEVENS. I thank the Chair, and I thank my good friend from Mississippi for managing the bill for us as we had a distinguished visitor in the Appropriations Committee room.

Mr. President, there is a lot of controversy about this bill, but I think this bill represents the best of America. We have reacted to crises abroad and crises in this country.

There are items in this bill that are not emergencies. While many people are saying they should not be here because they are not emergencies, they are here because this is a supplemental and an emergency bill. It is a bill that we can all vote for in good conscience, and I hope there will be an overwhelming vote for this.

Again, I point out for the Senate that the men and women of the armed services are aware of this bill. It means a great deal to them. It is a symbol of our commitment to the pay raise for which we have already gone on record.

It is a symbol that we are going to step forward to modernize the armed services. It is a symbol that we are going to provide the money to assure these people when they are sent overseas, whether it is Kosovo or in the area of Iraq or in South Korea, or in Bosnia—wherever it may be in those 93 countries of the world that the American service men and women are now serving—we are going to stand behind them and give them all the support they need not only for their safety but for their comfort.

The passage of this bill will mean that we can now go ahead with the balance of our necessary actions in the Appropriations Committee. We have 13 full bills that come forward. I hope this will be the last supplemental of this year. I join the majority leader in not welcoming supplemental bills. But I know there are times when it is necessary; and this one is necessary.

Anyone who looks at our involvement in the world knows that we cannot calculate in advance the costs of events, such as the Kosovo operation, both militarily and in regard to refugees. These were things that came up after we planned expenditures for 1999 in the fall of last year.

I urge the Members of the Senate to vote for this bill. I urge that we, as quickly as possible, get it to the President so he can sign it today.

I yield back any time I have and ask for the yeas and nays.

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

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

All time having been yielded back, the question is on agreeing to the conference report to accompany H.R. 1141. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—64

Abraham	Feinstein	Mikulski
Akaka	Frist	Moynihan
Baucus	Graham	Murray
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Hollings	Roberts
Bond	Hutchinson	Rockefeller
Breaux	Hutchison	Roth
Brownback	Inouye	Sarbanes
Bunning	Johnson	Schumer
Byrd	Kennedy	Shelby
Campbell	Kyl	Smith (OR)
Chafee	Landrieu	Snowe
Cochran	Lautenberg	Specter
Collins	Leahy	Stevens
Conrad	Levin	Thompson
Coverdell	Lieberman	Thurmond
Daschle	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wellstone
Domenici	Mack	
Durbin	McConnell	

NAYS—36

Allard	Feingold	Kerry
Ashcroft	Fitzgerald	Kohl
Bayh	Gorton	McCain
Boxer	Gramm	Murkowski
Bryan	Grams	Nickles
Burns	Grassley	Robb
Cleland	Gregg	Santorum
Craig	Hagel	Sessions
Crapo	Helms	Smith (NH)
Dorgan	Inhofe	Thomas
Edwards	Jeffords	Torricelli
Enzi	Kerrey	Wyden

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

OFFSET OF EMERGENCY SUPPLEMENTAL SPENDING LEGISLATION

Mr. ENZI. Mr. President, as the supplemental appropriations conference report stands, it is currently $13.3 billion out of balance. Only $2 billion of the spending in this bill is offset and my bill will ensure that Congress follows the rules and not dip into the Social Security surplus to fund all the truly non-emergency items in the supplemental appropriations bill.

The legislation that I have introduced imposes much needed fiscal discipline. I have been working for a balanced budget since I was first elected to the Senate and the supplemental begins the process of undoing that work. Congress must not go back to the old spending rules—just because we have a surplus that does not mean that the battle has been won. It means that we must continue to be watchful and ensure that the surplus continues to grow.

Some of the items in this bill are true emergencies such as disaster relief in Oklahoma, livestock assistance and Hurricane Mitch relief. However, there are many items that are not emergencies, like $48 million for a new satellite for the Corporation for Public Broadcasting and $3.75 million for renovations to the House page dormitory. There is $45 million for unanticipated costs associated with the census, to an accountant it seems that there needs to be better cost control to prevent such things. There are millions of dollars in examples of items that are not emergencies but have been designated as such. Many of these items should have been debated in the fiscal year 2000 appropriations process.

Even while the economy is strong, I remain concerned about the debt that we are in danger of passing on to our children and our grandchildren. In the past, it seemed we were so tied to the immediate gratification we receive from spending money that we didn't see the danger that looms in the not too distant future—the risk associated with spending ''on credit'' with reckless abandon. We still don't acknowledge that danger.

The genesis of this bill was to pay for the current military conflict in Kosovo. I fully support the troops and I was prepared to vote to pay for the costs of supporting our men an women in uniform, but the supplemental goes far beyond what I was prepared to support. Many of these items are best left to the Department of Defense authorization bill or the Soldier's, Sailor's and Airman's Bill of Rights, which passed the Senate and contained a much needed pay raise for the armed services. The pay raise contained in the supplemental jumps the gun. The House should have the opportunity to consider the authorizing legislation before the money is appropriated.

Just passing a balanced budget resolution is not enough. Congress must continue to be on watch for attempts to violate not just the letter of resolution, but the spirit through spending bills that are not offset. This Legislation will ensure that the bill fits under the spending caps and that the surplus is protected.

As a body, we have been seriously debating locking up the Social Security surplus to ensure that the money will be there to honor America' contract with our senior citizens. Now we have a bill that dips into the surplus to pay for a Christmas tree of items under the false pretenses of an emergency. This is exactly what the lock box was designed to prevent. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFSET OF EMERGENCY SUPPLEMENTAL SPENDING.

Not later than 15 days after Congress adjourns to end the first session of the 106th Congress and on the same day as a sequestration (if any) under sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall cause, in the same manner prescribed for section 251 of that Act, a sequestration for fiscal year 2000 of all non-exempt accounts within the discretionary spending category (excluding function 050 (national defense)) to achieve a reduction in budget authority equal to $13,303,000,000 minus the dollar amount of reimbursements identified in the report required by section 2005 (efforts to increase burden-sharing) of the 1999 Emergency Supplemental Appropriations Act.

Mr. GRAMS. Mr. President, I rise in strong support of Senator ENZI's bill to offset all of the nonemergency funding in the supplemental with an across the board cut in non-defense discretionary accounts.

As one who vigorously opposed the omnibus appropriations bill of last year which resulted in spending far above our commitments, I was surprised that here we have yet another attempt to circumvent our budget principles—and to spend part of the Social Security surplus nearly all of us pledged to devote only to Social Security.

While there are true emergencies in the supplemental I support, such as the agriculture spending and funds directly related to our Kosovo operation, I strongly oppose inclusion of other defense spending that clearly should be considered in the normal appropriations process. And I oppose beefing up the FEMA budget three times over the President's request as well. What all of this is about is just a gimmick to claim we are not breaking the caps as we proceed into the fiscal year 2000 appropriations process by providing some funding now. The last estimate I saw indicated only $2.5 billion of this funding will be outlayed in this fiscal year. So—why are we appropriating $15 billion?

Mr. President, I have no objection to this additional spending—if we pay for it. Senator ENZI's legislation, which I have cosponsored does pay for it. This is the responsible thing to do, since most of this bill—over $13 billion is not emergency spending.

Those who believe in integrity of our budget process and in the need to preserve Social Security will vote for this bill.

Mr. SESSIONS. Mr. President, I rise in support of Senator ENZI's bill to offset the supplemental appropriations bill.

Senator ENSZI's bill is consistent with my belief that we must pay for this emergency supplemental bill with offsets.

Mr. President, under the Balanced Budget Act of 1997, Congress, the President, and the American people agreed to cap the growth of our Government's spending programs. In doing this we were able to balance the budget and head down the path of fiscal responsibility. We have agreed under the law to these spending caps. We should not now turn our backs on the commitment we made to the American people, by going back on our word and breaking this agreement with them.

Because of this commitment to the American people, Congress must not bust these spending caps.

In that same vein, at the zenith of our success to have finally balanced the Federal Government's budget for the first time in 29 years, we ought not look to spend $13 billion we don't have. We can ill afford to use our first wave of surpluses, especially the surpluses garnered from the Social Security trust fund to pay for this supplemental. We can ill afford at this critical juncture to break our pledge to our seniors over social security, not to the public over keeping our budgets balanced.

In closing Mr. President, I believe Senator ENZI's bill, of which I am an original cosponsor, is right on the mark. We need to use common sense in budgeting in our Nation's Capitol.

Granted we have several emergencies confronting us, from the disasters that have hit our constituents across the land, the need to increase FEMA's funding to meet these needs, desperately needed funds for our farmers—including my provision to the bill that will help our farmers to qualify for disaster funds, up to the need to support our troops in Kosovo. But—we must pay the bill. I support Senator ENZI and our other cosponsors, by calling for reduced spending in other federal programs in order to fund these necessary emergencies. This is truly the only way this Congress can justify spending money we don't have.

Mr. LOTT. Mr. President, I have sought recognition to make a couple of unanimous consent requests.

First, I want to commend the chairman of the Appropriations Committee for his work on the supplemental appropriations. It is never easy for him, but it is easy for us to second-guess and be judgmental. In his unique way he does a magnificent job.

VIOLENT AND REPEAT JUVENILE ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. LOTT. I believe the procedure is that Senator HARKIN would be entitled to the floor, but this unanimous consent agreement will take care of that problem and we will be able to move forward.

I ask unanimous consent that the Senate proceed to vote on or in relation to the Ashcroft-Frist amendment, No. 355, after 20 minutes of debate to be equally divided in the usual form; following that vote, if agreed to, the Senate immediately agree to an amendment to be offered by Senator HARKIN. I further ask that following the disposition of the above two mentioned amendments, if the Ashcroft-Frist amendment is agreed to, the following be the only amendments remaining in order and under a time agreement equally divided, and all other provisions of the previous consent of May 14 still be in place.

The amendments are as follows: The Bond amendment regarding the film industry, 30 minutes; the Biden amendment, 45 minutes, with 30 minutes under the control of Senator BIDEN and 15 minutes under the control of Senator HATCH.

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

Mr. DASCHLE. Mr. President, reserving the right to object, and I will not because I think we need to move quickly here, I want to thank all those who are responsible for getting us to this point. This has taken some cooperation on the part of both sides. I especially want to thank Senators HARKIN, ASHCROFT, FRIST, BIDEN, WELLSTONE and others who have been very helpful.

I have no objection.

Mr. HARKIN. Reserving the right to object, I am sorry that I did not hear the entire request, but the situation, as I understand it, prior to right now, was that after the supplemental, we were coming back to the Frist-Ashcroft amendment and I was to be recognized.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. What does this do to that?

Mr. LOTT. This would obviate that and we would move forward with the procedure that is outlined. We would proceed to vote on or in relation to the Ashcroft amendment with time equally divided for 20 minutes, and then the Senate would immediately agree to the amendment offered by Senator HARKIN.

Mr. HARKIN. As I understand it, what you are saying is right now we would have 20 minutes?

Mr. LOTT. Right. Equally divided in the usual form.

Mr. HARKIN. Then you would vote up or down on the Frist-Ashcroft amendment, and then there would be—then what?

Mr. LOTT. Then we would go directly to the agreement to accept the Harkin amendment.

Mr. HARKIN. OK. I am OK with that.

I must be very honest with you. I have been waiting some time to be able to at least make my case on the floor. I have been more than willing to set everything aside and to let the process go ahead since yesterday. But I must tell you that since yesterday I have been waiting to get at least 15 to 20 minutes where I could just lay out my

case on the Frist-Ashcroft amendment on IDEA, the background of it. I just believe I have to. I want to be able to fully make my case against the amendment. I do not want to take a lot of time, I do not want to filibuster it, but I would like to have 15 or 20 minutes just to lay out my case. That is all.

Mr. LOTT. Mr. President, perhaps I could amend the unanimous consent request to this effect, that we have 30 minutes on the Ashcroft and the Harkin amendments, with each side getting 15 minutes. The Senator would have 15 minutes, Senators ASHCROFT and FRIST would have 15 minutes, and they would split it up between themselves. I modify my request to that effect.

Mr. DASCHLE. Mr. President, reserving my right to object, I support that request. Just for clarification purposes, Senator BIDEN wants to be sure that the other part of the arrangement we had, which was an up-or-down vote on his amendment, would occur. I just would clarify that for the record. I understand that to be the case.

Mr. LOTT. That will be the way the vote will occur.

The PRESIDING OFFICER. Hearing no objection, the unanimous consent agreement is agreed to.

Mr. LOTT. I thank all involved. I yield the floor.

Mr. DASCHLE. If I could just ask the majority leader, we had one Member's request; Senator KERRY asked if he could have a period of time—I suggest 10 minutes—prior to final passage, for him to be recognized.

Mr. LOTT. Would it be possible he could do that after final passage? The reason why, and I understand—I would like any Senator to be able to do that—we do have a number of Senators who would like to be able to leave by 6. You are talking about airplanes. You are talking about a son's athletic event. It is the usual thing. To admit we have these sorts of requests is not always easy.

Mr. DASCHLE. Perhaps we can consult with Senator KERRY.

Mr. LOTT. Perhaps we will not use all the time and we could stick it in there, but if he would be willing to at least consider it after final passage it would help a number of his colleagues. We will work on that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

AMENDMENT NO. 355

Mr. HARKIN. Mr. President, we are now back on the Frist-Ashcroft amendment. I am not going to proceed until we have order. I cannot even hear myself.

The PRESIDING OFFICER. The Senate will be in order. Will the conversations in the aisles be taken somewhere else.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I know the recent school tragedies—again, even another this very morning—are a call to action to us as families and churches and schools, as communities, as leaders in government, to take positive, constructive steps to make our schools places of learning and not of fear. But let's not use these tragedies of Littleton and other schools to take emotional, unfounded—although well-intentioned-actions which actually will make our schools and communities more unsafe and less secure.

I want to make this point very, very clear. The Frist-Ashcroft amendment is a dangerous, dangerous, dangerous amendment. The Frist-Ashcroft amendment guts IDEA. It actually will make our communities and our schools more unsafe.

The purpose of this bill is to help make our schools and communities safer. That is the purpose of the bill in front of us. I must ask, is putting a child with a disability on the street and cutting off all services to that child something that will make our communities more safe? Frankly, it will have the opposite effect.

This amendment, would, for example, lead to a child with an emotional disturbance being put on the street and end the counseling and behavioral modification services they had been receiving—end, them, cold turkey. No more counseling or behavioral modification services. And this kid is now on the street. Tell me, is that community safer? Obviously not, but that is just what this amendment would lead to. Troubled children out on the street with no supervision, no tracking, no education, no mental health services.

This amendment targets a group of students who are more likely to be victims of school violence than perpetrators. Again I want to point out: Not any of the nine—now nine school shootings—in the last 39 months was done by a child in special education. Not one. Yet we have this amendment that targets kids with disabilities. This amendment is scapegoating—and I use that word, ''scapegoating''—scapegoating kids with disability. And it is destroying an important safety feature of the Individuals with Disabilities Education Act.

The supporters of the amendment say they need it because the law erected barriers that kept them from taking students who had guns in their possession out of schools. We showed yesterday—and the authors of this amendment agreed with me on this point—that a child with a disability who brings a gun to a school can be removed from that school immediately, just like any other child. We settled that yesterday. For a kid with a disability who brings a gun or firearm to school, right now, the principal can call up the sheriff or the police. They can come haul him away, book him, put him in jail, whatever the law is.

So I hope no Senator votes on this amendment thinking that under the law as it exists today, a kid with a disability who comes to school with a gun can't be kicked out immediately. That is simply not true. Nothing in Federal law limits them from immediately removing him and keeping him out as long as that child is a threat to himself or others. Let me repeat that, the school can remove that child immediately and keep them in an alternative setting indefinitely as long as that child is a threat to himself or others. It couldn't be more clear than that.

We worked long and hard, 3 years of hearings, hammering out the IDEA bill in 1997. And we passed it here in the Senate by a vote of 98 to 1, 98 to 1. We have had no hearings on this amendment, none whatsoever. But we had plenty of hearings to set up a framework in IDEA to make sure our schools and communities were safe. First, we wanted to make sure the schools were safe. Second, we wanted to make sure the communities were safe. Third, we wanted to make sure students with disabilities were held accountable for their actions and that schools have the flexibility to take appropriate and timely actions. Last, we wanted to make sure that decisions were based on facts relevant to the child, not just on emotions.

Right now under the law, school authorities can unilaterally remove a child with a disability, first of all, for the first 10 days, and provide no services whatsoever. Second, if it is found that their actions were not a manifestation of their disability, then of course he is treated in the same manner as nondisabled children, and can be kept out in an alternative setting forever.

If it is found by that the child's action was a manifestation of their disability, that child then is put into an alternative setting for up to 45 days. That alternative setting is determined by the local school districts.

Now we heard yesterday that after 45 days the kid will be put back in school. That is just not so—only if he or she is no longer a danger. If that kid continues to pose a danger to himself or others, the school can repeat that 45 days again and again and again—for as long as it deems necessary.

Finally, as I said, there is no way the law prohibits anyone from calling the police to come take any student out who has a gun. I also want to point out, IDEA specifically provides that school officials may obtain a court order anytime to remove a child with a disability from school or to change a child's current educational placement if they believe that maintaining the child in the current educational placement is substantially likely to result in injury to the child or others. So it is clear, current law addresses the issue. Frankly, we have a commonsense structure now. And, again, it was carefully designed to make schools and communities safer.

The Senator from Missouri yesterday put up a chart showing the manifestation determination process, how you

have to go through all these processes. Why do we do that? He made it seem like it was some bureaucratic maze, or jungle. The reason that we have this manifestation determination is so we can address the behavior of the child with the disability, to determine why that child acted the way the child did, and then to have the proper interventions so that child does not behave that way in the future. That's just common sense and it should not be eliminated as this amendment would do.

Who does that process help, and who does that protect? Does it not protect the school? Does it not protect the local community? Of course, it does. If we can intervene and provide the proper kind of psychological help, maybe even medical help, educational help so that the child with a disability modifies his or her behavior, it seems to me that is what we want.

Or are we saying under the Frist-Ashcroft amendment: We do not care; if a kid with a disability brings a gun to school, we do not care about that behavior; kick him out, put him out on the street, cut off all his services?

Is that going to make our community safer? Is that going to make our schools safer? Is that going to protect students? If there is a question about that in anyone's mind, I point to the fact that the shooting in Oregon where students were tragically killed was committed by a kid who had been suspended without services from school. He went home, got a gun, and came back to school. I ask, what if a child in that circumstance was put in an alternative setting with supervision, with appropriate psychological help, behavior modification, supporting services? Would that kid have gone home to get the gun and come back to school? I think the odds would have been great that that kid would not. But instead he was put on the street unsupervised—just as this amendment allows for. That is the ''level playing field'' the supporters of this amendment advocate.

Mr. President, that is why over 500 police leaders from this country are opposed to the Frist-Ashcroft amendment.

I ask unanimous consent to print in the RECORD a letter from Fight Crime, Invest in Kids. The board of directors includes the president of the Fraternal Order of Police. It encompasses 500 police leaders—many of them the police chiefs in major cities from around the country. It says in part:

. . . we urge you to oppose the Frist-Ashcroft amendment, and support the [amendment] to be offered by Senator Harkin.

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

FIGHT CRIME,
INVEST IN KIDS,
Washington, DC, May 17, 1999.

DEAR SENATOR: should we really give kids who bring firearms to school more unsupervised time? Senators Frist and Ashcroft's amendments to S. 254 would have precisely that impact.

As an organization of more than 500 victims of violence, sheriffs, district attorneys, police chiefs, leaders of police organizations and violence prevention scholars, we urge you to oppose the Frist-Ashcroft amendment, and support the substitute to be offered by Senator Harkin.

Regardless of whether students have disabilities or not, schools already can suspend or expel students who bring weapons to school. Nothing in the Individuals with Disabilities Education Act (IDEA) prohibits schools from removing immediately a child who brings a gun to school. At the same time, the law recognizes sending the child home or out on the street without educational services is not the answer. That's why IDEA simply requires states to continue education services. The Frist-Ashcroft amendment would eliminate this requirement for any child who brings a gun to school.

We should have tough sanctions for kids who bring a weapon to school. The safety of other students in the school must be paramount. The Frist-Ashcroft Amendment may sound tough to those who think all kids love school. But giving a gun-toting kid an extended vacation from school and from all responsibility is soft on offenders and dangerous for everyone else. Please don't give those kids who most need adult supervision the unsupervised time to rob, become addicted to drugs, and get their hands on other guns to threaten students when the school bell rings.

Anti-truancy programs are often an important part of successful efforts to reduce juvenile violence. The Frist-Ashcroft amendment encourages mandatory truancy.

To minimize the threat these youngsters pose, we should require continued adult supervision as well as participation in mental health and behavioral modification programs, and continued school attendance in an appropriate setting, to learn the skills needed to make an honest living. The Harkin Amendment is consistent with this approach. Otherwise expulsion often becomes a graduation to a life of crime that threatens the public immediately and for many years to come.

Please let me know if we can be of help in advising on what really works to keep kids from becoming criminals.

Sincerely,

SANFORD A. NEWMAN,
President.

Mr. HARKIN. Mr. President, these are the policemen talking. Do you know why they are saying this? Because they know if Frist-Ashcroft is adopted, they are going to dump these kids on the streets—kids with problems, emotional problems, kids with mental problems and behavioral problems, kids who are mentally retarded and may have other problems. They are going to dump them out on the street. That is safe? That is going to make our schools and our communities safe? Please, someone tell me how that is so. That is why the police are opposed to this amendment.

I will read a portion of another statement:

As police chiefs in America's largest cities, we know that investments today to help kids get the right start are among America's most powerful weapons against crime. Quality child care, parenting, coaching, and afterschool programs can help kids learn the values and skills they need to become good neighbors instead of criminals. We, therefore, call on all our public officials to adopt the policies described in Fight Crime, Invest in Kids. Help schools identify troubled and disruptive children and provide children and their parents with the counseling and training that can help get the kids back on track.

These are not social scientists; these are policemen from around the country.

Let me also read from the testimony of the Police Executive Research Forum—a leading national organization of police chiefs and senior law enforcement officials. Gil Kerlikowski, who at the time was president of this group and the police chief in Buffalo, New York testified at a recent congressional hearing on this topic. He said:

Students who are expelled or suspended from school and left at home or on the street become my problem, and the problem of police across this country. They have greater opportunity to commit crimes, abuse drugs, or engage in disorderly behavior that affects the quality of life in any given neighborhood. They are also vulnerable to gangs and predators who can victimize and exploit them in ways that will impede any later efforts to put them on the right track. Today's police forces are ill-prepared to deal with these individuals—the rest of the criminal justice system even less so.

I also have a letter from the Correctional Educational Association again stating that the Frist-Ashcroft amendment is more dangerous to our schools and our communities.

I ask unanimous consent that this letter be printed in the RECORD.

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

CORRECTIONAL EDUCATION ASSOCIATION,
Lanham, MD, May 17, 1999.

Hon. BILL FRIST,
U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST. On behalf of the teachers who labor in the nation's prisons, jails and juvenile facilities, let me implore you to withdraw your amendment and support the Harkin amendment to S. 254. There are enough provisions in the current IDEA to deal with problems related to violent behaviors, such as carrying or threatening to carry weapons into the school environment. In fact, your bill offers no remedy, whatsoever, for changing the behavior which it seeks to punish. It removes the procedural safeguards designed to assist the offending child to find the necessary help he or she needs. Finally, it punishes the child for his or her disability, not for the offending behavior. It is akin to taking medicine from a sick person because he or she has an obnoxious personality.

One of the strengths of IDEA is the procedure for dealing with behavior problems. Carrying a weapon to school is a terrible behavior problem needing immediate action by the whole school community. Dismissal from school services denies a solution to the problem. Why not require the IDEA procedure for any student with a behavior problem, whether or not the student is in special education or not? We need strong procedure to deal with potential and real violence. Doing nothing solves nothing.

Those of us in criminal justice realize that providing special education students with appropriate instructional services is one of the keys to change their negative behaviors. Punishing a student without positive and appropriate assistance changes nothing. In

fact, it just makes things worse. In attempting to help avoid future tragic situations like Littleton, we must be careful to find ways to locate, calm and help potentially violent kids change. Please rescind your amendment.

Sincerely,

STEPHEN J. STEURER,
Executive Director.

Mr. HARKIN. Mr. President, I have a letter from the Council for Exceptional Children saying:

While we . . . strongly support the removal of a student who endangers the safety or well-being of themselves or other students, we strongly oppose the cessation of services for any student.

The Frist-Ashcroft amendment ceases those services. What they say is that the school districts may provide the services—may. We already heard one Senator yesterday say how much this costs. It may cost too much, and schools will say: It costs too much money; we are not going to do it; let somebody else provide the services. And the kid falls through the cracks. That is what happens.

If you do not think the police know what they are talking about or the Council for Exceptional Children or the Correctional Education Association, how about the Parent Teacher Association? Do you honestly believe that the National PTA wants more dangerous schools? Here is a letter from the National PTA strongly—strongly—opposing the Frist-Ashcroft amendment:

The National PTA supports Sens. Ashcroft's and Frist's goal of keeping children safe in school. Their amendment, however, would allow for the expulsion of special education students who possess a handgun in school, without ensuring alternative education services are provided. National PTA supports removing students who bring guns to school, but believes students should receive education services in an alternative setting.

National PTA supports Senator Harkin's amendment, which clarifies that schools have the authority to remove any child who brings a gun to school [and continues to provide them services].

I ask unanimous consent the National PTA letter be printed in the RECORD.

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

NATIONAL PTA,
Chicago, IL, May 17, 1999.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: National PTA opposes amending the Individuals with Disability Education Act (IDEA) as proposed by Sens. Ashcroft and Frist. The amendment will be offered to S. 254, the juvenile justice bill currently being debated in the Senate. National PTA asks that you vote NO on Ashcroft/Frist amendment and vote YES to support an alternative amendment sponsored by Senator Harkin.

The National PTA supports Sens. Ashcroft's and Frist's goal of keeping children safe in school. Their amendment, would allow for the expulsion of special education students who possess a handgun on school, without ensuring alternative education services are provided. National PTA supports removing students who bring guns to school, but believes students should receive education services in an alternative setting.

National PTA supports Senator Harkin's amendment, which clarifies that schools have the authority to remove *any* child who brings a gun to school. The amendment also states that all students should be provided education services in an alternative setting. Further, students would receive immediate and appropriate intervention services, and thereby minimize the possibility of future violations by the student.

The National PTA asks that you oppose the Ashcroft/Frist amendment and vote for the Harkin alternative.

Sincerely,

SHIRLEY IGO,
Vice President for Legislation.

Mr. HARKIN. Mr. President, I have a number of other organizations whose letters in opposition to this amendment I want to print in the RECORD: the United Cerebral Palsy Association, Learning Disabilities Association of America, the ARC of the United States, the American Association of Mental Retardation, the Easter Seals of Missouri, the Easter Seals of Tennessee, and a number of others. I ask unanimous consent they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE COUNCIL FOR
EXCEPTIONAL CHILDREN,
Reston VA, May 17, 1999.

Hon. JOHN ASCROFT,
U.S. Senate, Washington DC.

DEAR SENATOR ASHCROFT, On behalf of all students in special education and general education, we ask you to withdraw your amendment to the Individuals with Disabilities Education Act Amendments of 1997 (IDEA 1997). Amendment No. 348 would seriously jeopardize the integrity of this historic piece of legislation.

While we at the Council for Exceptional Children strongly support the removal of a student who endangers the safety or well-being of themselves or other students, we strongly oppose the cessation of services for any student. Past incidents, such as the tragic story of Kip Kinkle from Springfield, Oregon, prove that when a student is immediately suspended without any type of service, further tragedy is imminent.

The final IDEA regulations, released March 12, 1999, offer schools substantial opportunities and strategies for addressing problem behavior of students with disabilities including behavior that is dangerous or involves drugs or weapons. When it is stated that children with disabilities cannot be disciplined, that is absolutely not the case. The statute and the regulations clearly state that when the behavior is not a manifestation of their disability, those children can be disciplined in the same manner as children without disabilities. Furthermore, the statute and regulations state that a child who commits an offense involving drugs or weapons that is a manifestation of their disability, the child can be removed from the classroom and/or building for up to 45 days. There is nothing in the statute or regulations that prohibit another 45 day removal if that is appropriate. The only difference is that child will receive educational services.

This amendment will not result in safer schools or communities. In fact, every major law enforcement agency reports that expelling or suspending troubled children without education services only increases juvenile crime. Drop out rates, incarceration rates and drug use rates also increase when children are expelled or suspended without education services.

On the other hand, we support Senator Harkin's amendment to the juvenile justice legislation which is presently being debated. The Harkin amendment, not an amendment to IDEA, clarifies that schools can and should remove children who bring guns to school and that schools should provide them with immediate appropriate intervention and services, including mental health services in order to maximize the likelihood that such child does not engage in such behavior or such behavior does not reoccur. The Harkin Amendment also reaffirms that nothing prohibits a school from reporting a crime to appropriate authorities.

Please reconsider your amendment and the negative effect it will have to the carefully constructed IDEA Amendments of 1997. We need to implement IDEA, not amend it. Your amendment will seriously undermine the benefits and protections of IDEA. Thank you for your consideration.

Sincerely,

B. JOSEPH BALLARD,
Associate Executive Director.

MISSOURI PLANNING COUNCIL
FOR DEVELOPMENTAL DISABILITIES,
Jefferson City, MO, May 17, 1999.

Hon. JOHN ASHCROFT,
Russell Senate Office Building
Washington, DC.

DEAR SENATOR ASHCROFT: On behalf of the Missouri Planning Council for Developmental Disabilities, I am writing this letter to support the Harkin Amendment to the Juvenile Justice Bill. We believe this bill will result in safer schools since it clarifies the schools' roles in removing children who bring guns to school. We also support the provision of intervention and services, including mental health services, to reduce the possibility of such behaviors reoccurring.

We have supported IDEA, formerly the Education for All Handicapped Children's Act of 1975, since it was introduced and believe that because of this strong legislation many children are now receiving the education to which they are entitled. Because of this we cannot support legislation that would weaken this most important special education law.

Thank you for the opportunity to provide comment. Please call our office if you have questions.

Sincerely,

DON JACKSON,
Chairman.

EASTER SEALS,
May 17, 1999.

Hon. JOHN ASHCROFT,
U.S. Senate,
Washington, DC.

DEAR SENATOR ASHCROFT: On behalf of Easter Seals Missouri, I write to you today to inform you of our opposition to your legislation, the School Safety Act.

While proposed as a solution to the rising problem of violence in our schools, this legislation will only contribute to juvenile crime in our communities. Simply removing a child from school does little to address long-term behavioral problems. In fact, suspensions and expulsions without education services only transfer the problem from the school setting to the community setting.

Parents of children with disabilities want safe schools. They know that their children are too often the victims of inappropriate conduct. Under the 1997 amendments to the Individuals with Disabilities Education Act, any truly dangerous child can and should be readily removed by school authorities. Moreover, the 1997 amendments add numerous

new discipline provisions that strengthen the ability of school personnel to maintain a safe and orderly environment, conducive to learning.

Easter Seals Missouri urges you to withdraw the Safe Schools Act. Thank you for considering our views.

Sincerely,

PATRICIA JONES,
President and CEO.

NATIONAL ASSOCIATION OF
STATE BOARDS OF EDUCATION,
Alexandria, VA, May 19, 1999.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The National Association of State Boards of Education (NASBE) is a private nonprofit association representing state and territorial boards of education. Our principal objectives are to strengthen state leadership in education policymaking, promote excellence in the education of all students, advocate equality of access to educational opportunity, and assure responsible governance of public education.

NASBE would like to express its opposition to an amendment proposed by Senators Ashcroft and Frist that will significantly alter the discipline provisions within the Individuals with Disabilities Education Act (IDEA), which will be considered by the Senate during debate on the Juvenile Justice bill S. 254 this morning. Currently, students with disabilities who bring a weapon to school can be shifted to an alternative setting for up to 45 days. The Ashcroft/Frist amendment would change this policy so that students with disabilities could be expelled for an entire year. While we certainly support strict disciplinary measures for all students, we must oppose this proposal on the following grounds:

Cessation of educational services, particularly to those most in need of intervention, is not an appropriate response. Simply removing the offending student from school merely shifts the problem to the neighborhood and streets surrounding the school.

A weapons offense is best handled by law enforcement and the judicial system. The current IDEA law does not preclude school personnel from referring student violations to the police where state and local laws would apply.

The amendment undermines the comprehensive compromise reached on IDEA in 1997, of which the current disciplinary policies were a major consideration. During the final Senate vote on IDEA, Senate Majority Leader Trent Lott warned that any attempt to modify the legislation would cause the agreement to collapse. Changes made now would only encourage others to attempt to revise other sections of the carefully crafted IDEA law in the future.

Again, we urge you to oppose changing the IDEA disciplinary provisions under the Ashcroft/Frist amendment to the Juvenile Justice bill. If you have any questions, please have your staff contact David Griffith, Director of Governmental Affairs, at 703/684–4000, ext. 107. Thank you for your consideration.

Sincerely,

BRENDA LILIENTHAL WELBURN,
Executive Director.

THE ARC,
Arlington, TX, May 20, 1999.

ANNE L. BRYANT,
Executive Director, National School Boards Association, Alexandria, VA.

DEAR MS. BRYANT: The Arc of the United States is very concerned with your May 17 letter to Members of the U.S. Senate, in which you state that the Individuals with Disabilities Education Act (P.L. 105–17) prevents schools from removing students who bring firearms to school. This statement is totally incorrect and very misleading. The newly-reauthorized I.D.E.A. allows school authorities to immediately remove all children, including children with disabilities, from the school setting for *any* violation of school discipline codes for up to ten days. In cases when a child has brought a weapon to school or school function, school authorities can unilaterally remove a child with a disability from the child's regular placement for up to 45 days at a time. In addition, if school officials believe that it would be dangerous to return the child after the 45 day period, they can ask an impartial hearing officer to order that the child remain in the interim alternative setting for an additional 45 days and can request subsequent extensions.

It is incomprehensible to The Arc why the National School Boards Association would want to mislead the Senate about this important civil rights law. As a result of these misperceptions, the Senate is considering an amendment to I.D.E.A. that would make communities more dangerous, not safer. The Frist/Ashcroft Amendment currently being debated as part of the Juvenile Justice legislation (S. 254) would allow schools to cease educational services to children with disabilities. Every major law enforcement agency reports that expelling or suspending troubled children without educational services only increases juvenile crime. Drop out rates, incarceration rates and drug use rates also increase when children are expelled or suspended without educational services.

The current I.D.E.A. law and the final regulations, just released by the Department of Education in March of this year, already provide adequate protections to schools. The new law, which your organization agreed to, should be given a chance to work. I.D.E.A. has provided millions of students with disabilities the opportunity for a free and appropriate public education enabling them to become independent and productive citizens. The Arc is extremely disturbed that your organization would use children with disabilities as the scapegoat for recent school shootings.

Sincerely,

BRENDA DOSS,
President.

NATIONAL ORGANIZATION OF BLACK
LAW ENFORCEMENT EXECUTIVES,
Alexandria, VA, May 18, 1999.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the National Organization of Black Law Enforcement Executives (NOBLE), this letter is to support your substitute amendment to S. 254. NOBLE represents more than 3000 minority law enforcement managers, executives, and practitioners at the local, state and federal levels. We believe that students who are suspended from school for carrying weapons must be placed in a supervised alternative to school and be required to participate in an appropriate mental health and behavioral modification program. Suspending these students from school and putting them out onto the streets would only serve to magnify the crime problem that currently exists. Your efforts to ensure that this does not happen are strongly supported by NOBLE.

Our organization urges you to continue your efforts to ensure that your substitute amendment is incorporated into S. 254.

Sincerely,

ROBERT L. STEWART,
Executive Director.

THE SECRETARY OF EDUCATION,
Washington, DC, May 17, 1999.

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

DEAR SENATOR DASCHLE: I am writing to express my strong opposition to an amendment that Senator Frist has offered to S. 254, the juvenile crime bill that the Senate is now considering. This amendment, which is similar to S. 969, Senator Ashcroft's bill to which I expressed my opposition last week, would allow school personnel to suspend or expel children with disabilities from their schools for unlimited periods of time, without any educational services, including behavioral intervention services, and without the impartial hearing now required by the Individuals with Disabilities Education Act (IDEA), for carrying or possessing a gun or other firearm to, or at, a school function.

The Congress need not address the particular issue that is the subject of the Frist amendment, because it amended the IDEA just two years ago to give school officials new tools to address the precise issue of children with disabilities bringing weapons to school or otherwise threatening teachers and other students. For example, school officials may remove, for up to 45 days, a child with a disability who takes a weapon to school, and may request a hearing officer to similarly remove a child who is substantially likely to injure himself or others, if the child's parents object to a change in the child's placement. Furthermore, the IDEA allows hearing officers to keep these students out of the regular educational environment beyond 45 days if they continue to pose a threat to the rest of the student body. I am convinced that these new tools will be effective if given a chance to work.

I am firmly committed to ensuring that all our schools are safe and disciplined environments where all our children, including children with disabilities, can learn without fear of violence. But we should not let the tragic school shootings in Littleton, Colorado, and other communities lead us to responses, such as the Frist amendment, that will harm children with disabilities.

First, the Frist amendment would deny vital educational services to children with disabilities who are removed from school, including behavioral interventions that are designed to prevent dangerous behavior from recurring. Continued provision of educational services, including these behavioral interventions, offers the best chance for improving the long-term prospects for these children. Discontinuing educational services is the wrong decision in the short run and, in the long run, will result in significant costs in terms of increased crime, dependency on public assistance, unemployment, and alienation from society. We cannot afford to throw away a single child.

Second, the Frist amendment would undo vital protections in the IDEA that were included to protect children with disabilities from widespread abuses of their civil rights. Under this amendment, for example, the IDEA would no longer require schools to determine, when suspending or expelling a child with a disability, whether the behavior of the child in carrying or possessing a firearm is related to the child's disability. Such a determination, which can currently be made while the child has been removed from school, is needed to ensure that children are not unjustly denied educational services during their removal without considering the effects of the child's disability on their behavior. The manifestation determination required by the IDEA is an important tool schools use to appropriately understand the relationship between a child's behavior and their disability in order to best implement behavior intervention strategies.

We should be making every effort to appropriately reach out to our children and help prevent them from endangering themselves and others. It is equally important that we appropriately address the needs of children who have gone astray, violated the rules, and put others at risk. The exclusion of children with disabilities from school—without the impartial due-process hearing and the continued services that the IDEA now requires—is the wrong response.

I urge you to vote against the Frist amendment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,

RICHARD W. RILEY.

STATE OF TENNESSEE, DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES COUNCIL,

Nashville, TN, May 17, 1999.

Senator BILL FRIST,
Dirksen Building
Washington, DC.

DEAR SENATOR FRIST: The recent path of the Individuals with Disabilities Education Act (IDEA) has been an arduous one, as you well know. We at the Tennessee Developmental Disabilities Council and many others, especially parents of students with disabilities and the students themselves, remember your outstanding efforts to achieve a fair compromise around complex issues during the recent IDEA reauthorization process. Because of your interest and attention, IDEA still ensures children with disabilities access to a free appropriate public education.

The procedural safeguards contained in IDEA are critical in protecting the right of children with disabilities to receive a free appropriate public education. Therefore, we are distressed about your recent effort to amend IDEA concerning the suspension or expulsion of students with disabilities who carries or possesses a gun or firearm to or at a school, on school premises, or to or at a school function. This is not to say that we believe that any student who carries or possesses a gun or firearm should not be disciplined. Just as the positive principles of the IDEA should work for all students as schools are encouraged to include students with disabilities in regular classrooms and to afford them every opportunity for education, so should such egregious behavior by any student have consequences.

However, we do not believe that the consequences enumerated by your amendment to IDEA will have the desired outcome. They will not result in safer schools or communities. In fact, every major law enforcement agency reports that expelling or suspending troubled children without education services only increases juvenile crime. Drop out rates, incarceration rates and drug use rates also increase when children are expelled or suspended without educational services.

We believe that a better approach, for all students, is articulated in Senator Harkin's amendment to the juvenile justice bill. It will assist schools to maintain safe environments conducive to learning. It clarifies that schools can and should remove children who bring guns to school and that schools should provide them with immediate appropriate intervention and services including mental health services to maximize the likelihood that such child does not engage in such behavior or such behavior does not reoccur. The Harkin amendment also reaffirms that nothing prohibits a school from reporting a crime to appropriate authorities.

Senator Harkin's amendment seems very consistent with the aim of IDEA and with the very compromise that you worked so hard to achieve in 1997. Therefore, we ask that you support Senator Harkin's amendment.

Sincerely,

LANA KILE,
Chair.
WANDA WILLIS,
Executive Director.

AMERICAN ASSOCIATION ON MENTAL RETARDATION,

To: Senator THOMAS HARKIN.
From: M. Doreen Croser, Executive Director.
Re: Opposition to IDEA Amendments.
Date: May 17, 1999.

Thank you for all your hard work to maintain the integrity of the Individuals with Disabilities Education Act (IDEA). Your efforts are greatly appreciated by the members of the American Association on Mental Retardation!

We also want you to know that we oppose the Ashcroft/Frist Amendment because we do not believe it will result in safer schools or communities. Drop out rates, crime, incarceration and drug use increases when children are expelled or suspended from school without education services. Clearly, such suspensions or expulsions are not in our society's best interest.

Your proposed amendment to the juvenile justice legislation rather than to IDEA seems to be a sensible approach and we support it.

Please share our support with your colleagues and, again, thank you for all work on behalf of children with disabilities.

LEARNING DISABILITIES ASSOCIATION OF AMERICA,

Pittsburgh, PA, May 17, 1999.

DEAR SENATOR: As President of LOA, the Learning Disabilities Association of America, a national non-profit volunteer organization dedicated to a world in which all individuals with learning disabilities thrive and participate fully in society, I ask you on behalf of all children with disabilities to:

Oppose the Ashcroft/Frist Amendment to the Mental Health Juvenile Justice Act (S254) now being debated on the Senate floor. This amendment, which would allow local schools to deny educational services, including special education, to a child with a disability who carries to or possesses a gun or firearm in school or a school function, would not reduce violence in schools and society. Testimony of law enforcement agencies during the IDEA reauthorization process pointed out that expelling or suspending troubled children without educational services results in increased juvenile crime in the short term and increased drop out rates, incarceration rates, and drug use in the long term.

Support the Harkin Amendment to the Mental Health Juvenile Justice Act (S254) which clarifies that, under IDEA 97, school can and should remove students with disabilities who bring guns to school. Moreover after being in an alternative educational placement for up to 45 days, the IEP team may decide to move the child to a placement other than the school in which the infraction occurred. The Harkin Amendment also reaffirms that nothing in IDEA prohibits a school from reporting a crime to appropriate authorities.

I would like to point out that none of the children responsible for the eight school tragedies in the past two years was a special education student being served under IDEA. However, it is also apparent that appropriate mental health interventions might have prevented some of these tragedies.

Thank you for your consideration.

Sincerely,

HARRY SYLVESTER,
President.

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

The PRESIDING OFFICER. One minute 7 seconds.

Mr. HARKIN. I have used up 14 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I yield myself 8 minutes.

This will be the last few minutes that I have to speak on the Frist-Ashcroft amendment and, thus, I want to, for the sake of my colleagues and others who are listening, explain what the amendment is about.

This amendment is very simple. It is about two things: No. 1, the safety of all students; and No. 2, equal treatment of children.

I have a letter from the National School Boards Association. As most people know, it represents 95,000 local school board members.

I will read from the first paragraph of the letter:

> On behalf of the Nation's 95,000 local school board members, the National School Boards Association urges you to support the Frist-Ashcroft amendment to S. 254 that would enhance the safety of all students from gun violence. The amendment provides school officials with the discretion to suspend or expel students covered by the Individuals with Disabilities Education Act in the same manner as other students in cases where they bring firearms to school.

My colleagues, this amendment is about the safety of all students and the equal treatment of children.

Yesterday, we had a very good debate, I thought, on the substance of the amendment. I gave my remarks yesterday, and I wish to also refer today to some statistics that I obtained not too long ago from my own county, Davidson County.

For the 1997–1998 school year there were eight children in my home county who brought either a gun or a bomb to school, eight in that 1 year. Of those eight, six were special education students. What happened? The two who were not special education students, because of the zero tolerance policy in Tennessee, were expelled. They were out for the remainder of the year.

Of the six special education students, three were back in class. These are individuals who brought a bomb or a gun into the classroom already.

Three of them were kept out of school. Why? Because their disability and bringing a gun to school were unrelated. But three of the eight had this manifestation process, and because of the disability, they were treated in a special way and allowed back into the classroom.

Yesterday I was caught a little off guard, and I do not like that, I really do not like that. And I do not think the

Senator from Iowa meant to say what he said. But he said those statistics don't count. And then I said, well, let's look at 1999, He said, no those statistics don't count. And I said Why? And he said basically because the regulations just came out and we fixed that loophole.

That bothered me, so what I did was go back and call to see really when this law took place, the law that is operating today. I found something very different, exactly the opposite of what the Senator from Iowa told all of his colleagues. And I want to straighten that out for the RECORD. It is very, very important.

The Senator from Iowa argued yesterday that the statistics where individuals with disabilities ended up back in the classroom within 45 days of having brought a gun to the schoolroom don't apply and that loophole had been fixed. I found something very, very different.

In fact, the IDEA amendments of 1997 were signed into law on June 4, 1997. The Senator from Iowa and I were both there. It was a good day. We were both there. Yes, the regulations were written. And it really took too long, they just came out a few months ago. The implication yesterday by the Senator from Iowa was that they were written only recently and, therefore, so they could not apply.

In looking a little closer, the IDEA amendments were signed into law on June 4, 1997. And on June 4, 1997, section 615, the discipline provisions, went into effect that day. So every statistic that I have given for the last 2 years shows repetitively individuals with disabilities, because of this special treatment, it is not their fault, it is the fault of the law that they are ending up back in the classroom. These are individuals who brought a gun or a bomb to school.

Again, I was very disappointed, because again and again he said on the floor yesterday and I went back to the RECORD again last night and found that the Senator from Iowa said: ''I say to the Senator from Tennessee, that the school he is talking about was still operating under the old system.''

Not true. Not true. We talked to the director of high schools for Nashville, Davidson County, and the director stated very specifically that every school in the Davidson County was operating under the IDEA amendments of 1997 under advisement of their lawyers. In fact, let me read from the bill that we signed last year. The 1997–1998 school year applied on June 4.

This is from the bill that we signed on a great day, on June 4, 1997. It says: ''Effective dates, these shall take effect upon enactment of this act,'' on that day in June 1997.

So all the statistics of eight individuals were relevant. Two were expelled because they did not have a disability and of the six who had a disability, three were back in the classroom within 45 days. That is the loophole. Why am I concerned? Just because somebody has not been killed yet because of this loophole, I am not going to wait around until somebody has been killed. I want to prevent that from happening. This amendment is about the safety of all students and to have all students treated fairly.

The amendment closes the loophole that I just pointed out. I have demonstrated factually it is occurring in this legislation. So I want to dismiss all of the arguments the Senator from Iowa made yesterday when he said it is not a problem.

This amendment will, in its ultimate passage, end the mixed message that the Federal Government, that we in this body, send to American students on the issue of guns in school.

Under IDEA, a student with a disability who is in possession of a firearm at school is treated differently from anybody else. Our amendment says very simply that if you bring a gun or a firearm to the school, you, as a student, are going to be treated the same, and you are going to be treated by the local principal or other authorities in the school.

Our amendment allows principals or other qualified school personnel the flexibility to treat every student who brings a gun or a firearm or a bomb into the classroom the very same.

Our amendment does not enforce any sort of uniform policy. We might like to think that we in Washington can set good school policy, but this shows how dangerous that can be by trying to set a uniform policy here for some subset of students.

The PRESIDING OFFICER. The Senator from Tennessee has used 8 minutes.

Mr. FRIST. I yield myself 1 more minute.

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

Mr. FRIST. Mr. President, the amendment is a simple amendment: Equal treatment for each and every student who brings a firearm, a gun or bomb, to school. It is an amendment which will have an impact, I believe, help individuals in terms of safety in our schools.

The amendment closes a loophole, a loophole that I have definitively demonstrated does occur in our schools. If a student brings a gun to school, they, if our amendment is agreed to, will be treated the same regardless of their educational status.

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

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, I yield 7 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator has 6 minutes 18 seconds remaining.

Mr. ASHCROFT. Thank you, Mr. President.

I thank the Senator from Tennessee for his leadership on this issue. I began to be concerned about students carrying guns in and out of our schools quite some time ago. On the Ed-Flex bill, which passed this Senate just a couple months ago, I put an amendment to close another loophole which would allow students who possessed guns in school—not just carried guns to school—to be removed from the school environment.

This responsibility for us to close these loopholes is a serious one. It is a responsibility that relates to school safety. That is what we are talking about here. School safety is a responsibility that we can work hard on, and I am glad Senator FRIST of Tennessee and I have been able to join on this amendment.

It should not have taken this long. This is a simple amendment. This amendment merely allows local schools to treat all children who bring guns to school in the same manner. It does not target children with disabilities—simply not so. It protects children with disabilities. This is not a matter of scapegoating. This does not say that any group of students is subject to more severe punishments than any other group of students.

This is a bill that provides for equity, simply saying that principals and superintendents should have the power, without interference from the Federal Government, to remove students from school who come to school with a firearm, an explosive or a gun. I believe we need to make sure we close the loophole in the Federal law that made it very difficult to discipline certain students who came in that setting.

There are those who say: Well, the law is this way and the law is that way. And they will argue about how the law is applied here in the Senate Chamber. We have a lot of experience from around the country about how the law is applied in the schools. The Senator from Tennessee has eloquently spoken to the fact that as applied in the schools, you frequently find that individuals who, if they were not the subject of an individualized education program, would be gone for a year because of a mandated expulsion, are back in the classroom within 45 days, in spite of the fact that they brought a gun or a bomb to school.

It is simply our intention to let local school boards and school officials decide how they should be able to make the school a safe place and not to reinsert a student in the school environment who has threatened the safety and security of the school by bringing a bomb or a gun to school. We must have zero tolerance for guns in school. I think we must let school officials decide on discipline policies.

We should not have taken this long on this amendment, but I am glad that we are at this point.

After we vote on this amendment, there is a consent decree which is going to allow the Harkin amendment to be voted on.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. ASHCROFT. Mr. President, I yield myself 2 minutes of the remaining 3 and ask to be notified.

The Harkin amendment makes the current law even worse by imposing a new requirement upon schools that they couldn't remove any child for bringing a gun to school unless they provide special services to the child. I will oppose this amendment.

When you tell people that you will make them special for bringing a gun to school, I think you do a great disservice. You are not making victims out of people by pulling them out of school. You are not making them unsafe. If you tell them clearly that if they bring a gun to school that they are not going to be allowed to stay in school, you will make them safer, and you will make the school safer.

This is a school safety issue. It is an issue that requires our attention. The simple fact of the matter is, the current law, as applied and as implemented, is a real impediment to school safety.

There will be arguments that we have yet to have a student shoot someone under these circumstances. I can tell you that we have come very close. I talked to one school superintendent in my State who had such a student threaten seven other students in the classroom, to kill them. When the student finally shot one of the other students, it wasn't in the classroom. It was off the school premises so that it really didn't qualify under IDEA. But we don't have to wait until there is blood on the blackboard or on the floor of the classroom in order to take steps to make sure we don't have guns in the classroom.

The truth of the matter is, we should simply and clearly make it possible on an equal footing to say that no matter who the student is, there are no excuses, there are no special exceptions; if you bring a gun to school, the local school authority should have the opportunity to take that student and to remove that student without regard to other status.

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

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. The Senator has 1 minute 4 seconds.

Mr. HARKIN. Mr. President, I yield myself the remainder of my time.

There is no loophole here. The equity they keep talking about is an equity for danger. We keep hearing they are for safety in schools. We all are for safety, of course.

Why is the National PTA opposed to this amendment? Why are 500 police leaders around the country opposed to this amendment? Why is the National Association of the State Boards of Education opposed to this amendment? Because they all know that the amendment we are about to vote on is a recipe for disaster.

It will increase crime. It will increase drug use. It will increase the dropout rate. Why? I am really disappointed that anyone would say that we can take these kids who have severe problems, kick them out of school and cut off all supporting services and make communities safer. The police chiefs who have to deal with the aftermath know better. That is why they are opposed to this amendment. We know more than they do, and the Parent Teacher Association? Why are they opposed to the Ashcroft-Frist amendment? Because they realize it is a formula for disaster. That is what it is.

This is a dangerous, dangerous amendment and I strongly urge my colleagues to vote against it.

Mr. President, after the vote on this amendment—by unanimous consent—the Senate will adopt the Harkin amendment. This is an amendment I have drafted and is cosponsored by the distinguished ranking member of the HELP committee, Senator KENNEDY. Our amendment is supported by the police and other groups who oppose the Frist-Ashcroft amendment because it would make schools and communities safer. I'd like to say a few words about it and its intent.

Passage of our amendment is very important. It is very important, because it requires that all children—whether they have a disability or not—are not just dumped in the streets after they commit an act of violence, including bringing a gun or firearm to school. Our amendment would require that schools provide immediate and appropriate supervision, tracking, educational, behavioral, health and related services to these children in order to reduce the likelihood that the child will repeat their anti-social and dangerous behavior. The interventions would be tailored to the individual child. This is absolutely critical and is demonstrated to actually make a difference. It will save lives and money in the long run. It makes common sense.

The Harkin amendment also authorizes the funds necessary to assist our schools in providing this critical intervention.

So passage of the Harkin-Kennedy amendment—which will occur by voice vote after this roll call vote on the Frist-Ashcroft amendment—is a very important amendment. Its adoption puts the Senate on record as supporting the recommendations and pleas of the police, parents and teachers.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Frist-Ashcroft amendment pertaining to the Individuals with Disabilities Education Act, IDEA. I respect my colleagues' intentions. They want to make schools safer. Their amendment would not make schools safer, nor the sidewalks leading to the schools, nor their communities.

Their amendment would allow a child with a disability caught with a gun or a firearm, whether he knew what he was doing or not, to be suspended or expelled without educational services.

If a child with a disability—if any child for that matter—is suspended or expelled for having a gun or firearm in school and subsequently not provided with educational services and adult supervision—Would schools be safer? Would communities be safer? Given what happened outside of Atlanta today, we must shift the debate. Yesterday, our colleagues from Tennessee, Missouri, and Iowa debated if, and for how long, a child with a disability could be removed from his school if he brought a firearm to school. I think they agreed that under IDEA and under the Frist-Ashcroft amendment a child with a disability could be removed from his school.

The crux of the remaining disagreement was services—why a child with a disability who brings a gun to school should get services, while his peer without a disability in the same situation, would not get services. We don't solve anything by kicking any child out of school without educational services.

There are two letters of opposition to the Frist-Ashcroft on your desk. One is from the National Association of State Boards of Education and one from the National Parent Teacher Association. They make that simple point very well.

Ask yourself this question—If you could prevent a child from committing a violent act for the first time or a second time, by providing appropriate services, what would you do? The answer is obvious. You would provide the services—to make your school safe, to make your community safe, but most importantly, to save the child.

In the rare instances when it occurs, IDEA provides schools with the tools to control and prevent gun and firearm use by children with disabilities. IDEA recognizes and promotes school safety. IDEA recognizes and promotes teaching consequences for wrongful behavior. IDEA recognizes and promotes adult supervision of, engagement with, and responsibility for children who break school rules or criminal laws.

I would like to review some key facts about IDEA. IDEA permits school officials to immediately suspend a child with a disability with a gun or firearm for 10 days without educational services. During that time, a manifestation determination review must be conducted. First, to determine if the child with a disability understood the impact and consequences of having a gun or firearm. Second, to determine if the child's disability did or did not impair the child's ability to control his behavior.

In effect, if the child knew what he was doing, the law allows the child to be disciplined in the same manner as other children caught with guns or firearms. One distinction applies. This child with a disability, perhaps unlike his peers, would continue to receive educational services. However, school

officials have total discretion over the details associated with providing these educational services.

If a manifestation determination review establishes that the child did not know what he was doing, the child could still be removed from his classroom and school and placed in an interim alternative educational setting for 45 days. After 45 days, if the child continued to be dangerous, the child's placement in the interim alternative educational setting could be extended with the concurrence of a hearing officer.

In the wake of the tragedy in Littleton, Colorado, in the wake of Atlanta, hearing officers will give substantial deference to claims from school officials that a child with disabilities continues to be dangerous. Concurrence of a hearing officer at 45 day intervals is a reasonable standard and an appropriate check and balance on the continued use of an interim alternative educational setting.

There is no forum or procedures for due process in the Frist-Ashcroft amendment. How is a child with a disability to prove his innocence? If expelled without education services for 12 months, what will be the impact on the child's family? What will be the reaction of the child's next teacher? What will be the impact on the child's neighborhood? What will be the impact on this child as an adult?

The real driving force behind the Frist-Ashcroft amendment is the obligation to provide services, and not school safety. Local school districts do not want the responsibility for paying for new services. If school districts do not now have interim alternative educational settings that can accommodate children with disabilities, they do not want to spend money to create them. If school districts do not now have home-based programs or alternative school programs, they want additional money to have them.

School districts do not see a windfall of new Federal dollars on the horizon. So in the name of school safety, they bless the Frist-Ashcroft amendment. In the name of school safety, school districts say it is acceptable for Federal policy to close the school house door on the back of a child with a disability, whether the child knew why the door slammed shut or not. In the name of school safety, they say it is acceptable for Federal policy to leave open whether any agency gives the child and the child's family help, so that they can recover from a gun or firearm episode that profoundly altered their lives.

Helping children and their families in these situations is a community responsibility. Schools are part of communities. They must do their part. Other agencies and organizations must do their part. To abdicate responsibility or shift responsibility is not acceptable. It makes no sense.

All parents want their children to be safe in school and out. All parents want their children to have due process when they are accused of wrong doing. All parents want their child's education to continue, even if their child did wrong.

Are we going to disregard some of America's most vulnerable children in the name of political expediency, by pretending that the Frist-Ashcroft amendment will make schools and communities safer.

In an ideal world, we would find a way to work together to develop or expand, and fund, local agencies and organizations that would work collaboratively to assist families and children in crisis, so that the crisis does not reoccur.

In an ideal world, teachers and administrators in America's schools would be thoroughly versed in the referral procedures associated with IDEA; and, if IDEA were fully funded, tragedies with guns and firearms could be prevented.

We don't have an ideal world, but we must try to make a positive difference, one day at a time, especially in the lives of children.

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

The Senator from Missouri.

Mr. ASHCROFT. I yield myself such time as I have remaining.

Mr. President, the Senator from Iowa indicates there is not a loophole here. Well, it is strange to me, but the statistics indicate otherwise.

One county in Tennessee, clear evidence, Davidson County, the home of the Senator from Tennessee, Mr. FRIST, four people who squeezed through the nonexistent loophole were back in class within 45 days in that setting.

I think we have to make sure that that nonexistent loophole, if that is what we are talking about, gets closed. It is impossible to have people coming through a door that is not there. There is a loophole that needs to be shut.

Last but not least, it is no accident that the National School Boards Association wants us to pass this. This isn't discriminating against one class of students or in favor of another. It simply says our priority for learning has to be a safe and secure school environment. This particular amendment would enhance the safety of all students from gun violence, according to the National School Boards Association.

I urge my colleagues to vote in favor of this amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 355. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—74

Abraham	Enzi	Lott
Allard	Feinstein	Lugar
Ashcroft	Fitzgerald	Mack
Baucus	Frist	McConnell
Bayh	Gorton	Murkowski
Bennett	Graham	Nickles
Biden	Gramm	Robb
Bingaman	Grams	Roberts
Bond	Grassley	Rockefeller
Breaux	Gregg	Roth
Brownback	Hagel	Santorum
Bryan	Hatch	Sessions
Bunning	Helms	Shelby
Burns	Hutchinson	Smith (NH)
Byrd	Hutchison	Smith (OR)
Campbell	Inhofe	Snowe
Cochran	Johnson	Specter
Collins	Kerrey	Stevens
Conrad	Kerry	Thomas
Coverdell	Kohl	Thompson
Craig	Kyl	Thurmond
DeWine	Landrieu	Torricelli
Dodd	Levin	Voinovich
Domenici	Lieberman	Warner
Dorgan	Lincoln	

NAYS—25

Akaka	Harkin	Murray
Boxer	Hollings	Reed
Chafee	Inouye	Reid
Cleland	Jeffords	Sarbanes
Crapo	Kennedy	Schumer
Daschle	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Edwards	Mikulski	
Feingold	Moynihan	

NOT VOTING—1

McCain

The amendment (No. 355) was agreed to.

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 368

(Purpose: To provide appropriate interventions and services to children who are removed from school, and to clarify Federal law with respect to reporting a crime committed by a child)

Mr. HATCH. Mr. President, we now turn to the Harkin amendment.

Mr. LEAHY. Mr. President, I believe if the Senator from Iowa will send his amendment to the desk, it will be accepted.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa Mr. HARKIN, for himself and Mr. KENNEDY, proposes an amendment numbered 368.

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

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

The amendment is as follows:

At the end, add the following:

SEC. ___. APPROPRIATE INTERVENTIONS AND SERVICES; CLARIFICATION OF FEDERAL LAW.

(a) APPROPRIATE INTERVENTIONS AND SERVICES.—School personnel shall ensure that immediate appropriate interventions and services, including mental health interventions and services, are provided to a child removed from school for any act of violence, including carrying or possessing a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a

State or local educational agency, in order to—

(1) to ensure that our Nation's schools and communities are safe; and

(2) maximize the likelihood that such child shall not engage in such behaviors, or such behaviors do not reoccur.

(b) CLARIFICATION OF FEDERAL LAW.—Nothing in Federal law shall be construed—

(1) to prohibit an agency from reporting a crime committed by a child, including a child with a disability, to appropriate authorities; or

(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to a crime committed by a child, including a child with a disability.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There are authorized to be appropriated to pay the costs of the interventions and services described in subsection (a) such sums as may be necessary for each of the fiscal years 2000 through 2004.

(2) DISTRIBUTION.—The Secretary of Education shall provide for the distribution of the funds made available under paragraph (1)—

(A) to States for a fiscal year in the same manner as the Secretary makes allotments to States under section 4011(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111(b)) for the fiscal year; and

(B) to local educational agencies for a fiscal year in the same manner as funds are distributed to local educational agencies under section 4113(d)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7113(d)(2)) for the fiscal year.

Mr. ASHCROFT. Mr. President, in our amendment, which we just passed in the Senate, Senator FRIST and I proposed important changes to federal law to give schools more authority to remove from the classroom any student who brings a gun or firearm to school. Schools need current federal barriers removed so that they can preserve a safe and secure classroom for our children.

The Senator from Iowa has proposed an amendment which makes it even more difficult for schools to remove any dangerous student—including one who brings a gun to school—from the classroom. I rise to state my opposition to the Harkin amendment.

The Harkin amendment makes the current law even worse by imposing a new requirement upon schools when they desire to remove any child—disabled or non-disabled—from the classroom for bringing a gun or firearm to school, or for committing any act of violence.

The Harkin amendment takes the unprecedented step of telling schools across the country that if they want to remove any child from school—even a nondisabled student—for possessing a weapon, or for committing any act of violence, schools must provide the child with ''immediate appropriate interventions and services, including mental health interventions and services,'' in order to ''maximize the likelihood that such child shall not engage in such behaviors, or such behaviors do not reoccur.''

This amendment would overturn the discipline policies of schools across the nation, and intrude upon the right of parents, teachers, school administrators, school boards, to set their own discipline policies regarding weapons and violence in schools. Not only this, but it jeopardizes the ability of schools to remove any student from class who has a gun or firearm, and prevents them from keeping their schools safe.

The Harkin amendment would also handcuff schools even more than the current IDEA law does regarding removal of disabled students who possess weapons.

The Harkin amendment says that a school that takes action to remove a child with a weapon from school ''shall ensure that immediate appropriate interventions and services, including mental health interventions and services,'' are provided to the child. This is a new requirement in addition to current IDEA law.

Current IDEA law requires that a school that removes a child from the regular classroom for 45 days for a weapons possession must already conduct a series of procedures in connection with the removal. Let me describe some of these procedures.

First, a school must conduct a functional behavioral assessment. Second, it must implement or modify a behavioral intervention plan for the child. Included in this is the requirement that the IEP team must meet to develop or modify an assessment plan to address the behavior at issue. Third, the school must conduct a manifestation determination review to determine if the child's disability caused the behavior at issue.

The Harkin amendment adds yet another requirement to the list of procedures that a school must undertake when removing a child with a weapon from the classroom, by requiring that schools ''ensure that immediate appropriate intervention and services, including mental health interventions and services,'' are provided to the child. Why do we need to handcuff schools even more with another procedure?

Additionally, the amendment says that these additional interventions and services must be provided ''in order to maximize the likelihood that such child will not engage in such behaviors, or such behaviors do not reoccur.'' We are not simply asking the schools to try to reduce the likelihood of reoccurring behavior: we are requiring them to maximize that likelihood.

School principals, administrators, teachers, school boards, and parents have told me about how difficult the current IDEA makes it to discipline students, and especially in the case of guns and firearms.

Senator HARKIN's amendment adds yet another layer of procedure. Rather than providing schools with more authority to take actions school officials deem appropriate to maintain a safe and secure classroom free from guns and firearms, Senator HARKIN's amendment is going backwards from current law by imposing more federal responsibilities.

The Harkin amendment's attempt to provide funding for the new procedures required under the amendment is disingenuous.

The amendment authorizes ''such sums as may be necessary for each of the fiscal years 2000 through 2004'' to pay for the ''interventions and services'' that schools must conduct before they can remove a student with a gun from school. If the Senator from Iowa and others were unwilling to vote for giving schools more IDEA funding during debate on the ed-flex bill earlier this session, what makes us think they really would provide more funding at this time?

In conclusion, the Harkin amendment actually makes current law worse by imposing a new set of requirements on schools when they need to remove any child with a firearm from the classroom. He would require schools to provide ''interventions and services'' to non-disabled students who are expelled for bringing a gun to school. And, he imposes a new requirement upon schools that take action to remove IDEA students from school for weapons possession.

At a time when parents, teachers, school officials, and our children are asking for help in keeping our classrooms safe, we cannot afford to take a step backward and further handcuff schools from taking steps to get guns out of schools. We need to move forward by giving schools more authority to get—and keep—firearms out of the classroom. For these reasons, I oppose the Harkin amendment.

Mr. KENNEDY. Mr. President, I rise to support Senator HARKIN in his amendment to reduce juvenile crime by helping schools to maintain safe environments while ensuring that troubled students get the help they need.

Students who bring guns or other dangerous weapons to school should be removed. But they should also be provided with the appropriate interventions and services.

This amendment clearly supports the removal of a child from school who carries or possesses a weapon, including a child with a disability.

This amendment clearly supports an agency reporting a crime committed by a child, including a child with a disability, to the appropriate authorities.

This amendment clearly supports law enforcement and judicial authorities in exercising their responsibilities with regard to crimes committed by a child, including a child with a disability.

But this amendment, unlike the Frist-Ashcroft amendment, will ensure that immediate, appropriate interventions, including mental health services, are provided to a troubled child.

We know that when educational services for students are stopped, those students show increased drop out rates, increased drug abuse, and increased rates of juvenile crime and incarceration.

I urge all my colleagues to vote in favor of the Harkin-Kennedy amendment. It will help to ensure that our schools remain conducive to learning and our communities remain safe.

Mrs. LINCOLN. Mr. President, today I'm pleased to join my colleagues Senator HARKIN and Senator WELLSTONE in offering an amendment that will help reduce crime and violence in our nation's schools.

This amendment specifically addresses the issue of our children's emotional well-being, and what we as a nation, can do to provide schools with the necessary resources to help our kids.

The lives of America's children are very different than they were 20, 30 or 40 years ago. Before our children reach their teenage years, they've already been exposed to drugs, alcohol, violent movies and a general culture of violence that influences their thoughts and actions.

Many have expressed that they are even desensitized to violence in their everyday lives.

And today's students bring more to school than just backpacks and lunch boxes. They bring severe emotional problems.

They disrupt classes, they have difficulty learning, they suffer from depression, and they fight with teachers and students.

And when they do not know how to deal with their feelings of anger and rage, they may even kill.

Since the school shooting a year ago in Jonesboro, I have been grappling with ideas to ensure that this type of tragedy never happened again. Unfortunately, it did happen again and we as a nation have got to act.

Children should not be afraid to go to school in the morning and parents should not be scared to send them there. Studies show that 71% of children ages 7 to 10 say they are worried they will be stabbed or shot while at school.

The Department of Education reported that in 1997, there were approximately 11,000 incidents nationally of physical attacks or fights in which weapons were used.

I don't claim to have all the answers on how to help our children, but I do think we should do more to get to the root of the problem.

We've got to look at the source of this problem; we must come up with some kind of preventive medicine, rather than using a haphazard Band-aid approach.

Metal detectors and controlling access to guns can hinder their ability to act out, but doesn't address their illness to begin with.

And as the tragedies in Jonesboro, Paducah and most recently as the horror in Colorado has shown us—while much of our country is prospering economically, we cannot allow our country's economic success cause us to ignore our social ills.

We can train our children to use computers, to analyze stocks and to meet the economic challenges of the new millennium. But if we do not address their emotional needs or teach them the value of human life, then what have we accomplished?

As Theodore Roosevelt said, ''To educate a man in mind and not in morals is to educate a menace to society.''

Together, we must call for improvements, changes and accountability. This can be done, and it must be done.

We can install more metal detectors and surveillance cameras in schools, but we won't get to the root of the problem. The youth of America are suffering and all the increased security in the world may ease our minds, but it won't solve their problems.

The United States Congress can lead the way. We can take common-sense steps to see that tragedies like those in Colorado and Jonesboro become a distant, painful memory.

I've traveled all over my home state of Arkansas talking with educators and school administrators about what's happening in our schools.

The one common denominator—the one thing they all tell me is—''We need more counselors in our schools. We need more qualified mental health professionals to adequately deal with the enormous and overwhelming problems kids have today.''

The National Institute of Mental Health estimates that although 7.5 million children under the age of 18 require mental health services, fewer than 1 in 5 receive it.

The Harkin/Lincoln/Wellstone amendment calls for $15 million in authorizing funds for FY 2000. In order for these services to reach children at a younger age, this money must be spent in elementary schools.

Only qualified mental health professionals may be hired with this funding. Fortunately, these funds are eligible to urban, suburban and rural local school districts. As we all know, rural and suburban areas need our help as much as inner city schools.

The additional school counselors, psychologists and social workers will work hand-in-hand with an advisory board of parents, teachers, administrators and community leaders to design and implement counseling services.

School counselors will involve the parents of children who receive services so parents can be more involved in the development and well-being of their children.

This legislation will help accomplish that and will allow teachers to focus more on a student's skills at writing and arithmetic, rather than on his or her potential for violence.

I will fight to see that this legislation passes, so we can begin to make changes happen in my home state and across our country now, and not wait until the next tragedy. I hope my colleagues will work with me in that effort.

Mr. President, I ask unanimous consent that an article by Doug Peters of the Arkansas Democrat Gazette regarding teen death be printed in the RECORD.

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

[From the Arkansas Democrat Gazette, May 18, 1999]

STATE'S TEEN DEATH RATE NEAR TOP IN U.S., STUDY SAYS

(By Doug Peters)

Being a teen-ager is risky, no matter where you are.

In Arkansas, it can be downright dangerous.

Only two states and the District of Columbia had higher rates of teen-age deaths by accident, homicide or suicide in 1996, according to a study of childhood risk factors released today by the Annie E. Casey Foundation.

According to the Kids Count 1999 study, 181 Arkansas teen-agers between 15 and 19 died of such causes in 1996, for a rate of 94 deaths per 100,000. Arkansas' rate is more than 50 percent higher than the national rate of 62 deaths per 100,000 teen-agers.

And while the national rate decreased slightly between 1985 and 1996, Arkansas' rate increased by 16 percent.

Only Mississippi, Wyoming and the District of Columbia had higher teen-age death rates in 1996, the most recent year statistics were available for all states and the District of Columbia.

Dr. Bob West, a pediatric medical consultant for the state Department of Health, said Arkansas' increase appeared to be caused by increasing numbers of teen suicides and homicides.

Between 1985 and 1989, Arkansas averaged 18 suicides and 15 homicides a year among 15 through 19-year-olds, according to Health Department statistics. In 1996, 32 Arkansans in that age group committed suicide. Another 32 were murdered.

Arkansas traditionally has a high rate of accidental deaths among teen-agers, West said. And although the number of traffic deaths among 15 through 19-year-olds dropped from an average of 95 a year between 1985 and 1989 to 85 in 1996, the state's rate remains significantly higher than the national average.

Traditionally, Arkansas accidental death rates run about 40 percent above the national average, West said.

West said that accidents in rural areas sometimes turn fatal because of a lack of nearby trauma services. But location isn't the only factor, he said. Attitude also may play a role.

Some people, he said, simply don't see accidents as being preventable.

''I think there are a lot of folks who think, 'If it happens, it happens,' '' West said. ''There doesn't seem to be the willingness to do the kind of things that will keep you safe'' such as wearing seat belts or installing smoke detectors.

The dismal teen-age death rate helped Arkansas slip to 43rd overall in the Kids Count rating, an annual state-by-state ranking of risk factors to children's well-being. Arkansas ranked 41st last year.

The survey wasn't all bad news, though.

Mr. HARKIN. Mr. President, four weeks ago, an unspeakable act of violence occurred at Columbine High School in Littleton, Colorado when 12 innocent students, a heroic teacher and the two student gunmen were killed. This incident was the 8th deadly school shooting in 39 months.

The tragedy at Columbine High School is still very fresh in our minds

and our hearts. Our thoughts and prayers remain with the people of Littleton, Colorado.

The students of Columbine have returned to classes in a neighboring school. They have taken an important first step in the healing process. Unfortunately, the scars of this tragedy will remain with them, their families, the Littleton community and the nation for a long time to come.

In the aftermath of this most recent school shooting, we must examine the causes of the outbreak of violence and work on initiatives that will prevent such occurrences in the future.

During the course of the debate on the pending legislation, Juvenile Justice Bill we have already discussed many of the issues related to violence. We must examine the impact that movies, music, television and video games have on outbreaks of violence. We must also curtail the easy access to guns that enable individuals to commit such acts of violence.

We must also talk about how we can prevent such heinous acts from happening again. I would like to take a few moments to discuss one innovative program that can help us prevent violent acts from happening in the first place.

Two weeks ago, the Senate Health, Education, Labor and Pensions Committee, of which I am a member, held a hearing on the important topic of school safety. We heard testimony from many experts about the extent of the problem and began an important search for solutions so that it will never, ever happen again.

One of the witnesses was Jan Kuhl, the Director of Guidance and Counseling for the Des Moines School District. Jan talked about an innovative elementary school counseling program called Smoother Sailing and the impact the program has had on students in the Des Moines schools.

Smoother Sailing operates on a simple premise—get to kids early to prevent problems rather than waiting for a crisis. As a result, the district more than tripled the number of elementary school counselors to make sure that at least one well-trained professional is available in every single elementary school building.

Smoother Sailing began in 1988 as a pilot program in 10 elementary schools. The program increased the number of counselors in the elementary schools so there is one counselor for every 250 students—the ratio recommended for an effective program. The participating schools began seeing many positive changes.

After two years, the schools participating in Smoother Sailing saw a dramatic reduction in the number of students referred to the office for disciplinary reasons.

During the 1987–88 school year, 157 students were referred to the office for disciplinary action. After two years of Smoother Sailing, the number of office referrals in those schools dropped to 83—a 47% reduction in office referrals.

During the same period, Des Moines elementary schools with a traditional crisis intervention counseling program had only a 21% reduction in office referrals.

There were other changes as well. Teachers in Smoother Sailing schools reported fewer classroom disturbances and principals noticed fewer fights in the cafeteria and on the playground. The schools and classrooms had become more disciplined learning environments. It was clear that Smoother Sailing was making a difference so the counseling program was then expanded to all 42 elementary schools in Des Moines in 1990.

Smoother Sailing continues to be a success.

Smoother Sailing helps students solve problems in a positive manner. Assessments of 4th and 5th grade students show that students can generate more than one solution to a problem. Further, the types of solutions were positive and proactive. We know that the ability to effectively solve problems is essential for helping students make the right decisions when confronted with violence or drugs.

Smoother Sailing gets high marks in surveys of administrators, teachers and parents. They report a high degree of satisfaction with the program.

95% of parents surveyed said the counselor is a valuable part of my child's educational development. 93% said they would seek assistance from the counselor if the child was experiencing difficulties at school.

Administrators credit Smoother Sailing with decreasing the number of students suspensions and referrals to the office for disciplinary action. In addition, principals report that the program is responsible for creating an atmosphere that is conducive to learning.

Experts tell us that to be effective, there should be at least one counselor for every 250 students. Unfortunately, the current student-counselor ratio is more than double the recommended level—it is 531:1. That means counselors are stretched to the limit and cannot devote the kind of attention to children that is needed.

In most schools, the majority of counselors are employed at the middle and secondary levels. Therefore, the situation is more acute in elementary schools where the student to counselor ratio is greater than 1000:1. I ask unanimous consent that a copy of this table be inserted in the RECORD at this point.

Smoother Sailing was the model for the Elementary School Counseling Demonstration Act, a section of the Elementary and Secondary School Act.

It reauthorizes the program and authorizes $15 million to establish more effective elementary school programs.

The amendment I am offering with Senators LINCOLN and WELLSTONE is supported by several organizations—the American Counseling Association, the American School Counseling Association, the American Psychological Association the National Association of School Psychologists, the School of Social Work Association of America and the National Association of Social Workers.

Mr. President, CNN and USA Today recently conducted a public opinion poll of Americans. They asked what would make a difference in preventing a future outbreak of violence similar to those that have occurred over the past 39 months.

The leading response was to restrict access to firearms. The second most popular response—a response selected by 60% of those polled—was to increase the number of counselors in our nation's schools.

We should heed the advice of the American people. We have a desperate need to improve counseling services in our nation's schools. Our amendment is an important first step in addressing this critical issue and I urge my colleagues to support the amendment.

I ask unanimous consent a table of U.S. counselor-to-students ratios be printed in the RECORD.

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

U.S. COUNSELOR-TO-STUDENT RATIOS

[Maximum recommended ratio (250:1)]

U.S. States	Number of—		Counselor-to-student ratio [1]
	Students	Counselors	
Alabama	780,999	1,688	463:1
Alaska	136,196	231	590:1
Arizona	864,226	1,046	826:1
Arkansas	482,590	1,213	398:1
California	6,157,320	5,208	1,182:1
Colorado	723,591	1,121	645:1
Connecticut	569,268	1,123	507:1
Delaware	126,870	221	574:1
District of Columbia	74,395	225	331:1
Florida	2,455,079	4,855	506:1
Georgia	1,398,787	2,472	566:1
Hawaii	213,404	544	392:1
Idaho	256,946	558	460:1
Illinois	2,240,199	2,838	789:1
Indiana	1,083,851	1,735	625:1
Iowa	539,413	1,332	405:1
Kansas	505,870	1,097	461:1
Kentucky	706,820	1,272	556:1
Louisiana	888,620	2,703	329:1
Maine	227,590	593	384:1
Maryland	911,929	1,825	500:1
Massachusetts	1,033,899	2,125	487:1
Michigan	1,849,721	2,943	629:1
Minnesota	925,347	915	1,011:1
Mississippi	551,418	869	635:1
Missouri	1,025,704	2,410	426:1
Montana	175,563	411	427:1
Nebraska	327,982	757	433:1
Nevada	293,979	560	525:1
New Hampshire	219,006	656	334:1
New Jersey	1,408,761	3,231	436:1
New Mexico	362,001	650	557:1
New York	3,211,827	5,467	587:1
North Carolina	1,316,796	3,025	435:1
North Dakota	125,666	263	478:1
Ohio	2,082,841	3,247	641:1
Oklahoma	647,533	1,730	374:1
Oregon	591,539	1,268	467:1
Pennsylvania	2,117,697	3,707	571:1
Rhode Island	170,732	307	556:1
South Carolina	692,743	1,546	448:1
South Dakota	150,243	345	435:1
Tennessee	953,463	1,525	625:1
Texas	3,879,363	8,359	464:1
Utah	490,706	594	826:1
Vermont	110,228	352	313:1
Virginia	1,172,672	3,202	366:1
Washington	1,047,132	1,804	580:1
West Virginia	313,685	604	519:1
Wisconsin	1,004,584	1,884	533:1
Wyoming	101,652	285	357:1

[1] Calculated ratio is based on 1996 data, counting guidance counselors as full-time equivalents. Produced by the American Counseling Association, Office of Public Policy and Information, 5999 Stevenson Avenue, Alexandria, Virginia 22304, Phone 703–823–3800.

Source: "Digest of Education Statistics 1998" U.S. Dept. of Education.

Mr. HATCH. Mr. President, we are prepared to accept the amendment on this side.

Mr. LEAHY. We accept the amendment.

The PRESIDING OFFICER. Under a previous agreement, the amendment is agreed to.

The amendment (No. 368) was agreed to.

AMENDMENT NO. 345, AS MODIFIED

(Purpose: To establish a commission to study the motion picture industry and make recommendations to Congress and the President to promote accountability in the motion picture industry in order to reduce juvenile access to violent, pornographic, or other harmful material in motion pictures)

Mr. BOND. I send a modified amendment to the desk on behalf of myself and Senator DOMENICI, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. DOMENICI, proposes an amendment numbered 345, as modified.

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

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

The amendment (No. 345), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. COMMISSION ON ACCOUNTABILITY OF THE MOTION PICTURE INDUSTRY.

(a) SHORT TITLE.—This section may be cited as the ''Motion Picture Industry Accountability Act''.

(b) PURPOSE.—The purpose of this section is to establish a commission to study the motion picture industry and make recommendations to Congress and the President to promote accountability in the motion picture industry in order to reduce juvenile access to violent, pornographic, or other harmful material in motion pictures.

(c) ESTABLISHMENT.—There is established a commission to be known as the ''Motion Picture Industry Accountability Commission'' (in this section referred to as the ''Commission'').

(d) COMPOSITION.—

(1) COMPOSITION.—The Commission shall be composed of 12 members appointed as follows:

(A) Four members shall be appointed by the President.

(B) Four members shall be appointed by the Speaker of the House of Representatives.

(C) Four members shall be appointed by the Majority Leader of the Senate.

(2) CHAIRPERSON.—The Chairperson of the Commission shall be jointly designated by the Speaker of the House of Representatives and the Majority Leader of the Senate from among the members of the Commission.

(3) QUALIFICATIONS.—At least one member of the Commission appointed by each of the President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall be the parent of a child under the age of 18 years.

(e) COMPREHENSIVE REVIEW.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive review of the motion picture industry with a focus on juvenile access to violent, pornographic, or other harmful materials in motion pictures.

(2) ASSESSMENT.—In conducting the review, the Commission shall assess the following:

(A) How the Federal Government and State and local governments, through their taxing power or otherwise, subsidize, facilitate, or otherwise reduce the cost to the motion picture industry of producing violent, pornographic, or other harmful materials, and any changes that might curtail such assistance.

(B) How the motion picture industry markets its products to children and how such marketing can be regulated.

(C) What standard of civil and criminal liability currently exist for the products of the motion picture industry and what standards would be sufficient to permit victims of such products to seek legal redress against the producers of such products in cases where the content of such products causes, exacerbates, or otherwise influences destructive behavior.

(D) Whether Federal regulation of the content of motion pictures is appropriate.

(E) What other actions the Federal Government might take to reduce the quantity of and access to motion pictures containing violent, pornographic, or other harmful materials.

(f) REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the Majority Leader of the Senate a report on the review conducted under subsection (e).

(2) RECOMMENDATIONS.—The report may include recommendations of the Commission only if approved by a majority of the members of the Commission.

(g) POWERS.—The Commission may for the purpose of carrying out this section—

(1) conduct hearings, take testimony, issue subpoenas as provided in subsection (h), and receive such evidence, as the Commission considers appropriate;

(2) secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out the duties of the Commission under this section;

(3) use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government; and

(4) receive from the Secretary of Commerce appropriate office space and such administrative and support services as the Commission may request.

(h) SUBPOENAS.—

(1) IN GENERAL.—If a person fails to supply information requested by the Commission, the Commission may by majority vote require by subpoena the production of any written or recorded information, document, report, answer, record, account, paper, computer file, or other data or documentary evidence necessary to carry out its duties under this section. The Commission shall transmit to the Attorney General a confidential, written notice at least 10 days in advance of the issuance of any such subpoena. A subpoena under this paragraph may require the production of materials from any place within the United States.

(2) INTERROGATORIES.—The Commission may, with respect only to information necessary to understand any materials obtained through a subpoena under paragraph (1), issue a subpoena requiring the person producing such materials to answer, either through a sworn deposition or through written answers provided under oath (at the election of the person upon whom the subpoena is served), to interrogatories from the Commission regarding such information. A complete recording or transcription shall be made of any deposition made under this paragraph.

(3) CERTIFICATION.—Each person who submits materials or information to the Commission pursuant to a subpoena issued under paragraph (1) or (2) shall certify to the Commission the authenticity and completeness of all materials or information submitted. The provisions of section 1001 of title 18, United States Code, shall apply to any false statements made with respect to the certification required under this paragraph.

(4) TREATMENT OF SUBPOENAS.—Any subpoena issued by the Commission under paragraph (1) or (2) shall comply with the requirements for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure.

(5) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued by the Commission under paragraph (1) or (2), the Commission may apply to a United States district court for an order requiring that person to comply with such subpoena. The application may be made within the judicial district in which that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(i) PROCEDURES.—The Commission shall meet on a regular basis or at the call of the Chairperson or a majority of the members of the Commission.

(j) PERSONNEL MATTERS.—The members of the Commission shall serve on the Commission without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, when engaged in the performance of the duties of the Commission.

(k) STAFF.—The Commission shall appoint a staff director and sufficient support staff, including clerical and professional staff, to carry out the duties of the Commission under this section. The total number of staff under this subsection may not exceed 10.

(l) DETAILED PERSONNEL.—At the request of the Chairperson of the Commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(m) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

(n) TERMINATION.—The Commission shall terminate 60 days after the date on which the Commission submits the reports required by subsection (f).

Mr. BOND. Mr. President, we have heard a lot about gun shows, pawn shops, and ammo clips these past few days. We have been told that if we just tweak the law a little here, or add another provision making something else illegal that somehow people who gun down others in cold blood won't do it anymore.

It's as if wishing would make it so.

Thirty years ago we had very few gun laws, and surprisingly, no high school shooting sprees to document every few days, every few weeks, or every few months.

But thirty years ago we also had stricter discipline in schools, no school officials worried about lawsuits if they expelled a violent child, and parents who also exerted more control.

Now we have a new gun law a year. We have school officials who fear lawsuits, and federal law which seems designed to keep violent kids in classrooms, rather than removed—although I hope the Frist-Ashcroft amendment will make some improvements. And we have an industry—in the name of entertainment—that produces violence and violent pornography at such a pace that no one has any idea of the breadth and width of exposure our kids now have to it.

Movies, television, videos, music, computer games. Killing, maiming, and destruction—all in the name of entertainment.

Why is anyone surprised in this new topsey-turvy world, that some students plan mass murders rather than planning their graduation party.

Today I thought it time to inject a little dose of reality into these proceedings, and get us started down a road which I believe needs to be explored. My amendment empanels an independent commission to study the motion picture industry—from top to bottom—to see if the federal government is subsidizing, facilitating or otherwise encouraging the production of violent, or pornographic materials. And if so, to make recommendations to Congress and the President to promote accountability in the motion picture industry in order to reduce juvenile access to violent, pornographic, or other harmful material in motion pictures. Simply put, we want to discourage, not encourage access to these materials.

At the outset, let's make it clear that a great deal of what kids see on the big screen is not harmful and it is done by talented people who are just as concerned about our young people as anyone else. However, there are hundreds, if not thousands of releases each year that have profound effects on teens who see them.

Let us be very clear about one other thing before we continue, because we have head a lot about the gun industry and their so-called political power.

Mr. President, they don't hold a candle to the movie industry. Hollywood has the money, the glamour, the lifestyle of the rich and famous. They have Beverly Hills, they generate publicity for a living, and they have access to the Lincoln Bedroom. In fact, the NRA actually brought in a famous actor in order to have some hope of getting a fair hearing for its position.

But the most disturbing, and least discussed these past few days, is exactly who it is in this country that has glamourized guns and violence. It is certainly not everyone's favorite bogeyman the NRA. It is not the biathletes who compete in the Olympics. Quite simply, it is the entertainment industry. Guns, gore, and violence, targeted not at soccer moms—but to their sons.

And worse yet, it is not just gun use, but gun misuse which is glorified. Gun-toting murders as heros, out to right some perceived wrong. Who even knew what an Uzi or Tech 9 was until they saw it in some show?

I ask unanimous consent to have printed in the RECORD a May 11, 1999, article by Michael Atkinson entitled ''The Movies Made Me Do It.''

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

[The Village Voice, May 11, 1999]

THE MOVIES MADE ME DO IT

(By Michael Atkinson)

On March 5, 1995, Sara Edmondson, the 18-year-old scion of one of Oklahoma's most prominent political clans, holed up with her 17-year-old boyfriend Ben Darras in her family's cabin with a video Copy of Natural Born Killers, a Smith & Wesson .38, and a reported 17 tabs of acid. It's clear neither how many times they watched the film nor what the timetable had been for dropping all that dope, but, over the next two days, the teenagers road-tripped south, first shooting Hernando, Louisiana, cotton-gin manager Bill Savage, and then, the following day, convenience-store clerk Patsy Byers. Initially they had intended to go to a Grateful Dead concert in Memphis, but got the date wrong. Edmondson got 35 years; Darras got life.

Savage was DOA, and his hometown friend John Grisham raised a public stink over the Oliver Stone film, threatening to sue for product liability but never filing. Luckless, Byers was left a quadriplegic and later died of cancer, but her family's lawyer has filed a civil suit against Edmondson, Darras, Edmondson's parents, Stone, and Time Warner, maintaining that the film's creators ''knew. . . . or should have known'' that violence would result from its being shown. In March, after bouncing around Louisiana courts, the case went to the Supreme Court and was seen as good to go.

Here comes the flood. This April, the families of three Kentucky girls left dead after the prayer-group shooting spree of 14-year-old Michael Carneal in 1997 have filed a $130 million lawsuit against no fewer than 25 parties, including five film companies involved with the film The Basketball Diaries; a single scene allegedly incited Carneal to action. The dream sequence, of Leonardo DiCaprio gunning down his classmates, should be immediately familiar to even those who haven't bothered seeing the film, thanks to the news coverage of the Littleton rampage. Littleton itself is destined to become the nation's mother lode of hydra-headed copycat—crime civil suits directed at the manufacturers of pop culture, just as the Klebold-Harris scenario immediately became something to mimic in high schools from coast to coast. Copycat crimes have attained front-burner notoriety, and some day soon Hollywood's liberty will be pitted against the perceived welfare of America children.

It's an old but neglected dynamic, and wherever you stand on the issue, itemizing the carnage attributed to the influence of movies is chilling business. After The Birth of a Nation hit big in 1915, the KKK enjoyed a huge resurgence and lynching stats shot up. James Cagney's psycho gangster in White Heat (1949) was blamed for inspiring Brit Chris Craig's 1952 shooting of a policeman. A clockwork Orange's 1971 release was followed by several rapes in England accompanied by the rapists' renditions of ''Singin' in the Rain,'' after which Stanley Kubrick permanently removed the film from British circulation. Magnum Force's murder-by-Drano was reenacted in Utah, The Deer Hunter precipitated a rash of fatal Russian roulette duels, a fierce love of First Blood sent a deranged Englishman named Michael Ryan tearing through his village commando-style, killing randomly. Taxi Driver spoke to John Hinckley; RoboCop gave ideas to two separate killers, each of whom admitted that their evisceration methods were adopted from the film. Just days after its premiere, Money Train, itself based in part on real incidents, inspired token-booth thieves to incinerate the clerk inside. High school footballers were maimed and killed lying down on busy highways after viewing The Program. Child's Play and it first two straight-to-tape sequels hold the record for the sheer number of dead: besides two-year-old Jamie Bulger, stoned to death by a pair of 10-year-old Chucky fans in Liverpool, and 16-year-old Suzanne Capper, burned alive in Manchester by Chucky fans who played lines of the movies' dialogue to here as she was being tortured, there is the dizzying slaughter of 35 Tasmainian vacationers by Martin Bryant, a mental patient ''obsessed'' with Chucky.

But for sheer inspirational force, and the highest number of captured impulse killers who have directly credited the film Natural Born Killers might be the one plus ultra of copycat-killing source material. Besides the Edmondson-Darras road trip, there have been killings in Utah, Georgia, Massachusetts, and Texas (where a 14-year-old boy decapitated a 13-year-old girl), all involving children who afterward quoted the film to firends and authorities. In Paris, a pair of young lovers, Florence Rey and Audry Maupin, led the police on a chase that killed five; supposedly, Rey said, ''It's fate,'' a la Woody Harrelson's character Mickey, when caught. Another pair of Parisians, Veronique Herbert and her boyfriend Sebastien Paindavoine, lured a 16-year-old to his stabbing death with promises of sex; a scene right out of Stone's film. Herbert has even named the Stone film in ther defense

There are scores of other examples—even Beavis and Butt-head has its ghosts, innocent bystanders killed by child-lit fires or child-tossed bowling balls. Hunt-and-kill computer games, which provide ersatz combat training, have also been cited in the Carneal suit. Of course, in each case, the precise psychological role media played is never clear—nor can it be, until we can map a brain like a computer hard drive. In fact, some of what the press has reported about the similarities between particular murders and particular films is flat-out wrong—scores of scenes that never occurred in Child's Play 2 were said to have been reenacted in the Bulger murder. Still, when a Georgia teen yells out ''I'm a natural born killer!'' to news cameras after being arrested for killing an elderly man, the tie-in is hard to ignore.

Legally, it may be impossible to prove intent on behalf of a filmmaker or a beyond-a-reasonable-doubt cause-and-effect affiliation between specific movies and specific violence. How do you account for the millions of unaffected consumers? What's equally at issue is the common cultural presupposition that the entertainment media bear no culpability for those who wreak havoc in imitation of it. Movies are movies, homicidal nuts are homicidal nuts, the crimes would occur with or without a movie's sensationalized prodding. So the wisdom goes. But is our relationship with movies so simple, or is there in fact something deeper, darker, going on? Could it be that visual media aren't merely a harmless, ephemeral diversion from reality, but a powerful factor in that reality bearing consequences we haven't foreseen?

Since most of the incidents we're aware of have children at their centers, this may prove to be true. According to University of Michigan professor L. Rowell Huesmann, an expert researcher on the relationship between violent media and violent behavior, ''It's been well established that media violence makes kids behave more aggressively.

Of course, there's no scientific way to evaluate how media violence may have or many have not caused real violence, but there's definitely a relationship, a ''priming'' or ''curing'' of behavior for certain individuals. The reasons are well understood in psychology: even as toddlers, if we see other kids push and hit to get what they want, we imitate it, we begin to learn scripts for that behavior. In addition, there have been studies: you show images of gore to young children, they have a universally negative reaction: their heartbeat goes up, their palms sweat, and so on. You show it to them again and again, and those indications go away. They adapt, they become desensitized.''

Dr. Carole Lieberman, a Beverly Hills-based ''media psychiatrist,'' blames parental patterns of consumerism. ''There's no question that parents see it happen. The Ninja Turtles were a significant sign: everyone could see how specific violent behaviors were derived directly from that show. But they still buy the kids the computer, the violent CD games. It's cognitive dissonance—they know, but they don't want their kids to be left out, to be unarmed.''

It seems the entertainment complex knows, too: Last week, MGM announced they'd like to recall every copy of The Basketball Diaries from store shelves but can't thanks to a prohibitive rights agreement that lasts until June 30. Even within the Hollywood chambers, the cattle can get spooked: Money Train scriptwriter Doug Richardson was voted down for membership in the Academy thanks to the subway-booth torching. ''Nobody would say it was because of that incident,'' Richardson says, ''but no one would deny it. So, as a writer, am I supposed to wonder if what I'm doing is drama or pornography? Science is going to have to get in up to its elbows in this, I think. It's a very complicated issue, and doesn't deserve sound-bite answers. Especially since there's so much suffering.

And the suffering, not of Hollywood filmmakers told they shouldn't make ultraviolent movies but of families with murdered children, may be what the debate should be about. ''We could make a great step forward by simply restricting the amount of violence to which children are exposed,'' Huesmann says. ''That's no great constitutional dilemma. I wouldn't be surprised if at this point Oliver Stone came forth and said, 'Yes, the film obviously affects some people in a certain way,' and if he did, that would be a significant first step.'' (Oliver Stone declined to comment.)

''Every study indicates a relationship,'' Huesmann concludes. ''Here's a not greatly known fact: that the statistical correlation between childhood exposure to violence in media and aggressive behavior is about the same as that between smoking and lung cancer.''

Mr. BOND. Mr. President, it outlines ''copycat'' acts of violence who fashion their criminal actions—murder and rape—off brilliant ''how to'' works of theater such as ''Natural Born Killers'' and ''Basketball Diaries.''

We know that merchants of violence profit handsomely from some products which hurt our children and cost our society. Who for a second believes that the 40,000 murders that our children witness on the TV screen during their childhoods does not have some terrible numbing effect. We can't stop Hollywood from producing the insanity, but we can attempt to discourage it and to help them share in the burden that their ''profiteering at any cost'' imposes on society.

Now I don't believe we need any more studies outlining the numbing effects that movie and television violence have on our children. What we need to know is—are the American taxpayers subsidizing this numbing down of American youth? And if so, what can and should we do about it?

That is why our Commission looks to people who are independent of the power and influence of the motion picture industry.

Clearly, advertising is directed at attracting all audiences including our young. These wealthy and talented industry people have a right to produce this material but we should not extend them every courtesy when it comes to polluting the minds of our young. There is always parental responsibility, but that does not excuse others from acting responsibly as well.

Does it, or does it not, take a village to raise a child? Last I looked, Hollywood is part of our village. So where is the responsibility of those who produce the harmful material?

Though the power of the motion picture industry is great, we should take a turn listening to parents instead of actors and show leadership instead of cowardice. Some may object on behalf of the wealthy merchants of carnage and smut saying they have a constitutional right to pollute the minds of our children and have no responsibility as an artist or producer to use their power to try and help our nation's parents. But I think they are wrong. Shortsighted and wrong.

Thus if we adopt the Bond-Domenici amendment, we will be saying it is time that parents, and grandparents—not just Hollywood moguls—will have an opportunity to participate in the debate on how best to protect our children. And if this notion offends the Hollywood crowd and their ubiquitous presence in Washington—so be it. We should make quite certain that the public is not contributing or facilitating the production of this sort of material and not facilitating its marketing to our young people. Of, that if we are, people understand it and decide it is good use of national resources.

Now there are other thoughtful amendments to this underlying bill which call on Clinton Administration agencies to study advertising or antitrust provisions. My amendment is designed to get the best minds outside of the Clinton Administration and Hollywood—and if you have any serious questions why, I think this past weekend's multi-million fund-raising trip to Beverly Hills answers those immediately.

It is with a great sense of frustration that I come to you and that is because I am tired of telling parents that there is nothing we can do to help shield their kids beyond relying on the good will and tender mercies of the same ones making blood money off the trash.

If the government can't do anything about it at this time, I think it is worth letting someone on the outside see if it is possible to bring some discipline and responsibility to those who are producing and marketing the insanity. As you all know, not everyone in the film industry is proud of what their colleagues produce for the public. I have no intention of painting with a broad brush, but the ones without discipline—the ones that don't care about our children, should not be shielded from scrutiny just because they may be some of the best people to invite to parties, vacations and fund-raisers.

The Commission is proposed to be made up of 12 members appointed by the President, the Majority Leader and the Speaker and review the following:

(1) How the government, through the tax code or otherwise, subsidizes, facilitates or otherwise reduces the cost of the production of violent, pornographic, or harmful materials and changes necessary to curtail such assistance;

(2) How the movie industry markets to children and how such marketing can be regulated;

(3) What standard of civil and criminal liability currently exists and what standard is sufficient to allow victims to seek legal redress against motion picture productions in cases where content leads to destructive behavior;

(4) Whether federal regulation of content is appropriate;

(5) What other federal action might be taken to reduce the quantity of and juvenile access to movies containing violent, pornographic, or harmful materials.

The amendment requires that a majority report be made within a year of enactment and requires that a minimum number of parents be appointed to the commission. Further, it authorizes a budget for professional staff to assist on these very complex issues.

This would be a powerful commission with a broad mandate that could recommend that we make merchants of death liable for their work, that we make the polluter pay; or outline ways to discourage advertising to our children. We may not enact their recommendations but I think it is time we hear the truth from parents—parents without connections to Hollywood.

It is a balanced commission and the President will get his opportunity to make appointments. He must appoint a parent of a child but he can also appoint a first amendment absolutist and he can appoint Oliver Stone to the commission if he so desires.

I know Members on both sides of the aisle share my frustration. They too have had parents tell them that each year it gets harder and harder to keep the violent images out of their kids lives. Not only movies and videos, but television, CDs, video games, radio, and even print ads.

The images are starker, the violence more pronounced, the mayhem more graphic. No parent can keep it all out because it comes from everywhere. What I am saying here today is that it is time to start holding people responsible for their choices, and that at a

minimum, we should know if the parents of America are paying taxes to subsidize the filth they then try to keep out of their homes.

The Bond-Domenici amendment is the right thing to do.

Mr. President, I yield 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might not even take that long.

I want to compliment the Senator from Missouri for his proposal and just speak a little bit about a word that is on a lot of people's minds these days. In fact, many people are saying: Boy, it sure would be great if we could get responsibility back into our schools so our children could learn what responsibility means.

I think it would be great if we could get the entertainment industry to show a little responsibility. Some responsibility from those who make films and produce TV shows, produce advertisements, produce many of the vile computer games our young people are using so they become excellent sharpshooters, excellent killers. In fact, some of these computer games have made our children proficient at shooting people right through the head, one after another, because they learned it on the computer game.

Everyone seems to be saying that our children need to learn greater responsibility. Actually, Hollywood and those who produce television shows and movies, they are the ones in need of a new sense of responsibility. I do not know any way, under our Constitution, to stop what is happening. I do not know if I would be wise enough to figure it out. But I tell you, the adults who are in the entertainment industry have to, sooner or later, look at themselves and say: What is our responsibility to the young people of this country?

Right now it seems there is none, other than to make money. If the adults in the entertainment industry continue to refuse to produce films that are good for our young people, even if it is more difficult to sell them, if they refuse to go out and get innovative people to write the kinds of things that are salutary and healthy and helpful, then I believe they are irresponsible. I believe they need a lesson in responsibility. Instead, they hide admirably behind the Constitution.

I believe, if our forefathers who put the First Amendment in the Constitution, the freedom of speech that the entertainment industry hides behind, could see what they produce, what they feed to our young people, what they feed to our society under the alleged protection of that Amendment, I believe they would reconsider and try to figure some way to make sure we had a bit more responsibility built into this aspect of the American free enterprise system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have to oppose this $1 million study of ''how the Federal Government and State and local governments, through their taxing power or otherwise'' helps support or subsidize the cost of producing ''violent, pornographic or other harmful materials.'' Even though this is just a study, I have serious concerns about researching the need for more taxing power.

Second, the juvenile crime bill already contains a package of amendments regarding the study of the motion picture industry. Third, the causes of teen violence are complex and difficult to handle with tax policy. Fourth, the amendment provides broad subpoena powers.

I appreciate that Senator BOND modified his amendment by taking out the study of how another tax, an excise tax, might be structured for ''violent, pornographic, or other harmful motion picture materials.'' What is considered harmful in Tulsa, may not be considered harmful in Niagara Falls, or Boise, or Key West. But in terms of the ''power to tax'' language still in the amendment it is not clear if the Federal Government, or towns or states, would tell movie producers what content they considered ''harmful'' or ''violent.'' Thus while the ''excise tax'' language was just taken out the study of the ''power to tax'' is still in the amendment. And that raises a lot of issues.

If this power to tax authority were used what would that mean? It is not at all clear how that would work. I do not see why we should spend $1 million to study the ''power to tax.'' There were major fights years ago about whether to censor the line in ''Gone with the Wind''—''Frankly, my dear, I don't give a damn.'' In many towns, that line could have been taxed under a ''power to tax'' if they had it then. Now, that line caused enormous numbers of debates and editorials. I suspect that could have gotten a whopping tax back then. Or Clark Gable could have just said: ''Frankly, my dear, I am really annoyed.''

How would a new ''power to tax'' given to local, state or the Federal government work? The earlier ''excise tax'' idea that was recently dropped raised lots of questions also. I do not know what editing of movies local governments might have ended up doing.

Concerning the excise tax language, now dropped, I wondered would the local or the Federal government have imposed the tax before the movie was produced, after the movie was produced, or during the editing of the movie? Or, would the States or the Federal Government have told the producers ahead of time how much they would tax them on each scene? If they were to do it that way, could they take some scenes out or pay the extra tax, like a gas-guzzler tax? I understand there are a lot of violent battle scenes in the new Star Wars movie. That would have had a pretty big gross to tax. Fortunately, the ''excise tax'' language was taken out by the sponsor of the amendment, but the ''power to tax'' language remains.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank my friend, the ranking member for yielding. I hope he will stay on the floor just a moment because I wanted to ask him something. In this amendment, on page 4, is something that completely astounds me. This commission is going to look at whether the regulation of the content of motion pictures is appropriate.

Federal regulation—is this the Soviet Union? What are we doing? I ask my friend if this disturbs him that we would be considering the Federal Government regulating the content of motion pictures.

Mr. LEAHY. I say to my friend from California, what I also worry about is how you determine what it is. I heard one Senator on the floor speak of having more wholesome movies. I am all for that. There are a lot of movies that I consider absolutely classic. I like the ''Quiet Man'' with John Wayne. It was filmed near the part of Ireland from where my father's family came. But there is violence, fighting, drunkenness a little bit here and there. What do you determine it is? Does the market carry that? There are a lot of wholesome films that make it.

I see some things that might be considered wholesome. One very popular with children are Teletubbies, but yet we heard one leading conservative religious leader say that it should be taken off the air because he objected to one of the Teletubbies.

Maybe we have Teletubbies on one side and televangelists on the other. Somebody suggested in one cartoon: Teletubby Tinky Winky; Televangelist Dopey Wopey. But that is what I read in the paper.

Do we take that off or tax it? Maybe after the $1 million this amendment refers to we might have a better idea. I am not too sure I want even my own communities to determine what tax they will impose and the Federal Government determine what tax they will impose and then have censor boards all over the place determining this one we will tax a little itty-bitty, and this one we will tax biggie bitty-bit.

I point out, we do already have in the juvenile justice bill a package of amendments regarding the study of the motion picture industry, so that is going to be done anyway.

Mrs. BOXER. I point out to my friend, who is such an advocate of the Constitution, that this is the third one. We have investigation mania going on here. This is the third investigation of the entertainment industry that is going to be voted on in this Senate; the third investigation. Fortunately, on the first one, we expanded it to include the gun industry. So there is one investigation of the gun industry and how it peddles its products to kids, and then

there are three investigations of the entertainment industry. But this is the very first one where it says in this bill—and I say to my friends, read it. They are going to look at whether there should be Federal regulation of the content of motion pictures.

Maybe the Senator from Missouri is interested in writing movies, but I am not. This is what it is about. None of us was elected to be a movie writer. There is no bureaucrat I know who ought to sit around and write movies. We now have three investigations of the motion picture industry in this bill.

Let me tell you what they are. The first one was the Brownback amendment. I actually supported it. Everybody did. I thought: OK, we will have a commission; it will look at youth violence. That commission calls for the Federal Trade Commission and the Attorney General, with all the powers of their offices, to look at the marketing tactics of the motion picture industry, the entertainment industry, and the video games industry and see if they are, in fact, taking advantage of our children.

Then we have the Lieberman Commission, which is part of the managers' amendment, which sits in this bill. I have it in front of me. Mr. LIEBERMAN, Mr. MCCAIN, Mr. BYRD, Mr. BROWNBACK, Ms. LANDRIEU, et cetera. They are establishing a national youth violence commission and it refers to the various powers of that commission. That is investigation No. 2.

Now comes along, in case we did not do enough of this, investigation No. 3. Duplicative, I add, of the others, but a lot more frightening, because it includes the possibility of Federal regulation of the content of motion pictures.

It refers to changing the law to seek legal redress against producers. My friend from Missouri can take comfort in the fact that we are already doing what he wants to be done, with the exception of looking at the content.

I do not know whether this is going to be accepted or if there is a vote. More than likely it is going to be adopted. Set up a commission. How about doing something that will help? How about keeping our kids busy after school? Oh, no, I only got two people from the other side of the aisle. Keep our children busy after school so they are not sitting in front of the television? Oh, no, we couldn't do that, even though we have a million children waiting in line to get into afterschool programs.

But, oh, let's have a third commission and beat up on the entertainment industry and that is going to help keep our kids out of trouble.

Look at the FBI statistics. That is when there is juvenile crime. This is a juvenile justice bill. We do a little something for afterschool in this bill, but it is just that, a little something. It will not take care of the backlog of all the children who are waiting, but, oh, we can feel real good and set up a third investigation of the entertainment industry.

This is amazing to me. And this one is frightening to me, to think that the Federal Government may now begin to regulate the content of movies. I simply think that the American people do not want to see their Government regulating what can be said in a movie. If you do not like a movie, don't go see it, as Senator LEAHY said yesterday. Don't spend your dollars on violence. Turn the movie channel. But to set up now a third commission on the entertainment industry, this is just going over the top. And suggesting that they look at ways to regulate content, that is a frightening thought to me.

I do not have much hope that this will be defeated because it seems to be something we are getting used to here: Let's have an investigation; it's easy; it's easy; have an investigation.

By the way, it is going to cost $1 million. Do you know how many slots that could take care of for kids waiting in line to get in afterschool programs? Let's use it on something that works. A million dollars on this commission. I know my friend is a fiscal conservative. I hope when this bill gets to conference, they can take these three investigations and put them into one, because this is simply amazing to me.

I have every belief that the Senator's commission will be adopted. The Senate is in the mood to launch yet another investigation, point another finger and, ''Yes, I voted against afterschool, but I voted for that commission; I am going to save our kids.''

I am very surprised we are looking—as a matter of fact, I did not even know this was coming up until somebody said it. I thought: Wait a minute, that is confusing; we already have two investigations. Now we have yet a third.

I know what I am saying is not popular around here, but I worry when we start talking about the Government regulating content. That reminds me of the old Soviet Union. That is gone. Let's not follow that model.

I hope people vote against this. Again, I do not hold out much hope, but I hope people vote against this. I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself 3 minutes.

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

Mr. BOND. One always is impressed with the ability of Hollywood and their obfuscation. We have heard some responses from the Hollywood community. They said this is a massive tax bill. That is not what the purpose was. We amended the amendment so it does not even refer directly to taxes.

The Senator from Vermont mentioned and gave a wonderful rendition of ''Gone With The Wind'' and ''Star Wars.'' We are not worried about ''Star Wars.'' We are not worried about ''Gone With The Wind.'' We are worried about parents who cannot stop all of the mayhem and violence and murder that is being marketed to their kids, to their kids' friends, to their kids' neighbors every time they turn around.

We think it is time that somebody looked at how we hold Hollywood accountable. I am asking not that we investigate. I believe there is enough evidence of these teenage killers, citing the fact that they have been inspired by movies, to know that something has to be done.

My good friend from California said, we are regulating content. I believe she was one of the leaders who argued for regulating the content of tobacco advertising and said we are going to eliminate tobacco advertising. That is content. That is regulation. That is regulation of speech.

Incidentally, you can regulate what is going to children. We do regulate speech. We do not allow pornography to go to kids. We do not allow tobacco advertising to go to them. I will tell you something, when I see ''Basketball Diaries,'' with Leonardo DiCaprio as a teenage hero walking into a classroom in a black trenchcoat, with a gun, and murdering his fellow students, I see there is a message that Hollywood has sent to our kids. If I could regulate it, if I could stop it, I would like to stop it.

I want to get a national debate going and ask and see how we can stop this filth being targeted at our kids. Does anyone think ''Basketball Diaries'' is designed to attract older movie viewers like me? I do not think so. That is targeted directly to kids. How do we deal with that? That is what the Domenici-Bond amendment asks. All of the obfuscation and all of the misleading arguments put up by the good folks in Hollywood are not going to take attention away from the fact that they are responsible.

Just in the last couple days the President of CBS said he was going to withdraw a violent drama called ''Falcone.'' I quote Leslie Moonves.

> While it's not fair to blame the media for the rampage, Moonves said that ''anyone who thinks the media has nothing to do with this is an idiot.''

I suggest that tells the tale.

I yield the remainder of my time to the Senator from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has 1 minute remaining.

Mr. HATCH. All the Senator wants to do is set up a Commission to review these matters. We have plenty of work in this bill to take care of it.

Now look, the first amendment is not absolute. There are a lot of limitations on the first amendment recognized by the courts: obscenity, pornography, fighting words, time restrictions, such as nudity in television programming—that may be stopped, television programming that may be aired—indecent speech, exposure to children, and we could go on and on. It isn't like this is something unprecedented.

I think we have to look at these matters and see what we can do to change the culture in this society, because that is what is wrong. It is a lot more important than guns or anything else.

We have made it possible for these kids to see all kinds of filth and violence coming out of their ears. After a while, they get so that it becomes part of their lives. That is why this bill is so important. It is a lot more important than some of the assertions by some people on behalf of their amendments. But this is an amendment that I think we ought to vote for.

The PRESIDING OFFICER. The time has expired.

The Senator from Vermont has 2½ minutes remaining.

Mr. LEAHY. Mr. President, this side has how many minutes?

The PRESIDING OFFICER. Two and a half minutes.

Mr. LEAHY. We yield back the time.

The PRESIDING OFFICER. The Senator yields back the remainder of their time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I ask unanimous consent that we stack this amendment along with the Biden amendment to be voted upon at a time to be determined by the two leaders.

Mr. LEAHY. I agree.

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

Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

CHANGE OF VOTE

Mr. EDWARDS. On rollcall vote No. 137, I voted ''no.'' It was my intention to vote ''aye.'' I ask unanimous consent that I be permitted to change my vote. This would in no way change the outcome of the vote.

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

The foregoing tally has been changed to reflect the above order.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENTS NOS. 369 AND 370, EN BLOC

Mr. HATCH. Mr. President, I send a Helms amendment on safe schools and a Harkin-Lincoln amendment to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes amendments numbered 369 and 370, en bloc.

Mr. HATCH. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments, en bloc, are as follows:

AMENDMENT NO. 369

(Purpose: To amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to treat possession, on school property, of felonious quantities of illegal drugs the same as gun possession on such property)

At the appropriate place, insert the following:

''SEC . SAFE SCHOOLS.

''(a) AMENDMENTS.—Part F of title XVI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:

''(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.

''(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.

''(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definition'' in the catchline with ''part'', by redesignating the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semi-colon, and by adding new subparagraphs (B), (C), and (D) as follows:

''(B) the term ''illegal drug'' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law; and

''(C) the term ''illegal drug paraphernalia'' means drug paraphernalia, as define in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 915 et seq.)' before the period.

''(D) the term ''felonious quantities of an illegal drug'' means any quantity of an illegal drug—

''(i) possession of which quantity would, under federal, State, or local law, either constitute a felony or indicate an intent to distribute; or

''(ii) that is possessed with an intent to distribute.''.

''(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs or'' before ''weapons''.

''(5) REPEALER.—Section 14601 is amended by striking subsection (f).

''(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.

''(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local education agencies, or''.

''(b) COMPLIANCE DATE; REPORTING.—

''(1) States shall have two years from the date of enactment of this Act to comply with the requirements established in the amendments made by subsection (a).

''(2) Not later than three years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.

''(3) Not later than two years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.''

AMENDMENT NO. 370

(Purpose: To amend section 10102 of the Elementary and Secondary Education Act of 1965 regarding elementary school and secondary school counseling)

At the end, add the following:

SEC. ___. SCHOOL COUNSELING.

Section 10102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8002) is amended to read as follows:

''SEC. 10102. ELEMENTARY SCHOOL AND SECONDARY SCHOOL COUNSELING DEMONSTRATION.

''(a) COUNSELING DEMONSTRATION.—

''(1) IN GENERAL.—The Secretary may award grants under this section to local educational agencies to enable the local educational agencies to establish or expand elementary school counseling programs.

''(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

''(A) demonstrate the greatest need for new or additional counseling services among the children in the schools served by the applicant;

''(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

''(C) show the greatest potential for replication and dissemination.

''(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

''(4) DURATION.—A grant under this section shall be awarded for a period not to exceed three years.

''(5) MAXIMUM GRANT.—A grant under this section shall not exceed $400,000 for any fiscal year.

''(b) APPLICATIONS.—

''(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(2) CONTENTS.—Each application for a grant under this section shall—

''(A) describe the school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

''(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

''(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

''(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

''(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of school counselors, school psychologists, and school social workers;

''(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

''(G) describe how any diverse cultural populations, if applicable, would be served through the program;

''(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

''(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Grant funds under this section shall be used to initiate or expand school counseling programs that comply with the requirements in paragraph (2).

''(2) PROGRAM REQUIREMENTS.—Each program assisted under this section shall—

''(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

''(B) use a developmental, preventive approach to counseling;

''(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

''(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

''(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, or academic and career planning, or to improve social functioning;

''(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

''(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

''(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

''(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration;

''(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

''(K) ensure a team approach to school counseling by maintaining a ratio in the elementary schools of the local educational agency that does not exceed 1 school counselor to 250 students, 1 school social worker to 800 students, and 1 school psychologist to 1,000 students; and

''(L) ensure that school counselors, school psychologists, or school social workers paid from funds made available under this section spend at least 85 percent of their total worktime at the school in activities directly related to the counseling process and not more than 15 percent of such time on administrative tasks that are associated with the counseling program.

''(3) REPORT.—The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 14701, but in no case later than January 30, 2003.

''(4) DISSEMINATION.—The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

''(5) LIMIT ON ADMINISTRATION.—Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

''(d) DEFINITIONS.—For purposes of this section—

''(1) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

''(A) possesses State licensure or certification granted by an independent professional regulatory authority;

''(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

''(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

''(2) the term 'school psychologist' means an individual who—

''(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

''(B) possesses State licensure or certification in the State in which the individual works; or

''(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board;

''(3) the term 'school social worker' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

''(4) the term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2000 and such sums as may be necessary for each of the 4 succeeding fiscal years.

Mr. HATCH. With respect to the amendment offered today by Senator HELMS, which amends the Gun Free Schools Act of 1994, I must say that I support this effort to make our schools gun and drug free.

The amendment would require an educational agency that receives federal funds to expel for not less than one year a student determined to be in possession of felonious quantities of illegal drugs. We're talking about quantities that indicate hard-core drug use, or drug trafficking. We're talking about dangerous, and predatory, behavior. We've simply got to get the people who bring these things into our schools out of our schools.

Now, I know that some of my colleagues may be concerned with the consequences of turning disruptive students out onto the streets for one year. I assure everyone that I understand that concern and direct their attention to the Alternative Education Grant provision found in the underlying bill. This demonstration grant provides funding to state and local education agencies to set up alternative education in appropriate settings for disruptive or delinquent students. These services are designed to improve the academic and social performance of these students and to improve the safety and learning environment of regular classrooms. This three-year demonstration project will provide alternative education to juveniles in trouble with or at risk of getting in trouble with the law, such as students who are expelled for carrying firearms or drugs to school.

I applaud the efforts of Senator HELMS for continuing to seek effective ways to curb the spiraling increase in drug abuse among our nation's youth. Anyone familiar with my record on combating illegal drug use knows that I am in favor of stiff penalties designed to deter criminal behavior, and never more so than when we are talking about behavior that harms our school children. I think this amendment, which contains a specific exception to the one-year expulsion rule by allowing the chief administering officer of the local educational agency to modify the expulsion requirement for students on a case-by-case basis, is a measured and principled response to the scourge of drugs in our schools.

Like the original Gun Free Schools Act, this amendment is motivated not only by a desire to punish those who bring illegal objects into schools, but also to address the immediate threat to the entire student population created by the presence of those objects. As with guns, felonious quantities—drug-trafficking quantities—of illegal drugs present a direct and serious hazard, both to the individual possessors, and to the other students as well. For this reason, it is appropriate that sanctions be the same in both cases.

Mr. HATCH. I ask unanimous consent that the amendments be accepted en bloc and that any statements relating to the amendments be printed at the appropriate place in the RECORD.

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

The amendments (Nos. 369 and 370), en bloc, were agreed to.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to table was agreed to.

Mr. HATCH. I understand we now move to the Biden amendment, the last amendment before final passage.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 371

(Purpose: To establish a 21st century community policing initiative)

Mr. BIDEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for himself, Mr. SPECTER, Mr. SCHUMER, Mrs. BOXER, and Mr. KOHL, proposes an amendment numbered 371.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. The Senator from Delaware has 22½ minutes.

Mr. BIDEN. I beg your pardon? I thought I had 30 minutes.

The PRESIDING OFFICER. I am sorry. The Senator from Delaware has 30 minutes.

Mr. BIDEN. I thank the Chair.

Mr. President, I send this amendment on behalf of the primary sponsors: The Senator from Pennsylvania, Mr. SPECTER; the Senator from New York, Mr. SCHUMER; the Senator from California, Mrs. BOXER; and the Senator from Wisconsin, Mr. KOHL; and others.

This is a pretty straightforward amendment. My amendment extends for another 5 years the COPS Program which was created in the 1994 crime bill. As we all know, the COPS Program has put over 100,000 police officers on the—well, they are not all on the street yet, but it funded 100,000 police officers, of whom about 11,000 are in training now. I have put on the desk of every Member of the Senate a list of the number of police officers, State and local police officers, that have been funded under the COPS Program in their States.

I have put on the desk of every Member of the Senate the reduction in violent crime, in property crimes, that has occurred in their State since the crime bill of 1994, which was passed, and I would make the argument that we do not have to reinvent the wheel here; it works. Cops on the street through the COPS Program work.

The COPS Program is going to expire next year. Our amendment authorizes $1.15 billion per year through the year 2005.

Let me explain what it does. There is $600 million more for police on the streets every year, which would give the States up to another 50,000 police officers over the next 5 years. This money, though, can always be used to retain current officers hired under the COPS Program; it can be used to pay overtime; it can be used to reimburse current cops for college and graduate school courses up to a percentage of the total money here.

Since the original crime bill was the Biden crime bill that became the 1994 crime bill—we put in this COPS amendment. At the time, we were told by everyone, whether it was liberal newspaper editorials saying, we have tried this before and more cops don't work, or conservatives arguing that this was just a great big social welfare program—it was going to hire a bunch of social workers—we have demonstrated that it had never been done before and it works when it is done.

I am reminded of the quote attributed to G.K. Chesterton. He said, it is not that Christianity has been tried and found wanting; it has been found difficult and left untried.

The truth of the matter is, up to the time of the crime bill of 1994, we had never made a full blown major commitment to help local law enforcement officers increase their number. We have, in fact, increased the number of cops wearing uniforms—of local police officers, not Federal cops—by 100,000 cops. The crime rate has plummeted, not solely because of that but, I would argue, in large part because of that.

Now, I have been here long enough to know that one of the dangers of being here long enough and having worked hard on setting up a government program, which you thought about and conceived and worked on for years and years to get adopted, is that you become a captive of your own program. So the Senator from Pennsylvania and I would talk, back in the early days when he got here and I got here, about community policing and how important it was.

Cops didn't want community policing. Mayors did not want community policing. No one wanted it. My friend from Pennsylvania talked about career criminals and pointed out that only 6 percent of the criminals in America committed over 60 percent of the violent crimes in America. To both of us, it didn't seem like rocket science. If you focused on going after that 6 percent and you put more cops on the street and you took them out of patrol cars and put them on a beat, that would have a positive impact.

I didn't have the experience my friend from Pennsylvania had of being a prosecutor. I might add, the office he was the chief prosecutor of in Philadelphia tries more criminal cases in 1 year than the entire Federal system tries in a year. The entire Federal system tries fewer cases than are tried in the Philadelphia prosecutor's office, the Philadelphia DA. I didn't have the experience, but I was smart enough to listen to him. And I was smart enough to listen to enough people who have been out there and had the experience. So as hard as it is to believe, it took us about 6 years to convince people that putting local cops on the beat made sense.

I have spent, as has the Senator from New Mexico who was on the floor, a long time in this body. I think we both agree that if you take this job seriously and you sit in hearings year after year, day after day, month after month, unless you are an absolute idiot, you eventually learn something. Every single, solitary criminologist, every single expert, every single person who testified before the Judiciary Committee in the 16 years I chaired it or was a ranking member, said, we don't know a lot about crime but one thing we know: If there is a cop on this corner and no cop on the other corner and a crime is going to be committed, it is going to be committed where the cop is not.

The second thing we know: If you have a cop in a neighborhood and they get to know the folks in the neighborhood, a simple thing happens—trust gets built. They know the cop's name. If they know who the cop is, they are going to be more inclined to call the officer aside when a crime has been committed and say, Officer John, I know who did that. If it is a wave-by and a cop is going by in a car and he is not a community cop, they don't want to take the chance of putting them on the line.

I realize these are very simple, basic, trite-sounding things I am saying, but this program works. It works well.

There are a lot of ideas here that ended up being rejected because they do not pass the test of ''not invented here.'' I realize there are some concerns, on the part particularly of my Republican colleagues, that this may be—and I am not talking about the Senator from Pennsylvania or anyone in particular—a program that is viewed as being identified with the Democratic Party, the President; therefore, why do we keep it going for another 5 years?

I respectfully suggest that there have been some incredibly good ideas that have come out of the Republican caucus, including the block grant notion for police departments, including more flexibility to be given to local law enforcement officers. I want my colleagues to know—and I understand the limitations my friend from Utah had in being able to reach an agreement here—I was prepared to accept the community block grant portion of the Republican program in order to get a consensus in this process. We didn't get there. I hope that when this passes, if it passes, we can still, as we move on through this year, move on to that good idea as well. I didn't try to incorporate it here because it is not my idea, it is the idea of the chairman of the Judiciary Committee and others on the Republican caucus with whom I have to agree.

Now, let me say this: One of the things we learned from the COPS Program and its functioning is that, as well as it works, it can be made to work better. I say to my friend from New York, Senator SCHUMER, he has

been deeply involved. He carried this load in the House when we did this in 1994. He was a leader on the COPS Program. What he and I have both found out from our local law enforcement officers is that they need more flexibility. They need to be able to use this COPS money in ways that go beyond hiring a new shield, to be able to keep cops who are on the beat and use this money. They also want to be able to pay overtime, because they get the same coverage as they would if they hired a new cop, if they are allowed to pay overtime. So we built into this extension of the COPS Program more flexibility.

To the best of my knowledge—my staff is behind me; I don't have it in front of me—I believe every major police organization has endorsed this and endorsed it on this bill, because it works.

The second thing—and I will shortly yield to my friend from Pennsylvania, and then I want to reserve time for my friend from New York as well—is that there is $350 million in here for law enforcement to get new technologies to enhance crime fighting, such as better communications systems so cops in different jurisdictions can communicate, and even the ability to target hot spots, and new investigative tools like DNA analysis. The cops have come to me and they have said, this is what we need; this is what we need.

I am one who believes that as long as they keep doing the job as well as they have been, we should give them the tools they need.

There is one last piece, and then I will yield. The cops have been doing such a good job that the prosecutors in Senator SPECTER's old office are overwhelmed. They are overwhelmed. You put 100,000 more cops on the job, 545,000 cops who have already been on the job and who had not been in community policing but are all now community police, and you have had a phenomenal impact on crime, but also a phenomenal impact on putting more pressure on the court systems in the State and local governments.

So there is in this bill $200 million for community prosecutors to expand the community policing concept to engage the whole community in preventing crime. These cops, as I said, have been so successful with their jobs that the next piece of the puzzle, the new bottleneck, is State prosecutors. Local prosecutors, they need help. So the next major piece of this bill is $200 million for community prosecutors.

Lastly, you are only allowed to use a portion of the COPS money for this, but one of the things the cops have come to us and said is, we have a lot of cops who want to increase their education; we have a lot of cops who want to go back to college, who want to be better cops. If you are a schoolteacher in most districts and you go off and teach school and you go off and get your graduate degree, the school district helps you pay for that. I think we should be allowing the cops to take a portion of the money they get and pay for the continuing education of law enforcement officers. I still believe that the greatest safety lies in educated police officers who fully understand the Constitution, who increase their educational background. So that is another innovation in this bill.

There is much more in it that I will not bore the floor with at this time. I know a lot of people are trying to get through this bill. I respectfully suggest—and it is imprudent of me to say this—I think this is, in a substantive sense, the single most important amendment we could add to this bill.

I guarantee you—and I am willing to bet anybody in this body dinner—that if we add another 50,000 cops out there and this technology, we are going to have a significantly greater impact on reducing juvenile crime than we would without it. It works, folks. Let's not reinvent the wheel.

I have a parliamentary inquiry, Mr. President. How much time remains in control of the Senator from Delaware?

The PRESIDING OFFICER. The Senator has 20 minutes 33 seconds remaining.

Mr. BIDEN. Mr. President, I yield 9 minutes to my friend from Pennsylvania and 9 minutes to my friend from New York. I will reserve 2 minutes for myself to close.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 9 minutes.

Mr. SPECTER. Mr. President, I thank my colleague from Delaware for yielding me the time and for submitting this amendment, which I have cosponsored. I believe that police on the street constitute a very significant deterrent effect—and that the 95,000 or 100,000 police who have been added across America have been a factor in reducing the crime rate—which we have noted in the past several years. I think that is one factor.

The additional prison space, the fact that more men and women are incarcerated—regrettably, but necessarily—I think has been a contributing factor. The armed career criminal bill, which provides for a sentence for 15 years to life for those found in possession of a gun and have committed three or more serious offenses has been a significant contributing factor.

I would like to offer a comment or two about the bill. I compliment Senator HATCH and Senator LEAHY, the managers of the bill, for the work they have done. I am hopeful that within the authorized portions of this bill comes to the appropriations process, there will be an even 50/50 split on measures designed for prosecution and incarceration, contrasted with measures for rehabilitation, job training, and education.

When we deal with juvenile offenders, we deal with a category of offenders who will one day get out. I believe—based on the experience I had being district attorney of Philadelphia for 8 years where the principal job was prosecution, tough sentences for tough criminals, and dealing with career criminals—that when we deal with offenders who are going to be released, we ought to have rehabilitation. It is no surprise when a functional illiterate, without a trade or a skill, leaves incarceration will go back to a life of crime. It is not only in the interest of the individual to have rehabilitation, but also in the interest of law-abiding citizens to avoid having that individual become a repeater.

The same thing, candidly, applies to first and second offenders. Where we have a career criminal—somebody who has three or more major offenses—then I think life imprisonment and throwing away the key is the appropriate consequence. When we deal with juveniles, we ought to be aware of the so-called seamless web, to apply 50 percent of the funding which, of course, comes to the attention of the appropriators. I considered submitting an amendment which would have called for a 50/50 split between the tough aspect of prosecution and incarceration contrasted with rehabilitation, literacy training, and job training. I decided not to do that since it really is within the function of the appropriators.

I have a comment on the vote in the Senate to defeat the provision that was offered as an amendment yesterday. This would have imposed, in this bill, a mandatory requirement on the States that all those 14 years and older be tried as adults on a category of serious offenses. That was defeated soundly. A majority of Republicans voted against it, and I voted against it, and I was glad to see that amendment rejected on a number of grounds. One is that we ought not to be dictating to the States how they construct their juvenile justice system. And we ought not to condition Federal funding, which would be the stick to dictate the States as to how they operate.

The other concern I had was that being tough on crime is very, very important, but there are a lot of variations on juveniles. The theory of the juvenile court was to treat an adjudication of delinquency as those under 18. There is ample discretion in the juvenile court to have a juvenile tried as an adult for a serious offense. That flexibility ought to be left to the juvenile courts, and that flexibility and that determination ought to be left to the States.

Overall, I think this bill will be a step forward. The legislation that has been enacted with respect to guns, I think, has to be viewed as only a part of the picture. My own reluctance on the restrictions on guns has come from the fact that there has not been an appropriate response by the courts on tough sentences for tough criminals.

There are three layers that we have to attack on this line. I have discussed two. One is the life sentences and the long periods of incarceration for career criminals. Second, is realistic rehabilitation for juveniles and other offenders

who will be released from jail. Third, is the violence that has gripped America—juvenile violence especially.

After Littleton, CO, I called Dr. Koop, former Surgeon General, who commented to me that he had—as early as 1982—filed a report identifying juvenile violence as a medical problem. I conferred with Surgeon General Satcher on the issue. We are trying to structure hearings on the Appropriations subcommittee I chair on health and human services which funds the Office of Surgeon General. Those three lines, I think, have to be studied very closely—the sentencing for career criminals and rehabilitation for those who will be released and an effort to understand and try to deal with the culture of violence we have in our society today.

I thank the Chair, and I thank my colleague from Delaware. I yield the floor, releasing the remainder of my time.

The PRESIDING OFFICER. The Senator from New York is recognized for 9 minutes.

Mr. SCHUMER. Mr. President, I thank the Chair, and I thank the Senator from Delaware not only for his generous use of the time—which I will not need all of—but, more importantly, for his leadership on this issue in 1994, and again today. And I thank my friend from Pennsylvania, as well, for both of those things.

I have been in this Congress a long time; this is my 19th year. I have rarely seen a program be as effective as the COPS Program. It has worked. It has brought police officers and, just as important, new policing techniques from the largest city to the smallest rural hamlet. Before this bill passed, America, from one end of the country to the other, was crying out: Do something about ending crime.

Some said it is a local issue, not a Federal issue. But the average person didn't care about that. The average person just said to his or her government: Please, in God's name, do something. Stop the robberies, stop the burglaries, stop the auto thefts, and stop the murders.

A number of us who were concerned about this issue, including the Senator from Delaware, the Senator from Pennsylvania, and myself when I was then in the House, just scoured the country. We tried to find out what worked—not ideological, but something where we could have prevention or punishment. We found out that community policing worked just about better than anything else. Yes, we should have incarcerated more criminals—now we are—and had tougher penalties. Yes, we needed afterschool programs and things to help.

The bill Senator BIDEN and I authored—he in the Senate and myself in the House—was called ''tough on punishment, smart on prevention.'' That was our credo. Probably the most important and best program in that bill was the COPS Program. As I say, I have seen it work in every part of my State.

Violence is down, property theft is down, police officers are more fulfilled in the job that they do. In my own home State, in Buffalo, crime has been slashed more than 30 percent; in Albany, 24 percent; in Nassau County, 24 percent; in New York City, 44 percent. Talk to police chiefs, talk to ordinary cops, talk to criminologists; they will all point to the COPS Program.

My colleagues, this program expires in the year 2000. If it is so successful, and if we want to continue our fight against crime, we should be doing this. Keep up tough punishment, keep up smart prevention, but continue to fund this successful program.

My colleague from Delaware is not being hyperbolic when he says this is one of the most important programs that we passed. We need to continue it. And putting 30 to 50 new officers on the beat, particularly the middled-sized and small cities, which have not applied because they haven't had the chance that the larger cities have had, is vital. It will help economically distressed communities, which all of us represent—no matter what part of the country we are in—to absorb some of the long-term costs of new police hires. And when crime goes down, which it does, because of the COPS Program, there are more jobs in a community, there is better health in a community, and the educational system works better in a community. It is good in every way.

COPS isn't the only reason crime has gone down. But, just the same, no one can reasonably claim it is not a good part of the reason.

I urge my colleagues in the strongest of terms to support this amendment to continue this magnificently successful program.

I yield the remainder of my time.

Mr. BIDEN. Mr. President, I would like to reserve the remainder of the time.

The PRESIDING OFFICER. The Senator reserves 9 minutes 4 seconds.

Mr. SCHUMER. The time the Senator from Delaware so generously yielded to me I yield right back to him.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield such time as the Senator from Oklahoma desires.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank the former chairman of the Judiciary Committee, Senator BIDEN, who is on the floor. Maybe he can answer a couple of questions.

I am trying to find out how much this amendment costs. Can you tell me how much it costs a year?

Mr. BIDEN. It will cost over 5 years $1.15 billion—total cost for 5 years.

Mr. NICKLES. Maybe I am reading the amendment wrong. The way I am reading the amendment, it says——

Mr. BIDEN. I beg the Senator's pardon. It is $1.150 billion per year.

Mr. NICKLES. Just a few billion dollars.

Mr. BIDEN. Over 5 years—it is over $1 billion.

Mr. NICKLES. $1.150 billion each year.

Mr. BIDEN. That is correct.

Mr. NICKLES. That is to hire how many cops?

Mr. BIDEN. It could hire up to 50,000 cops.

Mr. NICKLES. One-hundred and fifty thousand, or fifty thousand?

Mr. BIDEN. It could fund 50,000 cops for the entirety of the 5 years. But it could also only hire 30,000 cops, if in Oklahoma City they decide to use the COPS money for overtime instead of hiring new shields.

Mr. NICKLES. What is the estimated cost, or subsidy, or the Federal payment per cop?

Mr. BIDEN. It is roughly $50,000.

Mr. NICKLES. The first year?

Mr. BIDEN. The first year—per year.

Mr. NICKLES. Let me back up. I will reclaim my time, but please correct me if I am wrong. I asked staff how much this subsidy cost, and they said the old program cost a total of $75,000 over 3-year period—$50,000 the first year, $15,000 the second year, and $10,000 the third year—for a total over a 3-year period of $75,000 in a Federal subsidy.

Mr. BIDEN. That is correct.

Mr. NICKLES. The staff tells me that under the proposed new authorization that cost rises from $75,000 to $125,000 per police officer. Is that correct?

Mr. BIDEN. I don't know how they get that number.

Mr. NICKLES. I am just getting it from staff. My point is that this is an enormously expensive program.

Let me ask the question a different way. If I can have the Senator's attention, I only have 7 minutes and I have to go kind of quick.

Can he tell how much the cost is per cop per subsidy per year? It is graduated—100 percent the first year, and some other reduced percentage over the next 2 years. Can the Senator give us those percentages?

Mr. BIDEN. The same as the existing COPS Program.

Mr. NICKLES. Let me reclaim my time. On page 10 of the amendment, it says ''hiring cops.'' It says the bill is amended by striking $75,000 and inserting $125,000.

The cost of this program—the subsidy of this program right now of the current program, the one we have had for the last 5 years—has been a Federal subsidy per cop of $75,000. That is a pretty generous subsidy. I believe the first year subsidy is $50,000. In Oklahoma that may pay the entire salary of a cop. Maybe it doesn't in some places. But it does in my State. Then the subsidy is reduced the next couple of years so that by the fourth year, the total cost of the program needs to be borne by the city.

This subsidy is much greater. The Senator's amendment says the subsidy increases from $75,000 to $125,000. For

$125,000, you can pay, frankly, probably the entire 3-year salary in many areas—certainly in rural areas. And some people said we purported to help them particularly.

I just question the wisdom of doing it.

I have just two more comments. We are having the Federal Government provide for police in cities, and that is not a Federal responsibility. I think it is a mistake.

I also think it is kind of gratuitous to say this program is responsible for the decline in crime rates. I think that might be a lot more attributable to a change in political leadership in the states and in the Congress. I know the mayor in New York City has had a different philosophy on crime which is greatly responsible for the reduction in crime. Now he may take advantage of this program. In a lot of cities they are going to say: Hey, if you will help pay for our police force, thank you very much.

But why should we be doing it? Is that a Federal responsibility?

The whole purpose of the program initially, if I understand it, was that we were going to put 100,000 cops on the street, but then phase it out. This was not going to be an addiction for cities. We would phase it out where the Federal Government may pay 100 percent the first year, but by the fourth year the subsidy is reduced to zero. Put another way, where the Federal Government was paying most of the subsidy to get this thing started to hire new cops, but by the fourth year the cost would be totally borne by the city. Now we are saying let's extend it. Let's just keep this thing going. Let's have more Federal cops.

Then we passed an amendment yesterday, for the information of my colleagues, over my objection. But it passed by unanimous consent, unfortunately. It said that we have a COPS Program, and some of these cops are going into schools, and we will waive the requirement of local matching funds. In other words, the cops will be paid for 100 percent by the Federal Government. That is now part of this bill. We will waive the local contribution. So it won't be just a partial Federal subsidy, it will be a total Federal subsidy.

Is that the Federal Government's responsibility? I don't think so.

If we want to subsidize cities, subsidize cities. We are saying: Well, let's have the Federal Government do it. We have a problem. Let's just write a check. We don't think the city should be able to decide their own needs.

Maybe they need computers and cars, and not cops. Maybe they need a different training program. But we are saying, no: you are going to have the cops.

There is a study that was done by the inspector general, the IG. Maybe the Senator from Utah will allude to it. The IG's research said—in just one example—52 out of 67 grantees are receiving more grants; 78 percent either could not demonstrate that they redeployed officers, or could not demonstrate they had a system in place to track the redeployment of officers into community policing. At that point, the COPS office counted 35,852 officers under more programs toward the President's goal of adding 100,000: we hadn't made it to 100,000. It says 60 of 147 grantees—41 percent—showed indicators of using Federal funds to supplement local funding instead of using grant funds to supplement local funding.

In other words, hey, Federal Government, thank you very much. You are helping meet our budgets, and we appreciate the contribution. Meanwhile, it just so happens that we have a Federal Government that doesn't have a surplus, if you do not include the Social Security surplus.

I don't think we should be subsidizing cities. I don't think we should get cities addicted to this program that will never end, especially when you are talking about increasing the cost from $75,000 per police officer to $125,000. I don't think we can afford that.

I urge my colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I recommend to the Senator from Delaware that what we should have done is consider this amendment—that is, the Senator's legislative proposal—on the Department of Justice reauthorization bill, and deal with this issue at that time, but only after hearings to see whether we can resolve some of these problems raised by the Inspector General. The Biden amendment reauthorizes the Clinton administration's COPS Program. This amendment would cost in the neighborhood of $7 billion. It doubles the cost of this bill. I don't oppose more money to hire police and have law enforcement, but we need to ensure flexibility in our grant programs. The Biden amendment does not provide for adequate flexibility. The Congress has provided flexible grants to law enforcement through the local law enforcement block grants.

Ironically, the President's budget zeros out funding for the block grant program. Here we are debating a $7 billion amendment. The Department of Justice is proud of this program, but the Department of Justice's Inspector General does not share their view. The Department of Justice's Inspector General found serious mismanagement and inappropriate use of funds.

Let me cite a few examples that the distinguished Senator from Oklahoma referred to:

20 out of 145 grantees, 14 percent, overestimated salaries and or benefits in their grant application. I won't read all of this, but let me cite just a few more.

74 of 146 grantees, 51 percent, included unallowable costs in claims for reimbursement; 52 out of 67 grantees receiving COPS MORE grants, 78 percent, either could not demonstrate that they redeployed officers or could not demonstrate they had a system in place to track redeployment of officers in community policing; 60 of 147 grantees, 41 percent, showed indications of using Federal funds to supplant local funding, instead of using grant funds to supplement local funding; 83 of 144 grantees, 58 percent, either did not develop a good-faith plan to retain officer positions or said they would not retain the officer at the conclusion of the grant.

I believe there are some positive aspects to the COPS Program, but a $7 billion program with serious questions concerning the management of the program and the use of grants by recipients should not pass the Senate with only a 45-minute debate.

I want to work with my colleagues on the law enforcement grant programs, but we should not try to do it on this bill. I will work with anyone who wishes to join me, but not on this bill. I plan to move a Department of Justice reauthorization bill later this year. If my colleagues truly wish to work with me, I suggest to them we do this on that authorization bill.

I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I reserve my remaining time.

The PRESIDING OFFICER. The Senator from Delaware has 9 minutes and the Senator from Utah has 5 minutes 14 seconds.

Mr. HATCH. I yield 3 minutes to the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, Senator HATCH chairs the Judiciary Committee. It would be the responsibility of that committee to give oversight to the COPS Program. It has been a 5-year program and requires a reauthorization.

We just received, within the last month or 6 weeks, an inspector general's report from the Department of Justice. This is President Clinton's Department of Justice. It raised serious concerns about how this program is being managed and administered.

When 78 percent of the recipients could not demonstrate they redeployed officers, or could not demonstrate they had a system in place to track the redeployment of officers in the community policing, then we have a problem, since the whole COPS Program was sold as a program to further community policing. It was supposed to bring new police officers on line.

We found 41 percent of the programs inspected by President Clinton's Department showed indicators of using Federal funds to supplant local funds instead of using grant funds to supplement local funding.

I am reading directly from the report.

These are very serious allegations. To pass this amendment, $7 billion to reauthorize this program, in the dead of night without any hearing would be a colossal blunder. It would be an abdication of our responsibility, especially

in light of this scathing report by the inspector general's office. The thought of it boggles my mind. I can't believe it would be even suggested.

We ought to review, as we were supposed to when the program passed 5 years ago, how it has worked. We haven't had any hearings on it.

I yield the floor.

Mr. FEINGOLD. Mr. President, I rise today in support of the amendment offered by my distinguished colleague from Delaware, Senator BIDEN. I would like to take this moment to highlight one element of Senator BIDEN's amendment, the extension and expansion of the Community Oriented Policing Services (COPS) Program.

I have heard one consistent theme throughout the debate on this juvenile justice bill: a desire to stop, once and for all, the senseless schoolhouse shootings like those that occurred in Littleton, Jonesboro and Paducah. There is a growing sense among Americans that we are no longer safe in our homes, in our schools, in our communities. But while we have heard sharply disparate views about issues like gun control and content of video games in the debate so far, one sure way to reduce crime and restore peace of mind is through community oriented policing.

As you are aware, the COPS Program was established in 1994 to put more police officers on the streets and to encourage police interaction with the communities in which they work. This program is a shining example of an effective partnership between local and federal governments. It provides federal assistance to meet local objectives. It does not interfere with local prerogatives; it does not impose mandates. The program provides funding to counties, towns and cities to enable communities to put more police on the street. Individual police and sheriff's departments have discretion over how those funds are used, because they know what problems their communities face and the places they need help most.

COPS has had a positive, and very tangible, impact on communities throughout the country, including in my home state of Wisconsin, by putting more police officers on our streets and making our citizens safer. In the state of Wisconsin alone, COPS has funded over 1,100 new officers and contributed more than $70 million to communities to make it happen. The COPS Program has succeeded because it helps individual officers to be a friendly and familiar presence in their communities. They are building relationships with people from house to house, block to block, school to school. This community policing helps the police to do their job better, makes the neighborhoods and schools safer and, very importantly, gives residents peace of mind.

Let me illustrate the strong causal relationship between community oriented policing and a reduction in the crime rate. I would like to share with you the story of Chief Jeff Lieberman of Fountain City, Wisconsin. Chief Lieberman polices a small town with big city crime problems. Chief Lieberman moved to Fountain City in 1992 and was faced with an alarming juvenile crime rate. What could he do to decrease the juvenile crime rate? While jails were being built and sentences were being stiffened, Chief Lieberman reached out to the community. He embarked upon a crusade to visit classrooms and teach children about law enforcement and safety. To allow the children to relate to him as they would to any other person and feel comfortable talking to him, he would sometimes dress in shorts and bring his dog to class. Not only has he won their respect, the children now show greater respect for their community. This success is reflected by the fact that during his tenure, he has reduced the juvenile crime rate by an astonishing 99%.

Chief Lieberman has earned a reputation in the community as a caring and compassionate citizen, as well as an outstanding law enforcement officer. I might add that Chief Lieberman was recently recognized for his effective community oriented policing by the National Law Enforcement Officers Memorial Fund as the March 1999 Officer of the Month.

I do not believe the answer to the tragedies in Littleton, Jonesboro and Paducah is one extreme or the other—a ban on all guns or censorship of the entertainment industry. The answer is to educate our young people, nurture them, protect them and give them thousands more ''Chief Liebermans'' across this country. Senator BIDEN's bill does just that. It provides for expanding the much-lauded COPS Program to ensure that we have 30,000 to 50,000 ''Chief Liebermans'' in schools, towns and cities across, not only Wisconsin, but the entire nation. I urge my colleagues to join me in supporting this amendment and continuing our drive to put more police officers on the streets and in touch with their communities.

I yield the floor.

Mr. HATCH. Let me make just a few more comments on this amendment. It has been suggested by the amendment's sponsors that the COPS program is responsible for the decline in crime in our country. Now, crime rates are still far too high, and are very high by historical standards. Be that as it may, we have seen some improvement in the past several years. But has the COPS Program been responsible for even the modest improvements we have seen? The evidence certainly suggests not.

First of all, the program's grants have always been too spread out to have more than a marginal impact on crime rates. Second, law enforcement authorities themselves have been skeptical. For instance, in 1995, Chicago experienced sizable reductions in murder, robbery, and assault well before the COPS Program ever got off the ground. The Chicago Police Department cited a number of local initiatives that made a difference, including tracking every gun used by juvenile offenders, and using a towing ordinance in effect for narcotics and prostitution enforcement.

Time and time again, the factor cited by the successful police executives traced the roots not to the Federal Government, but to local institutions, citizens, and police chiefs imposing accountability on their local police departments.

Perhaps the best example of all is New York City, where a new police chief successfully attacked quality-of-life crimes and enforced accountability for the officers of the New York Police Department by setting standards of performance backed by a system of incentives and disincentives. New York City's murder rate fell so fast its decrease alone accounted for over 25 percent of the total nationwide drop in homicides in 1996.

In 1997, the 21.7-percent drop in murders in New York City represented 14.8 percent of the total national decrease in murders. Yet, in New York City, which had 38,189 police officers in 1996, they added precisely 342 Clinton cops by 1995. Only 28 of the 342 new cops were actually new hires.

I would like hearings on this matter. I would like another full authorization bill. I hope our colleagues will not vote to double the costs of this bill with this particular amendment, as well intended as it is.

The distinguished Senator from Delaware knows that I have great feelings for him and for what he is trying to do, but I also believe we ought to do it in the right way.

Mr. BIDEN. Benjamin Disraeli says there are three kinds of lies: lies, damn lies, and statistics.

I don't know where my friends have been. Every major police agency in the United States of America strongly endorses this particular bill. The National Fraternal Order of Police, the International Association of Chiefs of Police, the National District Attorneys Association, the National Association of Police Organizations.

You all ought to go home and speak to your chiefs. Find me in your State more than a handful of police officers who will come and say this is a bad idea. Find me anybody in this country who will say adding 92,000 cops on the street has not had an impact on crime.

Where have you been? What are we talking about here? This doesn't even pass the smell test. Those cops don't matter? Ask Rudy Giuliani, who picks up the phone and calls me and says, JOE, great idea, when the COPS bill passed.

Mr. Riordan, a Republican mayor in Los Angeles: Great bill.

I wonder if anybody goes home to their States. My Lord, I don't know where you all are. I look at these numbers.

Let's talk about that report. Remember, I said there are three kinds of lies: lies, damn lies, and statistics.

That report referred to by the inspector general says 1.2 percent of the COPS Program could have been spent better. Name for me a multibillion-dollar program the Federal Government has ever conceived that has a 1.2-percent problem.

Come on. As my daughter's friends would say, Get real. What are we talking about here?

I was so amazed by the assertions being made, I lost my train of thought here. The inspector general's report, ''Summary of the Findings of the IG,'' page II:

> In considering our COPS audit results it should be kept in mind that they may well not represent the overall universe of grantees because, as a matter of policy, the COPS program has referred to us for review those riskiest grantees.

Do you get this? Unlike the Defense Department, the Department of Education, any other Department, the Attorney General's Office said, we think maybe some of what we put out there may not be being used properly, so you go out and investigate for us. Give me a break.

When is the last time you heard someone at the Defense Department say: You know, we may have overpaid a contract; you ought to go investigate.

When is the last time you heard someone at the Department of Education say: You know, we think we may have given a school district too much money; go investigate.

With the Attorney General of the United States of America, in the COPS Program, there is a department called COPS. They said: We want you to look at this. We could have made some mistakes here. We are not certain that every municipality used this money for cops the way we wanted to use it. Go look at it.

Now these guys are trying to hoist them on their own request?

By the way, 1.2 percent? I ask my friend from Oklahoma, let's look at the Defense Department; 1.2 percent? I will lay you 8 to 5 I can find a 50-percent waste of money in half the programs you support: 1.2 percent, what an indictment. Come on. You do not like the COPS Program because it was not invented there.

By the way, I find it fascinating. One of my friends said: You know, part of the problem here is this has nothing to do with COPS. It had to do with political leadership.

Guess who has been in charge. A guy named Clinton. That is the first admission I have heard: Clinton reduced crime, more than the COPS Program. More than the COPS Program. I find that not true, but kind of encouraging.

Look, COPS makes a difference. Ask your folks back home, ask the people in the gallery, ask the people out in the street, where would they rather have their money being spent? This works. This works.

By the way, this bill has a little provision BARBARA BOXER has in here. It says we will pay for all the money it costs to put a cop in a school. Go home and tell the folks you do not want to do that. Go home and tell the folks that is simply a local requirement.

Inflexibility? The reason it is under $25,000 is flexibility. We want to give them more flexibility to use the moneys they can use, still requiring the local municipality, the State, to put up their own money to do this. Come on, name a program that has worked this well. Name a program that has had this much success. Name a program that has this little amount of waste. Name a program that has fewer Federal strings attached to it. Name a program.

By the way: Oversight; oversight. We have had 5 years to have oversight. One of the reasons we have not had oversight hearings, I suspect, is you do not want to hear the results. Call in your mayors, call in your chiefs of police, call in your citizens, call in the PTA, call in the Marines. Call in anybody you want. Say: ''By the way, I'll tell you what we are going to do. We are going to cut funding for COPS, that's what we're are going to do.'' I dare you. Come on.

In New York City—I do not know how many New York received. I will tell you what, New York State over this period received—I bring up the subject because New York was mentioned —New York State has 10,550 cops. ''But they did not make any difference, by the way. New York is safer because there is a Republican mayor. That is the reason. COPS had nothing to do with this, nothing to do with this. I want you all to know that, COPS had nothing to do with crime going down.''

Does everybody hear that? Is everybody listening? ''The additional cops have nothing to do with this.'' That is the Republican position. COPS do not have anything to do with this. If they do, the Federal Government should not be involved.

Let me conclude by saying this. My friend says, why should the Federal Government be involved? Because Federal policy is part of the problem. The drug problem in America is a Federal problem, not just a local problem. A significant portion of the crime is caused as a consequence of the international drug problem, and it is a Federal problem, Federal responsibility.

I thank my friend. I hope my colleagues will vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

The Senator from Utah.

Mr. HATCH. Mr. President, I note the distinguished Senator did not dispute the findings of the inspector general.

I ask unanimous consent an editorial from USA Today entitled ''100,000–cops program proves to be mostly hype'' be printed in the RECORD.

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

[From USA Today, Apr. 13, 1999]

100,000-COPS PROGRAM PROVES TO BE MOSTLY HYPE

Nassau County, N.Y., needed more police, or so it said. So, Uncle Sam ponied up $26 million from President Clinton's much-vaunted Community Oriented Policing Services (COPS) program to help it add 383 police to the beat.

And what happened? In an audit being compiled for the Justice Department, its Office of Inspector General found that the actual number of county-funded police officers went from 3,053 in May 1995 to 2,835 in May 1998—a decline of 218.

What's going on? A lot of funny number crunching at the expense of taxpayers and possibly crime-fighting.

When President Clinton initiated the $8.8 billion program in 1994, he promised it would put 100,000 more police on the street after five years. Then, communities pay their own tabs.

But Nassau County is one of more than 100 communities where federal auditors found costly problems. A final report detailing them is expected this week. And initial research for that report paints a bleak picture.

Richmond, Calif., for example, received $944,000 in COPS grants from 1995 to 1997 to add nine officers. It used the money to fund vacant positions instead. Atlanta, federal auditors found, used COPS money to replace it own police funds, too. And auditors looking at $400,000 in grants for Alexandria, Va., found no documentation that equipment purchased with the grant money put more officers on the street as pledged.

Many of the communities have excuses. For instance, Nassau County is in fiscal crisis.

The discrepancies, though, indicate much of the hype for COPS is misleading.

Two weeks ago, Vice President Al Gore claimed COPS had already added 92,000 police, who were playing ''a significant role in reducing crime,'' Yet, as the audits indicate, the numbers don't add up. Many of the new police are fictitious. In addition, the administration counted 2,000 police hired with prior federal grants toward the 100,000 goal.

Finally, a third of the counted positions have come from grants funding new civilian positions and equipment, not police. Spokane, Wash., which wasn't audited, says it added only a couple of dozen officers, though it was credited with adding more than 90. The reason: a $2.5 million equipment grant.

As for the claim that more police equals less crime, the evidence isn't clear.

Nassau County, despite its drop in police, has seen its crime rate drop as much as in New York City, which has increased its force by a third since 1992. And many communities that didn't accept any COPS grants saw crime decline precipitously, too.

The COPS program has done little to explain these discrepancies. It instead points to support from police chiefs and national crime statistics as proof the program works.

The public naturally wants safer streets, and the Clinton administration is trying to politically cash in again by pushing a new $6.4 billion plan to add up to 50,000 more police on the beat. But before Congress gives it the money, it should demand that the administration better monitor its grants and results. Taxpayers shouldn't be asked to pay for police who may not even be there.

Mr. BIDEN. Mr. President, I ask unanimous consent the report of the IG be printed in the RECORD.

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

POLICE HIRING AND REDEPLOYMENT GRANTS SUMMARY OF AUDIT FINDINGS AND RECOMMENDATIONS, OCTOBER 1996–SEPTEMBER 1998—EXECUTIVE SUMMARY

I. BACKGROUND

In 1994, the President pledged to put 100,000 additional police officers on America's streets to promote community participation in the fight against crime. He subsequently signed the Violent Crime Control and Law Enforcement Act of 1994 (Crime Act), authorizing the Attorney General to implement over six years an $8.8 billion grant program for state and local law enforcement agencies to hire or redeploy 100,000 additional officers to perform community policing.

The Attorney General established the Office of Community Oriented Policing Services (COPS) to administer the grant programs and to advance community policing across the country. Management of the COPS grants entails both program and financial management. The COPS office is responsible for: (1) developing and announcing grant programs, (2) monitoring programmatic issues related to grants, (3) receiving and reviewing applications, and (4) deciding which grants to award. The Department of Justice's Office of Justice Programs (OJP) is responsible for financial management of the COPS program and is charged with: (1) disbursing federal funds to grantees, (2) providing financial management assistance after COPS has made an award, (3) reviewing pre-award and post-award financial activity, (4) reviewing and approving grant budgets, and (5) financial monitoring of COPS awards.

In order to meet the President's goal of putting 100,000 additional police officers on the street, COPS developed six primary hiring and redeployment grant programs for state and local law enforcement agencies. Hiring grants fund the hiring of additional police officers and generally last for three years. Redeployment grants are generally one-year grants and fund the costs of equipment and technology, and support resources (including civilian personnel) to free existing officers from administrative duties and redeploy them to the streets. At the end of the grant period, the state or local entity is expected to continue funding the new positions or continue the time savings that resulted from the equipment or technology purchases using its own funds.

According to COPS, as of February 1999, COPS and OJP had awarded approximately $5 billion in grants under the six programs to fund the hiring or redeployment of more than 92,000 officers, of which 50,139 officers had been hired and deployed to the streets. COPS obtains its ''on the street'' officer count by periodically contacting grantees by telephone.

II. SUMMARY FINDINGS

From October 1996 through September 1998, the Office of the Inspector General (OIG) performed 149 audits of COPS and OJP hiring and redeployment grants totaling $511 million, or 10 percent of the funds COPS has obligated for the program. We continue to perform additional grant audits as our resources permit. Executive summaries of these audits are available for public review on our website: <http://www.usdoj.gov/oig>. A comprehensive program audit of COPS' and OJP's administration of the overall $8.8 billion Community Policing Grant Program is nearing completion and should be issued in the next few months.[1]

Our audits focus on: (1) the allowability of grant expenditures; (2) whether local matching funds were previously budgeted for law enforcement; (3) the implementation or enchantment of community policing activities; (4) hiring efforts to fill vacant sworn officer positions; (5) plans to retain officer positions at grant completion; (6) grantee reporting; and (7) analyses of supplanting issues. For the 149 grant audits, we identified about $52 million in questioned costs and about $71 million in funds that could be better used. Our dollar-related findings amount to 24 percent of the total funds awarded to the 149 grantees.

In considering our COPS audit results, it should be kept in mind that they:

(1) Are snapshots as of the grant report's issuance date. Subsequent communication between the auditee and COPS/OJP may result in correction to, or elimination of, the issues noted during our audit; and

(2) May well not be representative of the overall universe of grantees because, as a matter of policy, COPS has referred to us for review what it believes to be its riskiest grantees. During FY 1998, we began supplementing COPS requests for audits by selecting about one-half of the grantees ourselves. Our results to date, however, may still be skewed because of the number of audits conducted on COPS-requested grantees and because our selections were not entirely random. Some of our audits were also intended to be targeted at suspected problem grantees. (Of the 149 audits we performed through September 30, 1998, 103 were referred to us by COPS or OJP. Although we selected only 46 of the 149 audits summarized in this report ourselves, our results to date do not differ markedly from the results in the COPS/OJP referred audits.) It should also be noted that COPS and OJP do not always agree with our findings and recommendations. Upon further review and follow-up, COPS and/or OJP may conclude that, in their judgment, a grant violation did not occur.

Other findings include:

20 of 145 grantees (14 percent) overestimated salaries and/or benefits in their grant application. The COPS office depends primarily on the information provided by the law enforcement departments that submit the grant applications. When grantees overestimate salaries and/or benefits, COPS overobligates funds that could be available for use elsewhere. Also, grantees may be using the excess grant funds for purposes that are unallowable.

74 of 146 grantees (51 percent) included unallowable costs in their claims for reimbursement. Types of unallowable costs include overtime, uniforms, and fringe benefits not previously approved by OJP. When grantees overstate costs, COPS program costs are overstated and taxpayer money is at risk.

52 of 67 grantees receiving MORE grants (78 percent) either could not demonstrate that they redeployed officers or could not demonstrate that they had a system in place to track the redeployment of officers into community policing. The COPS office counts 35,852 officers under the MORE program towards the President's goal of adding 100,000 additional officers.

60 of 147 grantees (41 percent) showed indicators of using federal funds to supplant local funding instead of using grant funds to supplement local funding. The findings included budgeting for decreases in local positions after receiving COPS grants (27 grantees), using COPS funds to pay for local officers already on board (7 grantees), not filling vacancies promptly (22 grantees), and not meeting the requirements of providing matching funds (35 grantees). When grantees use grant funds to replace local funds rather than to hire new officers, additional officers are not added to the nation's streets. Instead, federal funds are used to pay for existing police officers.

83 of 144 grantees (58 percent) either did not develop a good faith plan to retain officer positions or said they would not retain the officer positions at the conclusion of the grant. COPS and OJP started awarding community policing grants in FY 1994 and most grants last for about three years. If COPS positions are not retained beyond the conclusion of the grant, then COPS will have been a short-lived phenomena, rather than helping to launch a lasting change in policing.

106 of 140 grantees (76 percent) either failed to submit COPS initial reports, annual reports, or officer progress reports, or submitted these reports late. The reports are critical for COPS to monitor key grant conditions such as supplanting and retention.

137 of 146 grantees (94 percent) did not submit all required Financial Status Reports to OJP or submitted them late. Without these reports, OJP cannot monitor implementation of important grant requirements.

33 of 146 grantees (23 percent) had weaknesses in their community policing program or were unable to adequately distinguish COPS activities from their pre-grant mode of operations. The findings suggest a need for COPS to refine its definition of the practices that constitute community policing as well as those that do not.

After we issue our grant reports, COPS, OJP, and the grantee are responsible for ensuring that corrective action is taken. By agreement with COPS, OJP is our primary point of contact on follow-up activity for the grants, although COPS works with OJP to address our audit findings and recommendations, particularly those that indicate supplanting has occurred. The options available to COPS and OJP to resolve our dollar-related findings and recommendations include: (1) collection or offset of funds, (2) withholding funds from grantees, (3) bringing the grantee into compliance with grant terms, or (4) concluding that our recommendations cannot or should not be implemented. To address our non dollar-related findings and recommendations, COPS and OJP can, in addition to other options, bring the grantee into compliance with grant requirements or waive certain grant requirements. When OJP submits documentation to us showing that it has addressed our recommendations, the audit report is closed.

The report consists of the body of the report; a detailed matrix setting forth the audit findings made during the 149 audits; the response of COPS and OJP to a draft of the report, and our reply to their response.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, are the yeas and nays ordered on any of these amendments?

The PRESIDING OFFICER. On the Bond amendment only.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

[1] In addition to expanding on issues contained in this summary report, the program audit will report on COPS' ability to meet the President's goal to put 100,000 additional police officers on the street by 2000. The exact nature of the goal has become confused because of conflicting statements made by Administration officials, who state that the goal is to put 100,000 new officers on the street by the year 2000, and recent statements made to use by COPS officials, who state that the goal is to fund 100,000 new officers. The program audit addresses that issue at length and also addresses COPS' and OJP's monitoring of grantees and the quality of guidance provided to grantees to assist them in implementing essential grant requirements.

Mr. HATCH. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 345, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 345, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—41

Allard	Domenici	McConnell
Ashcroft	Enzi	Murkowski
Bennett	Fitzgerald	Roberts
Bond	Frist	Rockefeller
Bunning	Gorton	Roth
Burns	Grassley	Sessions
Byrd	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Coverdell	Kohl	Thomas
Craig	Kyl	Thurmond
Crapo	Lott	Warner
DeWine	Lugar	

NAYS—56

Abraham	Feinstein	Mack
Akaka	Graham	Mikulski
Baucus	Gramm	Moynihan
Bayh	Grams	Murray
Biden	Gregg	Nickles
Bingaman	Hagel	Reed
Boxer	Harkin	Reid
Breaux	Hutchinson	Robb
Brownback	Inouye	Santorum
Bryan	Jeffords	Sarbanes
Cleland	Johnson	Schumer
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Daschle	Kerry	Thompson
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Voinovich
Durbin	Levin	Wellstone
Edwards	Lieberman	Wyden
Feingold	Lincoln	

NOT VOTING—3

Hollings	Landrieu	McCain

Mrs. BOXER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 371

Mr. LOTT. Mr. President, I ask unanimous consent that the remaining votes—there are two of them in a series—be limited to 10 minutes in length. Senators, please don't leave the room. We are actually going to see if we can do one in 10 minutes. It is this one right now.

Mr. LEAHY. Mr. President, will the distinguished majority leader allow a minute on each side just prior to the vote?

Mr. LOTT. Usually we do that. I hope that we will not exceed that.

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

Mr. BIDEN. Mr. President, on the Biden amendment, Biden-Kohl-Schumer-Boxer-Specter amendment, it is very basic. Every major police organization in the country endorses this amendment. It adds a total of $600 million a year for the next 5 years for cops and $200 million a year for the next 5 years for prosecutors. It is endorsed by every major police organization. I hope my colleagues will vote for it.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, our bill is $1.1 billion per year. This is a $7 billion add-on. The fact of the matter is, we are going to have a Department of Justice authorization bill in the future. We will look at this and try to do it. We will have hearings on it, and we will do it the right way. It shouldn't be done on this bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 371. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is necessarily absent.

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—48

Abraham	Edwards	Lieberman
Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Inouye	Reed
Boxer	Jeffords	Reid
Breaux	Johnson	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Roth
Cleland	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Specter
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NAYS—50

Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Smith (NH)
Chafee	Hatch	Smith (OR)
Cochran	Helms	Snowe
Collins	Hutchinson	Stevens
Coverdell	Hutchison	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Enzi	Mack	

NOT VOTING—2

Hollings	McCain

The amendment (No. 371) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I am grateful to Senators HATCH, ALLARD, ASHCROFT, and SESSIONS who have spent countless hours over the past two Congresses addressing the complex issues of school safety and juvenile violence.

And, needless to say, I deeply appreciate their accommodating my concerns regarding a bill that I regard as among the most significant pieces of legislation to be considered this Congress—and for their having included three of my amendments in the manager's education package.

When enacted, these provisions will improve access to public school disciplinary records by other schools; expand the authority of schools to run a national criminal background check on their employees; and encourage State and local governments to run such checks on all school employees who are charged with providing educational and support services to our children.

Together, these provisions will make sure that local public, private, and parochial schools are able to make informed decisions about these individuals—whether a student, a teacher, or other school employee—who pose an unreasonable risk to the safety and security of our children.

Mr. President, we all share a common responsibility to protect our children and a common hope that our children will have a bright future. Though we disagree on the wisdom of creating more gun control laws, there are things that we ought to agree are necessary and in our children's best interests.

In this spirit, I introduced a bill in the past two Congresses seeking to extend the provisions of the Gun-Free Schools Act to illegal drugs. This amendment is based on that bill and is cosponsored by the distinguished Assistant Majority Leader, Mr. NICKLES, and the distinguished Senator from South Carolina, Mr. THURMOND. I trust that this amendment will be looked upon favorably by Senators on both sides of the aisle.

Mr. President, this amendment will strike an important blow in the war against drugs by helping to protect America's school-children from the scourge of drugs in their classrooms. It does this by requiring States to adopt a low mandating ''zero tolerance'' for illegal drugs at school in order to qualify for Elementary and Secondary Education Act (ESEA) funds. Zero tolerance is defined as requiring any student in possession of a felonious quantity of this contraband at school to be expelled for not less than one year. Its adoption will finally send a clear unambiguous message to students, parents, and teachers—drugs and schools do not mix.

Anybody who questions the necessity of this measure should consider these excerpts from the 1998 CASA National Survey of Teens, Teachers and Principals. This outstanding report was

prepared by the National Center on Addiction and Substance Abuse at Columbia University under the direction of President Carter's former HEW Secretary, Joseph Califano. Under the heading ''Drug Dealing In Our Schools'', the report states:

For too many kids, school has become not primarily a place for study and learning, but a haven for booze and drugs. . . . Parents should shutter when they learn that 22 percent of 12- to 14-year-olds and 51 percent of 15- to 17-year-olds know a fellow student at their school who sells drugs. . . . Indeed, not only do many of them know student drug dealers; often the drug deals take place at school itself. Principals and teachers may claim their schools are drug-free, but a significant percentage of the students have seen drugs sold on school grounds with their own eyes. . . . In fact, more teenagers report seeing drugs sold at school (27 percent) than in their own neighborhoods (21 percent).

In other places, the report details that students consider drugs to be the number one problem they face and that illegal drugs are readily available to students of all ages. Exacerbating this terrible situation, illegal drugs are not cheaper and more potent than ever before. The CASA report goes on to state that ''one in four teenagers can get acid, cocaine or heroin within 24 hours, and given enough time, almost half (46 percent) would be able to purchase such drugs.'' Clearly, eliminating drugs from America's classrooms is a necessary first step to the restoration of order in our schools.

The harm that illegal drugs causes our students in incalculable. Though its' ill effects, disruptions, and the violence associated with it are not limited to those actually involved in the drug trade. The PRIDE survey, conducted by the National Parents' Resource Institute for Drug Education, found a link between school violence and drugs when it demonstrated that:

Gun-toting students were 23 times more likely to use cocaine;

Gang members were 12 times more likely to use cocaine; and

Students who threatened others were 6 times more likely to use cocaine than others.

Clearly, the connection between drugs and school violence is an irrefutable as it is frightening.

Mr. President, it should seem obvious that many children take guns to school because they are either involved in illegal activity or because they seek to defend themselves from those who are. It is clear that any further effort to eliminate guns and violence from schools must focus not merely on the gun but on the reasons why students choose to arm themselves. My amendment does precisely that.

My home state of North Carolina has not been immune to the ravages of illegal drugs. In fact, ''possession of a controlled substance'' has been either the first or second most reported category of school crime in North Carolina for the past four years. That's according to North Carolina State University's Center for the Prevention of School Violence, an outstanding organization that tracks the incidence of school crime and suggests ways to prevent it.

As bleak as the picture is, there are immediate steps that we can take to reverse course. Those who are on the ''front lines'' of our country's drug war have important things to contribute to the discussion. Overwhelmingly, students, teachers and parents support the adoption of a zero tolerance policy for drugs at school.

Among those surveyed, the CASA study found broad support for the adoption of firm policies on random locker searches, drug testing of student athletes, and zero tolerance policies. Regarding zero tolerance, 80% of principals, 79% of teachers, 73% of teenagers and 69% of parents voiced support for the adoption of such a policy at their school.

Additionally, 85% of principals, 79% of teachers and 82% of students believe that zero tolerance policies are effective at keeping drugs out of schools and that they would actually reduce drugs on their campus. Quoting from the CASA report again:

If these students believe them [zero tolerance policies] so effective, these policies must make an impact on their decisions to not bring drugs on campus. Given this, it seems that schools . . . should implement and strictly enforce zero tolerance policies. Perhaps in doing so they can increase their likelihood of eradicating drugs on their school grounds.

It is not my position that this amendment, by itself, will eliminate all drugs from our schools but it is clear that this is a long overdue step in the right direction.

This policy is firm but fair. The drug trade and the violence associated with it have no place in America's classrooms. Schools should foster an environment that is conducive to learning and supportive of the vast majority of students who want to learn. Children and teachers deserve a school free of the fear and violence caused by drugs.

Removing drugs and violence from our schools is a goal that we should all agree on. The President, in his 1997 State of the Union address, said ''we must continue to promote order and discipline'' in America's schools by ''remov[ing] disruptive students from the classroom, and hav[ing] zero tolerance for guns and drugs in school.'' I could not agree more with the President on this point: it is time that the Senate go on record in support of removing illegal drugs from America's classrooms, by approving this amendment.

Mrs. MURRAY. Mr. President, there was yet another tragedy in Atlanta this morning. This is one more violent act that brings America together in sorrow. We hope that it is also an opportunity to bring us together to learn some important lessons. What are people—young people especially—saying to us all when they turn to violence to address their problems?

This is an American challenge. We all have to do our part—in partnership. We must each do our job, but we must all work together. We in Congress are trying to do our part—passing bills, appropriating funds. But the Congress, like all of us, will do a better job when it really listens to the American people, and listens to young people. Every young person has the capacity to grow up to be a constructive citizen or a violent criminal. It's our job—all of us—to listen better.

When we do listen, we find two issues at the core: working in partnership, and improving the tools to help build the adult/child relationship.

How do we work together? There are many people who have answered this problem in communities all over the Nation. They abandon turf issues and special interests, they listen, and they remember that the child is at the center of the work. There are specific things we can learn in Congress from these communities—where to find the money and time and energy to get the work done together.

How do we improve the relationships and connections that young people make with adults?

It frustrates me that we cannot do some fairly obvious things—for young people, families, teachers, and communities.

What can we do for students? Why is it that we can't figure out ways of building meaningful roles for young people in their own education, and in their own community? Why is it that if you are too young to vote, you are not taken seriously or treated as a citizen? Why is that when a child's hand goes up in the classroom, that child can't get the attention he or she needs from a teacher?

We can do some simple things. We can ask young people what they think about how to prevent violence. We can reduce class size. We can make sure that when we hire more teachers, we have better and smaller schools in which to put them. We all have a role in making these things happen.

What can we do to better support parents and families? We all know that a strong family unit is the engine that drives our economy, and that when it works well, it is the best and cheapest prevention program out there. So why is it so difficult to improve the tools and information available to parents?

All parents want to do their best, so why is it off limits to talk about the problems with our economy, to talk about how parents spend too much time at work and not enough time with kids? Why can't we do the simplest things to make life easier for people who work harder and harder to provide for their family and spend less and less time with their kids?

We can start with something simple, like making sure parents don't suffer at work just because they want unpaid leave time to go to a school conference, or take care of an emergency at their child's day care. We should improve the Family and Medical Leave Act. Again, there are things we all can do to make these things happen.

What can we do for teachers and other educators? Why can't we give them a small enough class so they get to know each child, and can find 5 extra minutes with the child who needs the most help that day? Why do we expect our teachers to deal with every educational and social issue under the Sun, but we can't treat them as professionals?

We need to reduce class size. We need to improve teacher training. We need to improve teacher pay and professionalism. And, we need to think about one thing we can each do to act as a resource to that classroom. Is there a phone call we could make? An educational tool we could buy for the class? A day we could give to working for the passage of the school levy? There are things we all can do.

What can we do to help communities support the adult-child relationship, and build connections for young people? Why is it that we don't have more adults participating in the lives of young people? Why is it that a student can walk from home to school to the mall to the quickie-mart and back home again and feel invisible and anonymous? Why can't we allow our communities into our public school buildings at nights and on weekends?

We should expand community education opportunities, and when we offer tax incentives, they should be the right ones that help communities invest in young people. We should each make sure to smile at young people, to keep an eye on them, to set high expectations, and to give them meaningful opportunities. Again, there are things we all must do.

All over America, there is a conversation going on around the kitchen table, and on the school bus, and at the mall, and around the water-cooler. We need to listen carefully to this conversation—to what is being said and asked for, and what is not. We need to act carefully, and invest wisely. But, most importantly, each of us need to keep this conversation going—to find out what to do and do it—until we create the America we want for our children and young people. And you know one of the best, most overlooked resources for building the America we all want? The young people themselves. Let's start by listening to them.

The juvenile justice bill fails to fully address these problems. While many amendments have been adopted that focus on the right solutions, we failed to achieve support for most of those that would have focused this legislation on those things that could best solve youth violence. With that said, I will vote for the bill because I believe it has many positive provisions that combat youth violence.

The bill provides important block grants to States to assist them in their efforts to address juvenile crime. While I prefer a high percentage of these funds be required for prevention, I know my State of Washington intends to continue to invest in steering kids away from crime through proven community-based prevention programs. The bill also provides for Internet filtering and screening software that will allow parents to regulate what their children are viewing over the Internet. It also made transfers of several types of firearms to children illegal.

As I have already said, I agree with many of my colleagues who have said that there is no legislative ''quick fix'' to this terrible problem that is destroying so many young lives. The issue of youth violence involves complex and interrelated factors. From prevention programs that involve parents, teachers and communities, to strong law enforcement measures, there are many different tools we must use to attack the problem from all angles and prevent further tragedies like the one in Littleton.

We must punish those who commit crimes, but we must also do all we can to prevent crimes before they happen, to intervene before small problems grow to crisis proportions. We must give schools and law enforcement officers the tools they need to identify the warning signs that lead to juvenile violence and to let youth know that crime is not an acceptable answer.

While the bill does contain a ''prevention block grant,'' there is no guarantee the money will be used for prevention. Dollars from these grants could be used to build more prisons or increase enforcement. While these are laudable goals, without a guaranteed set-aside for prevention, a State could fail to attack youth violence before it starts. We must reach out to prevent at-risk youth from starting down a path of crime in the first place. While we were unable to secure specific amounts for prevention, I am hopeful that States will use their discretion and undertake prevention programs. An ounce of prevention is worth a pound of cure.

Some of my colleagues have offered amendments to provide resources for effective violence prevention, and I am disappointed they have not been adopted. Last week, Senator ROBB offered an amendment that would have provided funds for schools and law enforcement to identify and effectively respond to juvenile violent behavior. It would have established a National Clearinghouse of School Safety Information and provided an anonymous hotline to report criminal behavior and a support line for schools and communities to call for assistance.

In addition, the Robb amendment would have provided treatment programs that identify and address the symptoms of youth violence to steer juveniles away from criminal behavior. It also would have provided authorization for afterschool programs, which have been very effective at keeping high-risk youth off the street and involved in activities that assist in their education and growth.

I am hopeful that similar legislation will be offered again and that my colleagues will reconsider and give it their support.

In addition to my disappointment at the lack of adequate resources for violence prevention, I have other concerns about this bill.

I am very concerned about the fate of our youth serving time in prisons and other detention facilities. While we must certainly punish those who have committed crimes, we must make a serious attempt at rehabilitation and not allow juveniles to turn into hardened criminals in the course of their incarceration. It is well-known that juveniles who have contact with adults in prison are further indoctrinated into a life of crime or worse, assaulted or even killed. Current requirements prohibit juveniles, whether they were tried as adult or juveniles, from being kept in any adult jail or corrections institution where they have regular contact with adult inmates.

The Hatch bill weakens that standard by allowing ''incidental'' contact and permitting construction of juvenile facilities on the same site as those for adults. Even convicted juveniles should be protected from hardened criminals. Those youth who are the most successful in a mixed juvenile-adult environment will be the ones we will least want back on the streets once they have served their time. It is my understanding that the Feinstein-Chafee amendment improved this provision, for which I am thankful, increasing protection of our children while they are in state custody.

I also feel the Hatch bill critically weakens measures to address disproportionate minority confinement. The legislation replaces references to ''minority'' or ''race'' with the vague phrase ''segments of the juvenile population.'' Further, the Hatch bill is less instructive on what must be done to address the problem of discrimination, essentially making the issue a mere concern rather than a problem we must correct. This is the wrong direction to be heading if we truly seek to achieve fair and unbiased treatment of all people within the judicial system. An amendment to correct this problem was defeated.

The Hatch bill also contains very troublesome provisions to allow the prosecution of children as young as 14 as adults, and gives prosecutors—not judges—the discretion to try a juvenile as an adult. Judges make judgments; prosecutors prosecute. It is obvious who is better qualified to render an unbiased decision on whether a 14-year-old should be considered an adult.

There is another idea missing from this bill. To solve youth violence we must all talk to the true experts: young people themselves. We need to listen to more than the student body presidents and the class valedictorians. We need to hear from ''regular'' kids.

I know that I have learned a tremendous amount from doing that. Two weeks ago, I met with 10th graders in Kent, WA who told me some shocking

things. They said that nearly all of them knew where they could get a gun within a day. That is a sad statement abut the lives of our youth. They are afraid and they are thinking about how to defend themselves with a gun.

In the end, we were able, through the Lautenberg amendment on gun shows, to close one of the more glaring loopholes that allow young people and children to get guns. After much flip-flop on the issue by Republicans, a handful of their courageous Members lent enough support to this amendment by Senator LAUTENBERG to close some of these guns show loopholes, but this was not until they had tried two amendments of substance on the issue. Furthermore, it took the Vice President of the United States, acting in his role as the President of the Senate, to cast the final vote to break the tie that will help keep kids and guns separate.

Overall, S. 254 does much to tackle the tough questions surrounding juvenile justice. But as I have stated, there are a number of ways we could have improved this bill. We need to focus on preventive measures that bring together parents, kids, counselors and teachers; provide resources to enable people to identify and intervene in potentially dangerous situations; and give law enforcement the tools it needs to deal with the symptoms of youth violence not just the results of the violence.

I hope in the future we can pass legislation that will address the remaining problems and can come up with even better solutions. We owe that much to our children.

Mr. KOHL. Mr. President, I am voting in favor of the juvenile crime bill, S. 254, because on balance it comes close enough to promoting the kind of approach that we need to reduce juvenile violence—the type of plan that is already working to reduce crime in cities like Milwaukee and Boston, and the type of strategy that will help us prevent future tragedies like the recent school shootings in Jonesboro, AR, Peducah, KY, Springfield, OR, Conyers, GA and Littleton, CO. There are many causes of juvenile crime—poverty, a deterioration of American families and family values, increased youth access to firearms, and the explosion of violent images in our culture, just to name a few—and it would be naive to presume there is a simple solution. Indeed, we need a comprehensive crime-fighting strategy to address all of these root causes and the entire range of juvenile offenders and potential offenders, from violent predators to children at-risk of becoming delinquent. That is the approach this bill takes, more or less.

Let me explain the four keys to this balanced, proven strategy: keeping guns out of the hands of kids and of criminals; punishment; prevention; and reducing kids' exposure to violence in our culture.

First, this bill will help keep firearms out of the hands of young people. It promotes gun safety with the Kohl/Hatch/Chafee amendment to require the sale of child safety locks with every new handgun. Child safety locks can help save many of the 500 children and teenagers killed each year in firearms accidents, and the 1,500 kids each year who use guns to commit suicide. Just as importantly, they can help prevent some of the 7,000 violent juvenile crimes committed every year with guns children took from their own homes. This measure passed with an overwhelming 78 votes, twice the number of votes a virtually identical proposal received last year.

The bill also helps identify who is supplying kids with guns, so we can put them out of business and behind bars. Through the ''Youth Crime Gun Interdiction Initiative,'' the Bureau of Alcohol, Tobacco and Firearms has been working closely with cities like Milwaukee and Boston to trace guns used by young people back to the source. Using ATF's national database, police and prosecutors can target illegal suppliers of firearms and help stop the flow of firearms into our communities. While I served as Ranking Member of the Subcommittee for Treasury Appropriations, we provided funding to expand this initiative to 27 cities. This measure will expand the program to up to 200 other cities and, with the increased penalties outlined above, help stanch illegal gun trafficking.

And not only will this bill prohibit all violent criminals from owning firearms, no matter what their age, through ''Project CUFF'' it also encourages aggressive enforcement of this federal law by dedicating federal prosecutors and investigators to this task. This builds on a successful program, supported by the NRA, that has helped reduce gun violence in Richmond, Va., and Boston through increased federal prosecution, close coordination with state officials, public outreach and fewer plea bargains. Still, to be truly effective, this measure needs to be improved, so that we don't force it on uncooperating cities where it's unlikely to succeed.

Unfortunately, the bill fails in its stated intent to close an inexcusable loophole that allows violent young offenders to buy guns legally when they turn eighteen. Under current law, violent adult offenders can't buy firearms, but violent juveniles can—for example, even the kids convicted of the schoolyard killings in Jonesboro, Arkansas—once they are released at age eighteen. Simply put, this has to stop, and the bill tries to do this—sort of. A provision declares that all violent felons are disqualified from buying firearms, regardless of whether they were 10, 12, or just a day short of their 18th birthday at the time of their offense. However, although the bill technically closes this loophole, because it only applies to violent crimes committed once juvenile records become ''routinely available'' on-line, its indefinite effective date merely opens another loophole in its place. This provision may never take effect. When juvenile records are all ''on-line'' is a long way away, and in the meantime many young criminals will continue to have the ability to get a gun at 18 once they get out of jail.

Each of these provisions was addressed in my juvenile crime bill, the 21st Century Safe and Sound Communities Act. In addition, after much back-and-forth—and forth-and-back—we finally agreed to close the gun show loophole once and for all. I am pleased to see a bipartisan consensus start to emerge over taking these steps to keep guns out of young hands.

Second, we need to lock up the worst offenders, including dangerous violent juveniles. Naturally, we can't even begin to stop violent kids unless we have police officers on the street to catch them, and the state and local prosecutors, defense attorneys and courts we need to try them. To that end, this bill provides $100 million per year for state and local prosecutors, defense attorneys and courts for juveniles. Unfortunately, we missed an opportunity to extend the highly successful COPS program—which is due to expire after next year—in this bill. Extending the COPS program will make it easier to lock up dangerous juveniles, and I look forward to working with my colleagues to make that happen.

Of course, we can't keep criminals off the streets unless we have a place to send them. So this measure dedicates funding for juvenile prisons or alternative placements of delinquent children—a long-needed measure for which I have advocated since before the 1994 Crime Act.

This proposal also helps rural communities keep dangerous kids behind bars. Now, although the closest juvenile facility may be hundreds of miles away, federal law prohibits rural police from locking up violent juveniles in adult jails for more than 24 hours. This means that state law enforcement officials either have to waste the time and resources to criss-cross the state even for initial court appearances, or simply let dangerous teens go free. In my view, that's a no-win situation. This measure gives rural police the flexibility they need by letting them detain juveniles in adult jails for up to 48 hours, or longer with parental consent, provided they are separated from adult criminals. Working with Wisconsin's rural sheriffs, I first proposed a similar extension three years ago.

Moreover, this measure will help lock up gun-toting kids—and the people who illegally supply them with weapons. It builds on my 1994 Youth Handgun Safety Act by turning illegal possession of a handgun by a minor into a felony. And the same goes for anyone who illegally sells handguns to kids. Both of these provisions were in my juvenile crime bill. Kids and handguns don't mix, and our Federal law needs to make clear that this is a serious crime.

In addition, this measure makes it easier to identify the violent juveniles who need to be dealt with more severely—by strongly encouraging states to share the records of juvenile offenders and providing the funding necessary for improved record-keeping. The fact is that law enforcement officials need full disclosure to make informed judgments about who should be incarcerated, but current law allows too many records to be concealed or to vanish without a trace when a teen felon turns eighteen.

Finally, this measure includes my proposal, cosponsored by Senator DEWINE: the Violent Offender DNA Identification Act of 1999, which will promote the use of modern DNA technology to resolve unsolved crimes committed by both juveniles and adults. Our measure will reduce the backlog of hundreds of thousands of unanalyzed DNA samples from convicted offenders by providing the funding necessary to analyze them and put them ''on-line,'' so they can be shared between states and matched with crime scene DNA evidence. And, while all 50 states authorize collection of DNA samples, it closes the loophole that allows DNA samples from Federal and Washington, D.C. offenders to go uncollected. The Department of Justice estimates that upgrading our DNA databases alone could solve a minimum of 600 crimes tomorrow.

Third, a balanced approach also requires a significant investment in crime prevention, so we can stop crime before it's too late. In fact, no one is more adamant in support of this approach than our nation's law enforcement officials. For example, last year more than 400 police chiefs, sheriffs and prosecutors nationwide endorsed a call for after-school programs for all children. And in my home state of Wisconsin, 90 percent of police chiefs and sheriffs I surveyed agreed that we need to increase federal prevention spending.

This proposal promotes prevention by concentrating funding in programs that already have a record of success and those that rely on proven strategies, like the ones that give children a safe place to go in the after-school hours between 3 and 8 p.m., when juvenile crime peaks.

For example, it includes my amendment to expand the Families and Schools Together (FAST) program, a successful program that finds troubled youth and reconnects them with their schools and families. FAST, which was created in my home state of Wisconsin and is already being implemented in 484 schools in 34 States and five countries, helps ensure that youth violence does not proliferate to our schools and communities by empowering parents, helping to improve children's behavior and performance in school, preventing substance abuse, and providing support and networking for families by linking them to community resources and services.

The bill also promotes innovative prevention initiatives by reauthorizing and expanding the Prevention Challenge Grant program (formerly known as Title V), which former Senator Hank Brown and I authored in 1992. This program encourages investment, collaboration, and long-range prevention planning by local communities, who must establish locally tailored prevention programs and contribute at least 50 cents for every federal dollar. And, in response to concerns I raised about the risk of watering down this program with non-prevention uses, 80 percent of its funding is reserved for prevention—that is, programs addressing at-risk kids before they ever enter the juvenile justice system.

It also builds on our support for the valuable work of Boys & Girls Clubs by continuing to dedicate funding to the Clubs and expanding funding to other successful organizations like the YMCA. And it requires that at least 25 percent of $450 million juvenile accountability block grant be dedicated to prevention.

Of course, we shouldn't blindly invest in prevention programs, just because they sound good. Quality matters. And it would foolish to throw good money after bad. That's why this measure requires at least 5 percent of all Prevention Challenge Grant funds—and more than 15 percent of FAST funds—be set aside for rigorous evaluations, so we can keep funding the programs that work, and zero out programs that don't.

Finally, this bill also aims to provide us with a better understanding of how violence in our culture is marketed to children, and it encourages industry to take self-regulatory steps to reduce this violence. For example, the Brownback amendment, which I consponsored, orders a joint FTC/DOJ study of the marketing practices of the video game, motion picture, and television industries to determine whether or not the industries are peddling violence to kids. In particular, it will help us determine whether or not the industries are peddling violence to kids. In particular, it will help us determine whether the video game industry is marketing the same ultraviolent games to children that are rated ''adults only.''

Mr. President, while explaining what causes a tragedy like Littleton remains a mystery, the question about how to reduce juvenile crime no longer is. We have a good idea about what works. And this bill overall is a step in the right direction. Like any piece of legislation, of course, it isn't perfect. For example, we need to really close the loophole that allows violent juvenile offenders to buy guns. We need to extend the COPS program so that we have enough police officers on the streets to catch and lock up dangerous juveniles and criminals. We should restore the so-called ''mandate'' requiring states to make efforts to reduce disproportionate minority confinement. This requirement, which I helped write in 1992, at most simply encourages states to address prevention efforts at minority communities. And it may be most important for its symbolic recognition of continuing racial divisions that dominate our society and our justice system, whether or not the justice system is actually discriminatory. Still, it makes no sense to cast away this provision without any hearings, any organized opposition, or any constitutional challenges to it over its seven-year history. I am hopeful that the House, which has always been supportive of this provision, will insist on restoring it in Conference.

And while the bill is a step forward for prevention, we can still do better. Although some suggest that as much as 55 percent of the $1 billion in spending at the heart of the bill goes toward prevention, in reality less than 30 percent is dedicated to prevention ($160 million through the 80 percent set-aside of the Prevention Challenge Grant, $112.5 million through the 25 percent earmark from the Accountability Block Grant, and $15 million for mentoring). To effectively reduce juvenile crime, the ratio of prevention spending to enforcement spending has to be a lot higher.

Finally, Mr. President, I express my appreciation to Senators HATCH and LEAHY, and their staffs—Beryl Howell, Manus Cooney, Rhett DeHart, Mike Kennedy, Bruce Cohen, Ed Pagano, Craig Wolf, and, of course, Brian Lee, Jessica Catlin, Kahau Morrison and Jon Leibowitz of my staff—for their hard work in putting together this balanced bill, which is significant improvement from where we were headed last Congress. I look forward to continuing to work with them when we move to conference.

Mr. ASHCROFT. Mr. President, I rise to speak in favor of final passage and explain why I plan to vote for final passage of S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. At the outset, I must make clear that I do not support every provision in this bill. There is much in this bill that is simply extraneous—provisions that do not address the problem of youth violence. Moreover, there are items included in this bill by amendment that I opposed. There are also items that were included through the manager's amendment, such as the creation of new federal judgeships, that I oppose.

However, there are many provisions in this bill that I have long championed and have worked hard to include in the bill. Let me briefly summarize these key provisions of this law:

ASHCROFT PROVISIONS IN S. 254

There are four main Ashcroft initiatives in the core Senate juvenile justice bill, S. 254. Those provisions are: (1) Trying juveniles as adults on the federal level, (2) targeting adults who use juveniles through increased penalties, (3) funding for improving juvenile record system and incentives for

recordsharing, and (4) Charitable choice—preventing discrimination against faith-based organizations that stand ready to provide counseling to troubled youth.

First, the core bill makes it easier for federal prosecutors to try juveniles as adults in federal court. Specifically, the bill provides local United States Attorneys with new authority to try juveniles 14 and older who commit violent federal crimes and federal drug crimes as adults. This provision is an important improvement in the law. Violent federal crimes and major federal drug crimes are not youthful indiscretions or juvenile pranks—these are serious adult crimes. The bill makes important steps to ensure that in the federal system juveniles who commit adult crimes do adult time.

Second, the core bill also targets adults who would exploit children and ensnare them into a life of crime. One sad consequence of a juvenile justice system that treats juvenile crime less seriously than adult crime is that adults try to game the system by using juveniles to perform criminal tasks with the greatest risk of detection. Adults use children as drug runners or couriers precisely because the children are likely to end up back on the street even if they are caught. The core bill addresses this problem by including two provisions from my Protect Children from Violence Act, S. 2023, from the last Congress. Specifically, section 202 increases the mandatory minimums for adults who use juveniles to commit drug crimes from 1 year to 3 years for first-time offenders and from 1 year to 5 years for repeat offenders. Section 203 doubles the penalties on adults who use juveniles to commit crimes of violence and trebles penalties for repeat offenders.

The core bill also includes important provisions to facilitate the sharing of juvenile criminal records. This legislation encourages States to keep records on violent juveniles that are the equivalent of the records kept for adults committing comparable crimes. In addition, the bill conditions the availability of federal funds on States' participation in a nationwide system for collecting and sharing juvenile criminal records. Under the bill, state authorities must make these criminal records available to federal and state law enforcement officials and school officials to assist them in providing for the best interests of all students and preventing more tragedies. Providing judges and school officials with accurate records is a critical step in preventing tragedies. School officials and judges have a right and a need to know when they are dealing with dangerous juveniles. Providing accurate records is not only an important role for the government, it is a role that only the federal government can fulfill. Violent juveniles routinely cross state lines. The federal government has an important role in ensuring that their criminal records cross state lines with them.

Finally, the core bill includes my provision ensuring that faith-based organizations have an equal opportunity to provide services to at-risk youth. The experience of the past decade has made clear that government does not have all the answers for what ails our culture. No organizations should be excluded from the process of trying to heal our violent culture, let alone faith-based organizations. The ''charitable choice'' provisions in the bill do not provide for any special treatment for faith-based organizations, but they do ensure that faith-based groups will not be arbitrarily excluded when the government turns to non-governmental organizations to deal with at-risk juveniles.

The bill in its current form also includes a number of important provisions that were added by amendment. These include:

Semi-automatic assault rifles ban for juveniles. The Senate overwhelmingly adopted this Ashcroft amendment. The amendment had three major provisions:

(1) Ban on juvenile possession of semi-automatic assault rifles. This provision extends the current limitations (subject to the current exceptions) on youth possession of handguns to semi-automatic assault weapons. The provision does not affect a juvenile's right to possess hunting rifles.

(2) Requirement that juveniles be tried as adults for weapons violations in a school zone. Juveniles who commit firearms violations near a school zone must be sent a clear message—such actions will not be tolerated and will be prosecuted to the full extent of the law.

(3) Increased penalties for unlawfully transferring a firearm to a juvenile with knowledge that it will be used in a crime of violence.

ASHCROFT EDUCATION PACKAGE

The Senate overwhelmingly approved this comprehensive amendment which reflects not only specific Ashcroft initiatives but the work product of the Republican Education Task Force, which Senator ASHCROFT chaired. The major Ashcroft initiatives in the package include:

(1) Flexibility for local schools to address school violence. This provision provides schools with the flexibility to use existing education funds, and the new education funds included in the Republican budget, to address security concerns as they see fit. Permissible uses include everything from the installation of metal detectors, to the formulation of inter-agency task forces, to the introduction of school uniform policies.

(2) School uniforms. Another Ashcroft provision makes clear that nothing in federal law prevents local school districts from instituting school uniform policies.

(3) School records. Another provision makes clear that student disciplinary records should follow students to a new school, without regard to whether it is public or private. Teachers and administrators need to know who they are dealing with and whether they have security risks in their midst.

FRIST-ASHCROFT IDEA AMENDMENT

This amendment removes a loophole in federal law that prevents States from disciplining an IDEA student in the same manner as a non-IDEA student, if an IDEA student brings a gun to school. The Senate passed this common sense amendment 74–25. A number of my colleagues also added my initiatives to the bill through their own amendments. These include:

HATCH/CRAIG COMPREHENSIVE CRIME PACKAGE

This amendment included a number of Ashcroft mandatory minimums. Specifically, Ashcroft provisions in the bill raised mandatory minimums:

(1) From 1 to 3 years for distributing drugs near a school zone (from 1 to 5 years for subsequent offenses). This provision was adopted from ASHCROFT's Protect Children from Violence Act, S. 2023.

(2) From 1 to 3 years for distributing drugs to a juvenile (1 to 5 years for subsequent offenses). This provision was adopted from ASHCROFT's Protect Children from Violence Act, S. 2023.

(3) From 7 to 10 years for brandishing a firearm during the commission of a federal crime. This provision was adopted from ASHCROFT's Juvenile Misuse of Firearms Prevention Act, S. 994.

(4) From 10 to 12 years for discharging a firearm during the commission of a federal crime. This provision was adopted from ASHCROFT's Juvenile Misuse of Firearms Prevention Act, S. 994.

The amendment also included two new Ashcroft mandatory minimum sentences also adopted from S. 994:

(1) A 15-year mandatory minimum for maiming or injuring someone with a firearm during the commission of a federal crime

(2) A 5-year mandatory minimum for transferring a firearm with knowledge that it will be used in a crime of violence.

HATCH/FEINSTEIN GANG AMENDMENT

The Senate also overwhelmingly passed the Hatch-Feinstein amendment designed to target and punish gang violence. The amendment included many provisions long-championed by ASHCROFT, including almost the entirety of the gang subtitle of ASHCROFT's ''Protect Children from Violence Act,'' S. 538, introduced on March 4, 1999.

Specifically, the amendment included the following Ashcroft provisions: enhanced sentences for crimes committed as part of gang violence, new crimes for interstate gang activities, the treatment of juvenile crimes as adult crimes for purposes of the federal laws imposing severe penalties on armed career criminals, and increased penalties for witness tampering. All of these provisions were included in the ''Combating Gang Violence'' subtitle of ASHCROFT's Juvenile Crime bill.

In summary, this is not a perfect bill. There is much that is extraneous and some that is misguided. I am hopeful some of these provisions will be removed in conference. On balance, however, this bill will help make our schools places of learning, not places of fear.

Mr. SMITH of New Hampshire. Mr. President, I rise in strong opposition to final passage of S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. I do so because I believe that the gun control amendments to this bill that have been adopted by the Senate will do lasting damage to the fundamental right to keep and bear arms, which is guaranteed by the Second Amendment to the Constitution of the United States.

I am outraged, Mr. President, that the gun control lobby in this country has taken advantage of the tragedy last month at Littleton, Colorado, as well as the incident today in Georgia, to mount an unprecedented assault on the Second Amendment rights of law-abiding gun owners. They cast blame on law-abiding gun owners, while leaving the movie moguls and video game makers who promote wanton violence to children virtually unscathed.

Frankly, Mr. President, I am also disappointed by some of my colleagues in my own political party here in the Senate. I have spent a great deal of time, over the past two weeks as the Senate has debated this bill, arguing privately with these colleagues and trying to persuade them to hold the line against this onslaught of gun control amendments. Sadly, Mr. President, I have not been successful. Nevertheless, I am proud to have stood up for the Second Amendment, even, in one case, when I was only one of two Senators to vote against a gun control amendment to this bill.

I am particularly angered, Mr. President, by what the Senate has voted to do with respect to gun shows. Sadly, it seems evident to me that the practical effect of the Lautenberg Amendment, adopted earlier today when Vice President GORE cast the tie-breaking vote, will be effectively to ruin gun shows—to put them out of business. This, unfortunately, seems to me to be the aim of the Lautenberg Amendment.

I am also deeply concerned about the effects of the so-called ''trigger lock'' amendment. Even though the amendment appears only to require trigger locks to be sold with guns, the legal effect of the amendment may well be to do great damage to the Second Amendment rights of law-abiding gun owners. This is because courts may construe the amendment as creating a new civil negligence standard under which gun owners will be seen as having a legal obligation to use their trigger locks or face legal liability if their gun is misused by some third party.

If, in fact, the law develops such that gun owners have a legal obligation to use trigger locks, these law-abiding gun owners may be forced to put their safety, and that of their families, at risk. It is certainly not unreasonable to imagine a single mother of small children, depending on her gun for safety, panic-stricken as she struggles unsuccessfully with her trigger lock in the middle of the night after hearing a burglar break into her home.

Mr. President, these are but two examples of the grave harm that the gun control amendments adopted to this bill by the Senate have done to the Second Amendment rights of Americans. When the heat of this moment is gone, and the passions so shamelessly stirred up by the gun control lobby have subsided, I am afraid that many of those who supported these amendments will realize that they have done the Second Amendment serious and lasting harm. Sadly, though, it will be too late.

Mr. President, I yield the floor.

AMENDMENT NO. 322

Mr. DOMENICI. Mr. President, I rise today to address an issue raised by the Hatch amendment number 322, which the Senate agreed to on Tuesday, May 11. While I support both the underlying bill and this amendment, I am concerned about a portion of this amendment which is within the jurisdiction of the Senate Committee on the Budget. The Hatch amendment contained language which amends that portion of the 1994 Crime Bill which created the Violent Crime Reduction Trust Fund.

This portion of the amendment does two things: (1) it extends the fund through fiscal year 2005 and (2) it extends the discretionary spending limits (albeit indirectly) through fiscal year 2005 for the violent crime reduction category. As a result, the amendment was subject to a point of order pursuant to section 306 of the Congressional Budget Act of 1974 because it contained matter within the jurisdiction of the Budget Committee and was offered to a bill that was not reported by the committee. I chose not to challenge this provision because I support the underlying legislation and I have been assured by the Chairman of the Judiciary Committee, Senator HATCH, that my concerns will be addressed when the bill goes to conference.

Let me begin by saying that I support full funding for crime fighting efforts. I am, however, troubled by this amendment because—in its attempt to ensure funds are available for these important programs it has stumbled into a series of, as yet, unresolved issues regarding the budget process: should the discretionary spending limits be extended beyond fiscal year 2002? If yes, should there be limits within the overall cap for items such as defense, highways and mass transit, and crime? Current law (section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985) provides limits on discretionary spending (the ''caps'') through the end of fiscal year 2002.

When the issue of the caps was last addressed during deliberations on the Balanced Budget Act of 1997, Congress decided that the overall caps on discretionary spending would end after 2002, that the defense cap would end after 1999, and that the crime cap would end after 2000. This was decided as part of a very carefully crafted compromise between the Congress and the President, involving both mandatory and discretionary spending, that has now led us to a balanced budget. Our ability to live within these discretionary caps has played a significant role in producing not only a balanced budget, but surplus for the foreseeable future. Thus I feel it is not appropriate at this time to extend only the crime cap without addressing the broader issue of the appropriate level of discretionary spending. Moreover, I fear that raising the issue of the caps at this time will unnecessarily complicate the passage of this important juvenile justice legislation.

I know that I do not have to remind my colleagues how difficult it is going to be both this year and next to pass all 13 appropriations bills and stay within the caps which we currently have in place for the next three years. While I am supportive of funding for criminal justice programs, I am concerned that extending the crime cap will only make an already difficult task that much harder. I might also point out to my colleagues that by extending only the crime cap and not the overall cap, this legislation has the effect of limiting crime spending for fiscal years 2003 through 2005 when there will be no such limits upon any other type of discretionary spending.

I thank my colleague from Utah, Senator HATCH, for recognizing my concern with this amendment and I look forward to working with him on this issue when the bill is in conference.

Mrs. FEINSTEIN. Mr. President, I rise to thank the distinguished managers of this bill, Senators LEAHY and HATCH, for including the Feinstein-Chafee amendment regarding separation of juveniles from adults in custody in the managers' ''technical amendment.'' I also wish to thank Senators AKAKA, FEINGOLD, KOHL, and JEFFORDS, who agreed to co-sponsor our amendment, for their support.

This amendment resolves a major concern that many, many people had with this bill, and will help speed the way to its final passage.

Our amendment is designed to strengthen the bill's requirements for separating juveniles in custody from adult criminals. We should not be counter-productive by allowing juvenile detention to be a school for crime, nor should we be cruel in permitting the victimization of youths by hardened adult criminals.

Under current law, juveniles cannot have any contact with adult inmates. None whatsoever. When a juvenile is in an adult facility, that juvenile cannot be within ''sight or sound'' of any adult—ever!

Why is that one of the four so-called ''core'' requirements?

Because I remind my colleagues that we are talking about children.

Children who may or may not have committed a violent offense.

Children who may have been arrested for the first time.

Children who perhaps are on the wrong path but most likely never commit another offense ever: statistically, over two-thirds of juveniles arrested never commit another crime.

In the early 1970s, before there were protections for children who came into contact with our court system, a number of studies found that children in adult jails were subject to rape, assault, sodomy, murder, and other acts which sometimes, frankly too often, led to suicide.

The Judiciary Committee at the time learned of numerous tragedies and outright atrocities, including a report on practices in Philadelphia which estimated that 2,000 sexual assaults occurred inside adult jails or ''sheriff's vans'' used to transport juvenile and adults to court over a 26-month period. One juvenile was raped five times while inside such a van.

The numbers tell the story. Children in adult jails are 8 times more likely to commit suicide; 5 times more likely to be sexually assaulted; twice as likely to be assaulted by staff; and 50 percent more likely to be attacked with a weapon than are children in juvenile facilities, according to studies by the Justice Department and others.

In my state of California, we passed our laws to keep juveniles out of adult jails in the mid-1980s in the wake of tragedies such as the case of Kathy Robbins, a 15-year-old girl who hung herself when she was placed in an adult jail in Glenn County for violating a juvenile curfew.

After those reports were released, Congress enacted the Juvenile Justice Delinquency Prevention Act and subsequent renewals of the law to ensure that children would be treated fairly by the juvenile justice system and be kept safely away from adults in jail.

Kentucky chose to forgo Federal money and continue placing juveniles in adult jails. This chart shows the result: four suicides, one attempted suicide, two physical assaults by other inmates, two sexual assaults by other inmates, and one rape by a deputy county jailer.

Let me give you some of the names behind the numbers:

In Oldham County, 15-year-old Robert Lee Horn, Jr. was put in jail for truancy and beyond parental control. He was paraded through the jail in front of adult inmates who called out to him for sex. He hung himself.

In McCracken County, a 16-year-old Todd Selke was put in adult jail for being a runaway and disorderly conduct. He committed suicide.

In Franklin County, a 16-year-old runaway was raped by a deputy county jailer.

The core protections help to prevent these tragedies elsewhere around the country.

Yet, this bill as introduced would have weakened the core protections for children. I was puzzled by why the authors felt the need to weaken the current standard. According to the latest figures from the Justice Department, 48 of the 50 states are in compliance with the current standard for separating children from adults, including such large, rural states as Alaska and Montana.

And yet this bill would have allowed for juveniles to be in close proximity to adult inmates. While it generally prohibits physical contact between juveniles and adults in custody, there is an exclusion. And the exclusion to the definition of prohibited physical contact said that the term ''does not include supervised proximity between a juvenile and an adult inmate that is brief and incidental or accidental.''

In other words, it permitted regular contact, planned contact, between delinquent juveniles and adult criminals, as long as it is deemed to be ''brief and incidental.''

Senator CHAFEE and I were concerned that this standard would have allowed juveniles to be paraded in front of adult inmates as they are being transported from one area of a facility to another. That means that every day the same youth could be required to walk by the adult cell block.

Adult inmates would have a chance to tease, taunt, harass, use suggestive body language, expose areas of their private parts, spit, and otherwise scare juveniles as they are being transported through the facility.

Now some might think that's OK. That to scare a child by exposing them to adults may reduce the likelihood of the child committing another crime.

But, actually, these young children who might be tough on the outside, but not so tough on the inside, could be scared to death—meaning scared enough to commit suicide—just as Robbie Horn was in Oldham County, Kentucky.

Older gang members, or veteranos, could pass messages on to younger gang members to coordinate criminal activities, or to intimidate them from turning state's evidence.

The amendment which we have agreed upon remedied this. In fact, it is even better than what Senator CHAFEE and I originally proposed. It makes two changes, which bring the bill into line with the current Justice Department regulations:

1. It eliminates any planned or regular contact between juvenile delinquents and adult criminals by changing the exception to ''brief and inadvertent, or accidental,'' contact. The minority report to last Congress' juvenile crime bill, S. 10, erroneously stated that the Justice Department's regulations, like the bill, excepted ''brief and incidental'' contact. However, there is a world of difference between ''incidental'' and ''inadvertent.'' Changing this exception to the Justice Department standard has the same effect as the amendment which Senator CHAFEE and I originally proposed, and will provide much greater protection for juveniles in custody.

2. The amendment passed in the manager's package then goes even further, limiting even this exception to nonresidential areas only. In other words, there is no exception at all in residential areas to the prohibition on physical contact between juveniles and adults. Specifically, the amendment provides that the inadvertent/accidental exception applies only ''in secure areas of a facility that are not dedicated to use by juvenile offenders and that are nonresidential, which may include dining, recreational, educational, vocational, health care, entry areas, and passageways.'' This language is taken almost verbatim from the Justice Department regulations.

This amendment ensures that a juvenile cannot be in close proximity such as supervised ''brief and incidental'' parades by adult cells or other planned or spontaneous actions by adults to transport children from one area of a jail to another.

Our amendment was endorsed by: The Department of Justice; the Children's Defense Fund; the National Network for Youth; and the National Collaboration for Youth, an alliance of 28 youth service groups, including Boy Scouts, 4-H, Girl Scouts, American Red Cross, National Urban League, United Way and YMCA.

A coalition of 22 other organizations wrote to the Majority Leader, asking that the standard for separating delinquent juveniles and adult criminals be strengthened, including: Minorities in Law Enforcement, National Association for School Psychologists, National Council of Churches of Christ-Washington Office, the Alliance for Children and Families, Campaign for an Effective Crime Policy, and Covenant House.

With the passage of this amendment, we have provided this protection, and substantially improved this bill. Coupled with the passage of other amendments that I offered, including banning imports of large-capacity ammunition magazines, the Federal Gang Violence Act, the James Guelff Body Armor Act, and anti-bombmaking legislation, this bill now represents a great step forward in the effort to reduce juvenile and violent crime. I ask that I be added as a co-sponsor of the bill, and I urge my colleagues to join me in supporting its passage.

EARLY CHILDHOOD DEVELOPMENT

Mr. KENNEDY. Mr. President, I support Senator KERRY's amendment on early childhood development. The nation's highest priority should be to ensure that all children begin school ready to learn. Our governors realized this a decade ago when they said that the country's number one goal should be to prepare all children to enter

school ''ready to learn.'' We aren't going to meet our school readiness goals by the year 2000, but we must do all we can to reach this objective soon. We cannot afford to let another decade pass without investing more effectively in young children's educational development.

As we debate how to prevent youth violence, it is gratifying that Senators on both sides of the aisle are recognizing the importance of investing in children while they are young. During these early, formative years, constructive interventions have the potential to make the greatest impact. Early learning programs—including pre-kindergarten, Early Head Start, Head Start, and other activities for young children—are building blocks for success. Scientific research confirms that in the first few years of life, children develop essential learning and social skills that they will use throughout their lives.

Quality early education stimulates young minds, enhances their development, and encourages their learning. Children who attend high quality preschool classes have stronger language, math, and social skills than children who attend classes of inferior quality. Low-income children are particularly likely to benefit from quality programs.

These early skills translate into greater school readiness. First graders who begin school with strong language and learning skills are more motivated to learn, and they benefit more from classroom instruction. Quality early education programs also have important long range consequences and are closely associated with increased academic achievement, higher adult earnings, and far less involvement with the criminal justice system.

Investments in these programs make sense, and they are cost effective as well. Economist Steven Barnett found that the High/Scope Foundations' Perry Preschool Project saved $150,000 per participant in crime costs alone. Even after subtracting the interest that could have been earned by investing the program's funding in financial markets, the project produced a net savings of $7.16—including more than $6 in crime savings—for every dollar invested.

At risk 3 and 4 years olds in the High/Scope program were one-fifth as likely, by age 27, to have become chronic lawbreakers, compared to similar children randomly assigned to a control group. In other words, failure to provide these services multiplied by 5 times the risk that these infants and toddlers would grow up to be delinquent teenagers and adults.

Over 23 million children under 6 live in the United States, and all of these children deserve the opportunity to start school ready to learn. To make this goal a reality, we must make significant investments in children, long before they ever walk through the schoolhouse door. Our children cannot wait, nor can we.

In March, Senator STEVENS and I introduced a bill, S. 749, cosponsored by Senators DODD, JEFFORDS, and KERRY, to create an ''Early Learning Trust Fund'' to improve funding for early education programs. This bipartisan bill provides states with $10 billion over 5 years to strengthen and improve early education programs for children under 6. By increasing the number of children who have early learning opportunities, we will ensure that many more children begin school ready to read. The ''Early Learning Trust Fund'' will provide each state with resources to strengthen and improve early education.

Governors will receive the grants, and communities, along with parents, will decide how these funds can best be used. Grants will be distributed based on a formula which takes into account the relative number of young children in each state, and the Department of health and Human Services will allocate the funds to the states. To assist in this process, governors will appoint a sate council of representatives from the office of the governor, other relevant state agencies, Head Start, parental organizations, and resource and referral agencies—all experts in the field of early education. The state councils will be responsible for setting priorities and approving and implementing state plans to improve early education.

One of the great strengths of the ''Early Learning Trust Fund'' is its flexibility. States will have the flexibility to invest in an array of strategies that give young children the building blocks to become good readers and good students. Essentially, our proposal does four things: (1) it enhances educational services provided by current child care programs and improves the quality of these programs; (2) it builds on the momentum of states like Georgia and New York, which are expanding their pre-kindergarten services; (3) it expands Head Start to include full-day, full-year services to help children of working parents begin school ready to learn; and (4) it ensures that children with special needs have access to as wide a range of these services as possible.

This legislation will give communities what they have been asking for—funding for coordinated services to ''fill in the gaps.'' Communities needs this so-called ''glue'' money to strengthen their early education services, and this approach will give them much needed support. As a result, many more children will benefit and begin school ready to learn, ready to reach their full potential.

The nation's future depends on how well today's children are prepared to meet the challenges of tomorrow. If we are serious about improving our children's lives, I urge my colleagues to support the Early Learning Trust Fund that Senator STEVENS and I will bring to the floor soon.

Mr. REED. Mr. President, in the past week the Republican majority in the Senate finally has begun to show signs of understanding that Americans want reasonable gun control policies in this country. We have made some progress by passing a ban on juvenile possession of semiautomatic assault weapons and a ban on the importation of high-capacity ammunition clips. We saw most Republicans join all Democrats in voting to require that child safety devices be sold with all handguns. And finally, this morning, with a tie-breaking vote by the Vice President, we passed the Lautenberg amendment to firmly close the gun show loophole.

These are the kinds of measures that Democrats in Congress have been advocating for years, and it is unfortunate that it took a tragedy like Littleton to bring our colleagues in the majority around to our way of thinking, but we welcome even these small steps in the right direction.

But small steps they are, Mr. President, and we need to do much more. We should reinstate the Brady waiting period, which expired last November, to provide a cooling off period before the purchase of a handgun. We should pass a child access prevention law to hold adults responsible if they allow a child to gain access to a firearm and that child then uses the firearm to harm another person. And we should firmly close the Internet gun sales loophole, something the Senate failed to do last week.

I also believe that we should apply the same consumer product regulations which apply to virtually every other industry and product in this country to guns. If toy guns, teddy bears, lawn mowers and hair dryers are subject to regulation to ensure that they include features to minimize the danger to children, why not firearms? I plan to introduce legislation to allow the Consumer Product Safety Commission to regulate firearms to protect children and adults against unreasonable risk of injury. I know my friend Senator TORRICELLI has introduced a bill to allow the Treasury Department to regulate firearms. Whichever agency ultimately has oversight, the important thing is that guns should no longer be the only consumer product exempt from basic safety regulations.

Mr. President, the NRA's own estimate is that there are over 200 million guns in this country. That's nearly one for every American. But let's remember that most Americans don't own guns. For most Americans, especially in urban areas, a gun in a public place in the possession of anyone other than a law enforcement officer usually brings on a sense of fear, not a sense of protection.

As the President said a few weeks ago, this fundamental difference in perspective is at the heart of this gun debate. If we are to solve the problem of gun violence in this country, we have to come to a meeting of the minds between gun owners and non-gun owners, between rural and urban America.

Americans who live in urban and suburban communities need to understand

the legitimate use of firearms for hunting and sports activities. But at the same time, members of Congress from mostly rural states must recognize the immense pain and suffering that guns cause in our nation's urban areas, and they should work with us to convince their constituents that reasonable, targeted gun restrictions can make a world of difference by saving lives in America's cities and suburbs.

I would also add that this is not simply an eastern vs. western states issue. For example, the Washington Post recently reported that in Florida, six of the state's most urban counties have adopted measures to require a waiting period and background checks on all firearm sales at guns shows, while the rest of the state has not. Every senator, from every region of the country, has some constituents who legally use firearms, and others who want nothing to do with them and see them as a deadly threat. My state is no different, and I recognize that many of my constituents are decent people who hunt or sport-shoot safely.

While much more needs to be done, and while we are still far from passing comprehensive gun safety legislation, we have seen in the past week at least a few limited examples of how, working together, we can bridge the gap and approve reasonable, targeted restrictions on gun access without taking away a law-abiding, adult citizen's ability to own a gun.

I also believe that gun dealers should be held responsible if they violate federal law by selling a firearm to a minor, convicted felon, or others prohibited from buying firearms. Currently, there are over 104,000 federally licensed firearms dealers in the United States. While most of these dealers are responsible small business people, recent tracing of crime-related guns by the Bureau of Alcohol, Tobacco and Firearms (ATF) has found substantial evidence that some dealers are selling guns to juveniles and convicted felons. This direct diversion of weapons from retail to illegal markets is taking place both through off-the-book sales by corrupt dealers and through so-called straw purchases, when an ineligible buyer has a friend or relative buy a firearm for him or her.

To remedy this situation, I have introduced legislation, the Gun Dealer Responsibility Act, that would provide a statutory cause of action for victims of gun violence against dealers whose illegal sale of a gun directly contributes to the victim's injury. I believe this legislation will make unscrupulous gun dealers think twice about who they are selling weapons to, particularly minors, convicted felons, or any other ineligible buyer, either directly or through straw purchases.

Our nation's federal juvenile justice programs establish four core principles that have served as the foundation of federal juvenile justice policy for years. States are required to uphold these principles in order to receive federal grant funds for juvenile justice activities. These four core principles include:

(1) Juveniles may not be within sight or sound of adult inmates in secure facilities. The evidence is overwhelmingly clear that youth held in adult prisons are frequently preyed upon by adult inmates. Compared to juveniles in juvenile facilities, they are 8 times more likely to commit suicide, 5 times more likely to be sexually assaulted, and 50% more likely to be attacked by a weapon.

(2) States should not confine juveniles for so-called ''status'' offenses, such as truancy, that would not be punishable if committed by an adult.

(3) States should remove juveniles from adult jails and lockups: For the same reasons I just mentioned, juveniles should not be held in adult jails and lockups, with very narrow exceptions and even then for very limited periods of time. And,

(4) States should address the problem of disproportionate minority confinement.

This last issue is one I want to talk briefly about today, because it is the area where I believe the bill before us most dramatically changes federal policy and clearly fails to uphold the longstanding principles of our juvenile justice system. Nearly seven out of ten juveniles held in secure facilities in this country are members of minority groups.

African-American juveniles are twice as likely to be arrested as white youth. There is, without question, a continuing need to address minority overrepresentation in the juvenile justice system. We should keep the incentives in current law that encourage states to do so. Unfortunately, the bill before us would replace those incentives with language that encourages states to reduce disproportionate representation of, quote, ''segments of the population,'' an ambiguous and unlimited phrase that could be interpreted to mean men, urban groups, or virtually any ''segment'' of the population. The effective result is that over-representation of minorities would no longer be the focus of our efforts, and one of the pillars of our federal juvenile justice policy would therefore be undermined. I was disappointed that the Senate yesterday failed to pass the Wellstone amendment to ensure that states continue to address disproportionate minority confinement issues. We have been making some progress in this area, and we need to continue that effort.

Another area where I think we can do much more is in the provision of mental health services for young people who come into contact with the juvenile justice system. My friend and fellow member of the Health, Education, Labor and Pensions Committee, Senator WELLSTONE, spoke eloquently on this subject earlier this week. As he and I have discussed many times, you cannot have a meaningful discussion about juvenile justice without talking about mental health. The two are intimately intertwined.

Studies find that the rate of mental disorder is two to three times higher among the juvenile offender population than among youth in the general population. According to a 1994 Department of Justice study, 73% of juveniles in the juvenile justice system reported mental health problems, and 57% reported past treatment for those problems. In addition, over 60% of youth in the juvenile justice system may have substance abuse disorders, compared to 22% in the general population.

I have prepared legislation to authorize the Substance Abuse and Mental Health Services Administration (SAMHSA), in cooperation with the Department of Justice, to award grants to state or local juvenile justice agencies to provide mental health services for youth offenders with serious emotional disturbances who have been discharged from the juvenile justice system. I believe it is critical that we help local organizations to do several things to assist young offenders: (1) develop a plan of services for each youth offender; (2) provide a network of core or aftercare services for each youth offender, including mental health and substance abuse treatment, respite care, and foster care; and (3) provide planning and transition services to youth offenders while these youngsters are still incarcerated or detained. I hope that in the context of this bill or the SAMHSA reauthorization we can find room for this important program.

I believe that a community-based network of mental health services will reduce the likelihood that troubled youth will end up back in the juvenile justice system. By combining this innovative grant program with strong prevention programs to reach out to at-risk youth before they come into contact with the juvenile justice system in the first place, we can attack the problem of juvenile delinquency from both directions.

In closing, let me say that we all recognize that the problem of gun violence among our young people is caused by many factors, some of which we may not fully understand. We need more resources for prevention programs to reach at-risk youth before they come into contact with the juvenile justice system in the first place, and we have seen an increased willingness on the other side of aisle to provide those resources; we need a greater focus on mentoring and counseling for troubled youth, and we've seen some movement on that front as well; and yes, we need better enforcement of firearms laws and more effective prosecution of gun criminals, and there is no question that we will see more resources provided to make that happen.

But anyone who honestly considers the tragic events in Littleton one month ago, and the thirteen children who die every day in this country from gun violence, must concede that one of

the biggest problems of all is that our young people have far too easy and unlimited access to guns. We must do more to keep guns away from kids and criminals by making sure that Brady Law background checks are applied across the board, by reinstating the Brady waiting period, by passing a child access prevention law, by firmly closing the Internet gun sales loophole, by holding dealers responsible for illegal sales, and by applying to firearms the same consumer product safety regulations that apply to virtually every other product in this country.

Let's do the right thing and pass a juvenile justice bill that includes every means possible to protect our children and all of our citizens from youth violence.

Thank you, Mr. President.

Mr. VOINOVICH. Mr. President, prior to being elected to the Senate, I served the people of Ohio for two terms as governor. Before that, I served for 10 years as the mayor of Cleveland. I have also been Lieutenant Governor, a County Commissioner, a County Auditor and a State Legislator.

I have 33 years of experience at every level of government, which I believe gives me wonderful insight into the relationship of the federal government with respect to state and local government.

It is the main reason why, over the length of my service to the people of Ohio, I have developed a passion for the issue of federalism—that is, assigning the appropriate role of the federal government in relation to state and local government.

That passion remains with me to this day, and I vowed when I got to the Senate that I would work to sort out the appropriate roles of the federal, state and local governments.

I have committed myself to find ways in which the federal government can be a better partner with our nation's state and local governments.

One of my concerns has been the overreaching nature of the federal government into areas I have always felt properly belong under the purview of state and local government. Another of my concerns has been the propensity of the federal government to pre-empt our state and local governments. In many cases, the federal government mandated responsibilities to state and local governments and forced them to pay for the mandates themselves.

In regard to unfunded mandates, I, and a number of other state and local elected officials finally got fed up enough to lobby Congress to do something about it, and in 1995, Congress passed the Unfunded Mandates Reform Act. I was pleased to be at the Rose Garden representing our state and local governments at the signing ceremony by the President.

And while we now know the cost of what the federal government is imposing on the state and local governments, Congress has still got to do more to reverse the tide of ''command and control'' policies in areas intrusive which are the proper responsibility of state and local governments.

Indeed, as syndicated columnist David Broder pointed out in a January 11, 1995 article, ''the unfunded mandate bill is a worthy effort. But in the end, the real solution lies in sorting out more clearly what responsibilities should be financed and run by each level of government.''

I wholeheartedly agree.

It is imperative that we delineate the proper role of government at the federal, state and local level.

Our forefathers referred to this differentiation as federalism, and outlined this relationship in the 10th Amendment:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

The importance of the 10th Amendment was inherent to the framers of the Constitution, who sought to preserve for the states their ability to pass and uphold laws that were specific to each individual state. In this way, states would keep their sovereignty over what we consider the ''day to day'' running of society, reserving the more comprehensive functions of the nation to the federal government.

This was envisioned by James Madison, who defined the various roles of government in Federalist Paper #45. He wrote:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce . . . The powers reserved to the several states will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and property of the people and the internal order, improvement and prosperity of the state.

In a speech before the Volunteers of the National Archives in 1986 regarding the relationship of the Constitution with America's cities and the evolution of federalism, I raised a concern about the trend in American government that I had witnessed since the 1960's. I said:

> We have seen the expansion of the federal government into new, non-traditional domestic policy areas. We have experienced a tremendous increase in the proclivity of Washington both to pre-empt state and local authority and to mandate actions on state and local governments. The cumulative effect of a series of actions by the Congress, the Executive Branch and the U.S. Supreme Court have caused some legal scholars to observe that while constitutional federalism is alive in scholarly treatises, it has expired as a practical political reality.

Mr. President, we have made progress since I spoke those words 13 years ago. Not to the level sought by Madison, but progress just the same. As I mentioned earlier, Congress has passed the Unfunded Mandates Reform Act. We've also passed Safe Drinking Water Act reforms in 1996. In addition, states are making the difference in Medicaid reform and because of the efforts of state leaders working with Congress, we now have comprehensive welfare reform.

Also, just this year, we've seen the passage and signing into law of the ''Ed-Flex'' bill, which gives our states and school districts the freedom to use their federal funds for identified education priorities and today we passed legislation preventing the federal government from recouping the tobacco settlement funds back from the states.

But we must still do more.

Today, we are voting on juvenile justice legislation that would impose certain new federal laws on what is now and has traditionally been a jurisdiction of our state and local governments.

I have great respect for the managers of this legislation; they have worked incredibly hard to put together this bill which contains a number of good provisions meant to fight juvenile crime and a smorgasbord of other things that on the surface look very appealing.

Unfortunately most of them deal with things that are the proper responsibility of state and local government and violate in spirit and in substance my interpretation of the 10th Amendment and frankly, the interpretation of Alexander Hamilton.

Hamilton, who was the greatest proponent in his day of a strong national government, saw law enforcement as a state and local concern. If Hamilton were alive today, he would be appalled at the use of the police power by federal agencies.

And to emphasize Hamilton's view, we need only look at Federalist Paper #17:

> There is one transcendent advantage belonging to the province of the state governments, which alone suffices to place the matter in a clear and satisfactory light. I mean the ordinary administration of criminal and civil justice.

Crime control is a primary responsibility of local and state officials. They are on the front lines and they are best suited to tackle the specific problems in their jurisdictions.

Juvenile crime control measures are being enacted and carried out in the various states across the country. And sometimes it does take a tragedy such as the one that occurred in Littleton, Colorado or the shooting this morning in Atlanta to spur states on, but they fully recognize their responsibility to provide for the safety of their citizens.

The states understand their role and the need to prevent any further increase in juvenile crime. They are responding to that need.

Involvement by the federal government in this matter often duplicates the efforts of our state and local governments.

I'll never forget, in 1996, when I was Governor and I went to a crime control conference in Pennsylvania with then-Majority Leader Bob Dole. He was running for President at the time. The

head of the conference suggested 5 things the federal government should do to reduce juvenile crime. It made sense to me, but when I looked at the recommendations, I realized that in Ohio, we were already doing the things that were recommended.

In 1994, we instituted a program called ''RECLAIM Ohio'' which is an innovative approach to juvenile corrections. This program stresses local decision-making and the creation of more effective, less costly community-based correction alternatives to state incarceration.

Under ''RECLAIM Ohio,'' local juvenile court judges are given the flexibility to provide the most appropriate rehabilitation option. Since 1992, the population of juvenile offenders in Ohio's youth correction facilities has dropped 20% as a result of this and other innovative local and state programs.

Mr. President, the success we have had in Ohio might never have come about if we had to divert our resources towards a federally mandated program. We have seen results with ''RECLAIM Ohio;'' it is best suited for us.

In fact, our ''RECLAIM Ohio'' program was selected as one of the top ten innovative programs in government by the JFK School of Government at Harvard University—worthy of replicating elsewhere in the United States.

In 1995, Ohio crafted its own comprehensive juvenile crime bill. This bill imposed mandatory bind-over provisions for the most heinous crimes and longer minimum sentences.

I believe we should heed the words of Senator FRED THOMPSON, who gave an eloquent speech about this bill last Wednesday. He said ''Among other things, [this bill] makes it easier to prosecute juveniles in Federal criminal court. We have about 100 to 200 prosecutions a year of juveniles in Federal court. It is a minuscule part of our criminal justice system.'' To put that in perspective, Senator THOMPSON pointed out that in 1998, there were ''58,000 Federal criminal cases filed involving 79,000 defendants.''

Think about what Senator THOMPSON says—58,000 total federal criminal cases filed; some 200 prosecutions a year of juveniles in Federal court. Do we honestly think that we'll have an extraordinarily dramatic increase in juvenile prosecutions under this bill? I have to ask: why on earth are we doing this?

He further stated, ''[This bill] would allow juveniles as young as 14 years of age to be tried as an adult for violent crimes and drug offenses—drug offenses, again, that are of the street crime category, where we have laws on the books in every State of the Union.''

In a letter to the Chairman and Ranking Member of the Judiciary Committee, the leaders of the National Governors' Association said ''the nation's governors are concerned that attempts to expand federal criminal law. . .into traditional state functions would have little effect in eliminating crime but could undermine state and local anti-crime efforts.''

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. VOINOVICH. Mr. President, the American Bar Association's Task Force on the Federalization of Criminal Law in its report issued at the end of last year stated that ''more than 40% of the federal criminal provisions enacted since the Civil War have been enacted since 1970.'' As a footnote, the report indicates that more than a quarter of the federal criminal provisions were enacted over the sixteen year period of 1980–1996.

Some change in the responsibility is legitimate, based upon the scope of particular offenses. However, many changes have simply evolved from current state and local laws that the federal government has either co-opted or the Congress has directed federal agencies to carry-out.

As we continue to assign a greater involvement for the federal government in law enforcement, the impact on other resources is also strained, primarily the federal court system.

And for those who understand the traditional role of state and local law enforcement, it becomes increasingly frustrating to see the shift in prosecuted crimes.

Earlier this month in testimony before the Governmental Affairs Committee, Federal Appeals Court Judge Gilbert S. Merritt said that his Court's docket and the case load of the U.S. Attorney's office for his jurisdiction consists of ''mainly drug and illegal possession of firearms cases and other cases that duplicate state crimes'' and that ''federal prosecution of drug and firearms crime is having a minimal effect on the distribution of drugs and illegal firearms.''

Most compelling, Judge Merritt said ''our law enforcement efforts would be much more effective if Congress repealed most duplicate federal crimes and tried to help local and state street police, detectives, prosecutors and judges do a more effective job.''

Judge Merritt suggested that before we federalize crime enforcement, we should ''concentrate federal criminal law enforcement in only the following core areas:

(1) Offenses against the United States itself;

(2) Multi-State or international criminal activity that is impossible for a single state or its courts to handle;

(3) Crimes that involve a matter of overriding federal interest, such as violation of civil rights by state actors;

(4) Widespread corruption at the state and local levels; and

(5) Crimes of such magnitude or complexity that federal resources are required.''

Mr. President, based on what I can see, this legislation does not meet these criteria.

So, if we are truly concerned about lowering the incidences of violent crime in America, I believe our focus should be not only on the symptoms of juvenile crime, but on the root causes as well. We have to act first, and not react later, if we wish to benefit our kids.

To be sure, there are just plain, bad juveniles who need to be locked up. And, we need better information about juvenile offenders, profiles that will help our courts deal with rough kids and get them off the streets.

But, I think part of the problem is youngsters aren't getting the moral and family and religious training at home, responsibilities that are falling more and more on our schools.

In Ohio, we established a mediation and dispute resolution program in our kindergartens and first grades to get kids to talk out their problems so they don't resort to violence.

We did this because I am concerned, Mr. President, about how we can reach our kids, to help make them become decent, productive members of society.

What we need to do is draw a line in the sand, and proclaim that we are not going to allow another generation of children to fall by the wayside. We have to say ''This is where it stops.''

We need to become a better partner with state and local government and invest in our children at the most critical juncture of their lives—pre-natal to three—the time when parents and young children are forming life-long attachments and when parents and other care-givers have an opportunity to construct lasting values.

I believe putting our efforts towards creating this powerful, enduring impact on a young child's physical, intellectual, emotional and social development will do more to end the cycle of crime and violence in America than anything else the Senate could do.

Mr. President, once more, I would like to congratulate the managers of this bill for the time and energy that they have put into this bill, but juvenile crime control is not the responsibility of the federal government.

Again, we need only look as far as the Constitution to determine which crimes fall within the purview of the federal government—

1. Article 1, Section 8—To provide for the punishment of counterfeiting the securities and current coin of the United States;

2. Article 1, Section 8—To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; and

3. Article 3, Section 3—To declare the punishment for treason.

For the remainder of crime that impacts our nation, the 10th Amendment spells out quite clearly how we should deal with it:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Mr. President, we should follow the wisdom of our forefathers.

EXHIBIT 1

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, May 14, 1999.

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

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

DEAR MR. CHAIRMAN AND SENATOR LEAHY: As the Senate considers juvenile crime legislation, the nation's Governors believe that the federal government should improve its support of states in combating youth violence. This endeavor requires the development and implementation of programs and policies that strive to prevent delinquency, eliminate the presence of violence wherever children congregate, and ensure strong punishment for those responsible for exposing young people to delinquency, drugs, and violence. The first line of defense against youth violence is responsible parenting. Having recognized this fact, the states' priority in this area should be to establish comprehensive services and programs that prevent youth from committing crime. Prevention programs that build self-esteem through achievement of worthwhile goals and offer an alternative to violent and criminal activity are critical to the successful reduction of juvenile crime.

There should be a safe environment for children to grow and develop. This includes schools, parks, playgrounds, and any place youth congregate. The rise in handgun violence especially in and around schools is of concern to Governors. There should be swift and certain punishment for individuals who illegally provide a firearm to a minor, or knowingly provide a firearm to a minor for illegal use. Furthermore, there must be immediate seizure of guns illegally possessed by minors. Also, there should be strict penalties for children below the age of eighteen who illegally possess a firearm.

S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 will be among the legislative initiatives considered regarding juvenile crime. We would like to address some of the provisions in this legislation.

Federalization: The nation's Governors are concerned that attempts to expand federal criminal law (Title I of S. 254) into traditional state functions would have little effect in eliminating crime but could undermine state and local anticrime efforts. Further, the Governors are concerned that federal concurrent jurisdiction in criminal justice efforts can be used by the federal government as a means to impose undue mandates on state and local crime control and law enforcement officials.

Another federalism issue is raised by section 1802 the ''Juvenile Criminal History Grants.'' It needs language clarifying what information will be contained in the national data bases, who will have access to the data, how the data will be used, and to affirm states' right to ultimately control access to their own data under our federal system.

Waiver: The formula in the accountability block grant of S. 254 (Part R—Juvenile Accountability Block Grants, Subtitle B) requires states to pass-through money to local units of governments handling juvenile justice functions. In many states, including Utah and Vermont, the juvenile crime function is administered at the state level of government, working with the locals. S. 254 would allow the Attorney General to waive the pass-through requirement for these states. We support this provision.

Flexibility: The current language in S. 254 offers some discretion to Governors over appointments to state advisory boards overseeing implementation of state programs under the Juvenile Justice Act. Governors should have sole discretion over creation, make-up and appointments to state advisory boards. Some states have existing boards that can fulfill this requirement. Furthermore, states should be given maximum flexibility to implement the spirit and purposes of the statute for the goals of delinquency prevention, intervention, and protection of juveniles from harm. Also, S. 254 eases the monitoring requirements for state implementation of the Juvenile Justice program.

Program participation with core requirements: Governors believe that rules, regulations, definitions, responsibilities, and reporting requirements authorized in the legislation should be reasonable and not impede states' ability to effectively administer the programs promoted in the legislation. Further, the statute should be designed to encourage full participation in the program by all the states, but not penalize states that choose not to participate in some or all programs.

The recent tragic events in Colorado, Oregon, Arkansas, Kentucky, and Mississippi and other areas of the country have focused the nation's attention on the need for juvenile justice reform. We appreciate your taking our concerns under consideration as you debate S. 254.

Sincerely,

GOVERNOR THOMAS R. CARPER,
Chairman.
GOVERNOR MICHAEL O. LEAVITT,
Vice Chairman.
GOVERNOR JAMES B. HUNT, JR.,
Chairman, Human Resources Committee.
GOVERNOR MIKE HUCKABEE,
Vice Chairman, Human Resources Committee.

Mr. FEINGOLD. Mr. President, I rise today in opposition to S. 254, the Juvenile Justice Bill. I oppose this bill because it does far more harm than good to the fundamental interests of our nation's children.

The bill fails to do what the Littleton tragedy screams out loudly and clearly we should do: strive to prevent future schoolhouse tragedies and all juvenile violence. The bill is long on prosecution and detention but short on prevention.

During debate on this bill, I was glad to see that some of my concerns were resolved. After a contentious debate, the Senate finally closed the gun show loophole. The Lautenberg-Kerrey amendment is a sensible regulation on the sale of guns at gun shows. It does not prevent law-abiding citizens from selling and buying guns at gun shows.

The Senate's debate on guns in the last week had what I believe to be a sensible outcome. But I do want to point out one thing about the debate we have had on various amendments to this bill dealing with the topic of gun control. Obviously, there are very strong feelings about gun-related amendments on both sides, and the issues are complex. But the vast majority of campaign contributions from groups interested in these amendments to the Senators who are voting on them is coming from one side. According to the Center for Responsive Politics, gun rights groups, including the National Rifle Association, gave over $9 million to candidates, PACs, and parties from 1991 to 1998. The NRA gave $1.6 million in PAC contributions to federal candidates last year. Handgun Control, Inc. gave a total of $146,000.

With respect to Senator LAUTENBERG's amendment to close the gun show loophole last week, the Center found that those who voted against that amendment had received an average of over $10,478 from gun rights groups, while those who voted for it averaged only $297. I say this not to cast aspersions on any Senator's vote, but because I think the public record of our debate on these issues would be incomplete without this information.

There have been other improvements made in the bill as a result of the debate here on the floor and negotiations among Senators and the Managers. The final bill now reasonably protects the privacy of juvenile offender records. The amendment to ensure the separation of children from adult prisoners in mixed prison settings also was adopted.

This good work, however, is not enough to undo the harm that this bill will do to our nation's children.

We have strong evidence that prevention reduces crime. According to the Children's Defense Fund, in the first year after the Baltimore Police Department opened an after-school program in a high-crime area, crime in that neighborhood dropped 42%. Cincinnati's crime rate dropped 24% since it instituted violence prevention, education, social and recreation programs. And in Fort Worth, Texas, gang-related crime dropped by 26% as a result of a gang reduction program.

Now, the Hatch-Biden amendment takes us part of the way there by allowing 25% of funding for juvenile block grants to be allocated to prevention efforts. But frankly, that's not enough. We need to do more. Our children's future demands that we do more.

The Juvenile Justice bill emphasizes detention and intervention after juveniles have already gotten into trouble. The bill, however, does not provide sensible, adequate funding for prevention programs. Programs that will help to ensure that kids will not turn to crime and violence and will never have to experience handcuffs slapped on their wrists or the inside of a detention center.

This bill also deeply troubles me because it will put a halt to efforts to reduce discrimination in our juvenile justice system. The bill ignores reality: we are throwing African-American kids into jails at a higher rate than white kids who commit the exact same offense. This phenomenon is called disproportionate minority confinement.

Our Nation has come a long way toward achieving racial harmony and

equality, but we still have a long way to go. In nearly every state, children of minority racial and ethnic backgrounds are over-represented at every stage of the juvenile justice system and receive harsher treatment by the system. A California study has shown that black youths consistently receive harsher punishment and are more likely to receive jail time than white youths convicted of the same offenses. Current law requires states to identify disproportionate minority confinement in their states, to analyze why it exists and to develop strategies to address the causes of disproportionate minority confinement. The law does not require and has never resulted in the release of juveniles. Nor does the law provide for quotas. And no state's funding under the Juvenile Justice and Delinquency Prevention Act has ever been reduced as a result of non-compliance.

In fact, the current law has been very effective. Forty states are implementing or developing intervention plans to address disproportionate minority confinement. This bill will bring to a halt this good work conducted by the states. These states have just begun to address the disturbing reality of disproportionate minority confinement. But under this Juvenile Justice bill, the law enforcement community will no longer be required to address the problem of discriminatory treatment of minority juvenile offenders. This is outrageous.

I am outraged, and this body should be outraged, that we are punishing black kids more harshly than white kids for the exact same offenses. The debate on this issue illustrated how much more work we still need to do on civil rights. Many of my colleagues would have you believe that there is no longer a race problem in this country. I beg to differ. To those colleagues, I ask you to look around this chamber and identify for me the Senator of African descent. You cannot because there is not one. I am troubled that on this and other important civil rights issues, we do not have a member of the African-American community as one of our colleagues. I cannot help but think that our debate would have been better informed if we had the voice of an African-American Senator speaking at one of our podiums. I cannot help but think that the vote on the Wellstone-Kennedy amendment would have had a different outcome if we had the vote of an African-American Senator cast on this floor.

We have come a long way toward ridding our nation of discrimination against African Americans and other minorities. But we need to keep forging ahead for the good of our children and the future of our country. Let us not turn back the clock.

The bill also does more harm than good by shifting the burden to the child to show why he or she should be tried in a juvenile court, not as an adult. Under current law, federal judges, not prosecutors, decide whether a child will be tried as an adult after a full hearing. If the prosecutor believes that a child should be charged as an adult, the prosecutor goes to court and puts on evidence to establish why the child should be tried as an adult. This is called a ''waiver'' hearing. The prosecutor must show reason for the judge to waive the child into adult court.

Now, under the Juvenile Justice bill, the prosecutor would be able to charge children as young as 14 as adults if they have allegedly committed a felony. The child—not the prosecutor—would request a hearing to prove to the judge that he or should be treated as a child.

There is great wisdom in the current law. The decision to prosecute a child as an adult is a serious one that will profoundly impact that child's life and the sentence that will follow conviction. It is better to leave that decision to an impartial judge, not the prosecutor.

Finally, I must cast my vote against this bill because it creates yet another federal death penalty. The Senate unfortunately passed the Hatch-Feinstein amendment, which will allow imposition of the death penalty against persons who cause the death of another person during an act of animal enterprise terrorism. I have been, and continue to be, a strong, steadfast opponent of the death penalty. In my view, the death penalty is unconstitutional under the Eighth Amendment, which prohibits cruel and unusual punishment. And it is morally wrong for a civilized society to continue to impose this penalty. We should lock up offenders for life, but we should not take their lives.

In sum, Mr. President, I urge my colleagues to heed the advice of skilled professionals who work with our youth every day. Organizations like the Children's Defense Fund, the Youth Law Center, the National Network for Youth have expressed their serious opposition to the bill. These organizations represent the thousands of people who are conducting effective after-school programs, providing counseling to troubled youth and other necessary services to our children at risk. In other words, these organizations are the experts. The experts believe that, although the bill is much improved over last year's juvenile justice bill and corrects some problems in the original bill as it came to the floor last week, the final bill is still a regressive solution to juvenile crime.

Let us put aside our partisanship for the sake of our children's and our Nation's future. I must oppose this juvenile justice bill.

I yield the floor.

Mr. GORTON. Mr. President, Senate bill 254 does not, in my opinion, warrant passage. I will vote against the bill because it is fundamentally fraudulent. First, it wrongly assumes that Washington, DC has the answers to juvenile crime and the right to impose its will over that of state and local communities. Second, it is fraudulent because it promises billions of dollars for new programs that will not be implemented because the money is simply not available.

To hold out the false hope that the federal government can, through the passage of yet another law, offer an easy solution detracts from the important, and admittedly difficult, work that must continue in our homes, schools and communities.

As difficult as it may be for many of my colleagues to accept, the cure for the violence and disrespect for life that is prevalent in our society, particularly in our younger generations, will not be found in this body by passing another federal law. I wish it were that easy. The cure will be found after a great deal of soul-searching by our nation at all levels. Parents must re-engage in their children's lives. Schools must work harder to spot the warning signs displayed by our troubled youth and take action before tragedy occurs. And those who market gratuitous violence—whether it be through television, movies, video games or the Internet—must consider the responsibility they have to society, as well as to their bottom line. Most decisions should be made in our communities, not in the Congress. States should be allowed to experiment with a wide range of programs, not told what to do by Washington D.C.

I recognize some positive elements in this bill. The relaxation, for example, of the strict sight and sound separation requirements between juvenile and adult prisoners is a common sense change consistent with the views expressed by law enforcement officials in my state. Although I support the Ashcroft Amendment that gives local educators the flexibility to treat equally all students who bring guns to schools, the law it amends is fundamentally flawed and requires more thorough debate. I intend to have this debate later this year.

The positive elements in S. 254, however, are outweighed by the negative: the bill usurps state, local, and private sector authority, both in spirit and in practice. For example, although S. 254 makes federal juvenile adjudication and conviction records available to schools in certain circumstances, thus permitting school officials knowledge of the conceivable monstrous acts of a prospective student, it then prohibits all schools, once privy to that information, from using it in admissions decisions.

The bill makes promises we cannot keep and creates expectations we cannot meet.

S. 254 authorizes prodigious amounts of federal funds for numerous programs, and the promise of these monies has led to considerable fighting over their allocation, particularly over earmarking funds for crime prevention programs. While the debate between prevention and punishment is an important one, it is, unfortunately, also

hollow in this case: it is extremely unlikely that many of the programs authorized in S. 254 will be funded at anywhere near the levels authorized, if at all.

Much to my dismay and those of other appropriators, it is unclear whether we will be able this year to meet current commitments to juvenile justice and law enforcement. In the budget he sent to Congress, the President eliminated numerous federal grant programs and gutted others. The Byrne Grants that have been put to such good use in Washington state to, among other things establish multi-jurisdictional drug task forces, were reduced by more than 20% in the President's budget. Local law enforcement block grants, for which $523 million was appropriated in 1999, and which are used for a range of law enforcement needs, from putting more officers on the streets to improving law enforcement communications systems, were eliminated entirely. Grants to states for prison construction, a $720 million program in 1999, was reduced to $75 million in the President's FY2000 budget. Put another way: our first priority ought to be funding our current crime prevention programs, rather than adding a passel of new ones we frankly cannot afford.

Regrettably, many of the philosophical and practical concerns I have with this legislation simply were not addressed during the many long days it has been on the floor because we have spent so much time debating gun amendments. I firmly believe in common sense gun safety procedures as long as they do not infringe on the Second Amendment freedoms of law abiding adults. Several times this week I voted for amendments that would help to promote gun safety or keep guns out of the hands of criminals, and just as often I voted against amendments that infringed on second amendment rights that would not effectively do this. Never, however, did I vote on an amendment that I thought would have prevented the recent tragedies in Georgia and Colorado.

And so, with regret, I cannot join my colleagues in misleading the American people in promising that through this, or any other, bill, we will make their communities and schools safe again.

Mr. ABRAHAM. Mr. President, I am pleased that my amendment to the pending Juvenile Justice bill was included in a package of amendments cleared by the managers. I would like to talk briefly about why this provision is crucial to combatting school violence.

As I am sure many of my colleagues are aware, the Holland Woods Middle School in Port Huron, Michigan, made national news this past week. Four children, the youngest of them 12 years old, were arrested for plotting to do ''something worse'' than the tragedy that occurred in Littleton, Colorado. Police in Port Huron believe that the plot was more than a prank. They believe the students planned to rob a gun store for the weapons needed to carry out their plan.

Here we have yet another sign, Mr. President, of the epidemic in this country of violence and fear in our schools.

All across the country, schools are experiencing bomb threats and students and teachers are beginning to fear entering the classroom. The Detroit News front page headline from yesterday summed it up: ''Fear, threats invade Metro classrooms.'' The News went on to report that one-third of the 560 students at Holland Woods Middle School stayed home Monday, the first day of classes since police discovered the plot to massacre students there.

Mr. President, students should not fear for their lives when they enter the school building. Indeed, they have a right not to be put in this kind of fear, particularly on school grounds.

I believe we must do more to help schools deal with threats of violence. We must give schools more options to prevent the type of tragedy that occurred in Littleton and that also might have occurred in Port Huron.

Following the incident in Holland Woods Middle School, Assistant Superintendent Thomas Miller outlined the school system's response to increasing security at their schools. The school system's plan would include 24-hour security guard surveillance at all schools and a bomb-sniffing dog. Other proposed security measures could include metal detectors, the elimination of coats in classrooms and photo identification badges for pupils and teachers.

Mr. President, my provision would allow schools facing these serious security problems to access Safe and Drug Free School money to address their security needs and to truly keep their schools ''safe.''

In light of the growing number of violence in our schools and an increase in the number of threats, we must provide local school districts with further, effective options in combatting the proliferation of guns, explosives, and other weapons in our schools.

My provision will also help schools deal with the scourge of drugs, a scourge which not only ruins individual lives but also breeds the kinds of isolation, maladjustment and violence we have seen so often in recent years.

Currently, school districts may use funds allocated under the Safe and Drug Free Schools Act for a variety of programs aimed at reducing drug use and school violence. School districts need additional options. My amendment would allow local school districts to access funding under the Safe and Drug Free Schools Act for use in conducting locker searches for guns, explosives, other weapons, or drugs and for the drug testing of students.

Drug use constitutes a full-fledged epidemic in our schools, Mr. President. In a recent Luntz survey, three fourths of high school students said that their schools are not drug free. 41 percent reported seeing drugs sold on school grounds. And now the drug menace is moving into our middle schools. 46 percent, almost half of our middle school kids, go to schools that are not drug free.

With the explosion in drug use we also have seen a massive proliferation of guns in our schools. The Departments of Education and Justice report that 6,093 students were expelled for bringing guns to school during the 1996–97 school year alone.

This is the situation supposedly addressed by the Safe and Drug Free Schools Act. So, what is this act, written into law in 1986 and with current funding levels at $566 million, accomplishing? Tragically little, Mr. President.

Congress passed the Safe and Drug Free School Act allocating funds to fight drug use and the violence it breeds. But that money is not being spent wisely, on programs that actually succeed in reducing drug use and gun violence in our schools.

Instead, Mr. President, a report in the Los Angeles Times has found that grant money is being used to pay for questionable activities like motivational speakers, puppet shows, tickets to Disneyland, dunking booths and magic shows. Surely we can use this law for something more than what President Clinton's own drug Czar, General Barry McCaffrey, calls a program to ''mail out checks.''

Our children and their teachers deserve better. Indeed, Mr. President, they are demanding better. For three years running, teens in the Luntz survey have deemed drugs the most important problem they face. Most teens favor random locker searches and drug testing of all students.

And their teachers agree. Four out of five teachers favor locker searches and a zero tolerance policy on drugs. Two thirds favor at least some form of drug testing.

Mr. President, our teachers and our children have recognized the obvious: we must find those who are bringing guns and explosives into our schools if we are to stop gun and other forms of violence affecting our kids

By the same token, Mr. President, you must find those who are using and dealing drugs before you can effectively deal with the drug problem in our schools.

My amendment accepts the common sense logic expressed by our teachers and students.

My amendment does nothing to alter the availability of funds for other options in the fight against drugs and gun violence in our schools. It merely adds to the list the option of using these funds for locker searches and drug testing. It, rightly in my view, leaves the final decision on these issues to those who know the needs of their schools best—local authorities. But it adds an important option to the list from which they can choose.

I am pleased that this common sense proposal has been cleared by the managers.

I yield the floor.

Mr. LEVIN. Mr. President, with the passage of the Juvenile Justice bill today the Senate took a positive step forward in addressing the youth violence that we have sadly seen far too much of in recent weeks.

One month ago today, we watched in horror as children turned violent against other children, and we asked ourselves why? Today, again, we've seen the horror of a high school student firing a weapon at his schoolmates. There is no one cause of this youth violence, the causes are many but the common denominator in all of these school shootings cannot be ignored or denied: the easy access our young people have to guns.

If there is one silver lining in what happened at Littleton it's that this event has become a catalyst for the Senate to finally begin to overcome the disproportionate influence of the gun lobby and to close a few of the gaping loopholes in our federal gun laws which give our youth such easy access to guns.

Over the last few weeks, with the Juvenile Justice bill on the floor of the Senate, we have taken important steps to strengthen our current laws. We have passed legislation to prohibit juveniles from owning semiautomatic weapons and large capacity ammunition devices. We have banned the importation of big ammunition clips, which have been flooding into the United States by the millions. The Senate passed an amendment requiring that handguns be sold with trigger locking devices to protect children. And just this morning, the Senate, by one vote, the deciding vote cast by Vice President GORE, passed legislation to regulate the sale of firearms at guns shows, ensuring juveniles and others cannot use these shows as a convenient way to circumvent the safeguards applied to normal sales through licensed gun dealers.

Mr. President, I believe it's clear that the American people support the actions we have taken. In fact, I am hopeful that we will build on these first steps, for example, to ban semiautomatic assault weapons and handguns for persons under 21 years of age. This may be one of our most important tasks yet. According the Bureau of Alcohol, Tobacco and Firearms' Youth Crime Gun Interdiction Initiative, the two most frequent ages at which crimes are committed with gun possession are 18 and 19. In 1997, 22% of those arrested for murder were 18, 19 or 20 years old.

This legislation clearly falls short of closing all of the loopholes which allow our youth easy access to deadly weapons. However, in the wake of the tragedy at Littleton, the Senate has taken critical steps forward. This is a victory for the good sense of the American people over the entrenched interests of NRA lobbyists in Washington.

Mr. President, in addition to preventing our youth from having access to deadly weapons, we must also ensure that schools have access to proven violence prevention programs designed to meet the particular needs of the students. The bill provides $250 million in grants for projects that allow schools to partner with the U.S. Department of Justice and police officers in crime prevention; $113 million for creative on-site school violence prevention programs and alcohol nd drug counseling; and amends the Elementary and Secondary Education Act to make funds available for training in school safety and violence prevention, crisis preparedness, mentoring and anti-violence programs.

Mr. KERRY. Mr. President, the passage of this Juvenile Justice Bill represents an important step forward for those of us who have expressed concern for the safety and well-being of America's young people. I am pleased that in spite of the tensions and the controversies that have marked these past weeks in the United States Senate, we are, in the final analysis, able to come together as a Senate in support of certain principles that we know are absolutely essential if we are to reform our nation's juvenile justice policy to reflect modern life and the needs of all our children in this nation.

The aftermath of the tragic school shootings in Littleton and even the violence today in Atlanta underscored for all of us the importance of getting serious about juvenile justice. In this debate here in the Senate about juvenile justice, we heard a great deal about efforts to keep guns out of the hands of violent students, we heard about efforts to try juvenile offenders as adults, about stiffer sentences, about so many answers to the problem of kids who have run out of second and third chances—kids who are violent, kids who are committing crimes, children who are a danger to themselves and a danger to those around him. I was a prosecutor in Massachusetts before I entered elected office. I have seen these violent teenagers and young people come to court, and let me tell you, there is nothing more tragic than seeing these children who—in too many cases —have a jail cell in their future not far down the road, children who have done what is, at times, irreparable harm to their communities.

I am pleased we are passing a bill today which demonstrates we don't only begin to care about these kids at that point —after the violence, after the arrest, after the damage has been done, when it may be too late—when we could have started intervening in our kids' lives early on, before it was too late. We can say that we have had a real debate about juvenile justice because we are passing a bill that makes some critical investments in vital early childhood development efforts, but a great deal of work remains undone.

The truth is that early intervention can have a powerful effect on reducing government welfare, health, criminal justice, and education expenditures in the long run. By taking steps now we can reduce later destructive behavior such as dropping out of school, drug use, and criminal acts like the ones we have seen in Littleton and Jonesboro. We are doing that in this bill—but we should be doing far more.

A study of the High/Scope Foundation's Perry Preschool found that at-risk toddlers who received pre-schooling and a weekly home visit reduced the risk that these children would grow up to become chronic law breakers by a startling 80 percent. The Syracuse University Family Development Study showed that providing quality early-childhood programs to families until children reached age five reduces the children's risk of delinquency 10 years later by 90 percent. It is no wonder that a recent survey of police chiefs found that nine out of ten said that ''America could sharply reduce crime if government invested more'' in these early intervention programs.

I know it can work. I visited an incredible center, the Castle Square Early Childhood Development Center in Boston, and I saw kids getting the attention they need during the day while their parents work, children being held and read to, and cared for, children who aren't raising themselves, parents who come in and volunteer in the evening and take classes there so they can better take care of their kids when they're sick or when they need special attention. But you know what, for the sixty kids in that program, there are six hundred on a waiting list.

There is the Early Childhood Initiative in Allegheny County, PA—one of the first pilot programs in this country which gave life to the kind of legislation we're passing here today—an innovative program which helps low-income children from birth to age five become successful, productive adults by enrolling them in high quality, neighborhood-based early care and education programs ranging from Head Start, center-based child care, home-based child care, and school readiness programs. ECI draws on everything that's right about Allegheny County—the strengths of its communities—neighborhood decision-making, parent involvement, and quality measurement. Parents and community groups decide if they want to participate and they come together and develop a proposal tailored for the community. Regular review programs ensure quality programming and cost-effectiveness. We're talking about local control getting results locally: 19,000 pre-school aged children from low-income families, 10,000 of which were not enrolled in any child care or education program. By the year 2000, through funding supplied by ECI, approximately 75% of these under-served pre-schoolers will be reached. Early evaluations show that enrolled children are achieving at rates equivalent to their middle income peers. And as we know, without this leveling of the playing field, low-

income children are at a greater risk of encountering the juvenile justice system. That's a real difference.

These kinds of programs are successful because children's experiences during their early years of life lay the foundation for their future development. But in too many places in this country our failure to provide young children what they need during these crucial early years has long-term consequences and costs for America.

Recent Scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our nation. The electrical activity of brain cells actually changes the physical structure of the brain itself. Without a stimulating environment, the baby's brain suffers. At birth, a baby's brain contains 100 billion neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains 20 to 30 percent smaller than normal for their age.

Reversing these problems later in life is far more difficult and costly. We know that—if it wasn't so much harder, we wouldn't be having this difficult debate in the Senate.

I think it is time we talked about giving our kids the right start in their lives they need to be healthy, to be successful, to mature in a way that doesn't lead to at-risk and disruptive behavior and violence down the road.

We should stop and consider what is really at stake here. Poverty seriously impairs young children's language development, math skills, IQ scores, and their later school completion. Poor young children also are at heightened risk of infant mortality, anemia, and stunted growth. Of the 12 million children under the age of 3 in the United States today, 3 million—25 percent—live in poverty. Three out of five mothers with children under three work, but one study found that 40 percent of the facilities at child care centers serving infants provided care of such poor quality as to actually jeopardize children's health, safety, or development. In more than half of the states, one out of every four children between 19 months and three years of age is not fully immunized against common childhood diseases. Children who are not immunized are more likely to contract preventable diseases, which can cause long-term harm. Children younger than three make up 27 percent of the one million children who are determined to be abused or neglected each year. Of the 1,200 children who died from abuse and neglect in 1995, 85 percent were younger than five and 45 percent were younger than one.

Unfortunately, our Government expenditure patterns have been inverse to the most important early development period for human beings. Although we know that early investment can dramatically reduce later remedial and social costs, our nation has spent no more than $35 billion over five years on federal programs for at-risk or delinquent youth and child welfare programs.

That is a course we are taking some steps to change today. We are starting to talk in a serious and a thoughtful way—through a bipartisan approach—about making a difference in the lives of our children before they're put at risk. We are starting to accept the truth that we can do a lot more to help our kids grow up healthy with promising futures in an early childhood development center, in a classroom, and in a doctor's office than we can in a courtroom or in a jail cell. But we could be doing much more.

These issues are now a part of this juvenile justice debate. But they need to be a bigger part of every debate we have about our kids' future. My colleague KIT BOND and I reintroduced yesterday our Early Childhood Development Act which we had previously introduced in the last Congress, and which had passed as part of the tobacco legislation last summer. That bill moves us forward in a bipartisan way towards a different kind of discussion about juvenile justice—and towards actions we can take to provide meaningful intervention in the lives of all of our children. I am appreciative of the deep support we've found for our approach in this legislation by Senator STEVENS, Senator JEFFORDS, Senator DODD, Senator KENNEDY and all of the cosponsors of the original Kerry Bond bill: Senator HOLLINGS, Senator JOHNSON, Senator LANDRIEU, Senator LEVIN, Senator MOYNIHAN, Senator WELLSTONE, and my colleague from New Jersey, Senator BOB TORRICELLI. I am pleased to join Senators STEVENS and KENNEDY in supporting parenting, but as we expressed in our sense-of-the-Senate amendment there is much more we need to be doing in terms of broader early childhood development efforts—we need a more comprehensive approach.

In this legislation we have taken an important step towards recognizing the importance of early childhood development programs for our children, as well as the responsibility of the Congress to make early childhood investments a priority in our budget process.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS), is necessarily absent.

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—73

Abraham	Edwards	Mack
Akaka	Feinstein	McConnell
Allard	Fitzgerald	Mikulski
Ashcroft	Frist	Moynihan
Baucus	Graham	Murkowski
Bayh	Grams	Murray
Bennett	Hagel	Reed
Biden	Harkin	Reid
Bingaman	Hatch	Robb
Bond	Inouye	Rockefeller
Boxer	Jeffords	Roth
Breaux	Johnson	Santorum
Bryan	Kennedy	Sarbanes
Byrd	Kerrey	Schumer
Chafee	Kerry	Sessions
Cleland	Kohl	Smith (OR)
Cochran	Kyl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stevens
Daschle	Leahy	Thurmond
DeWine	Levin	Torricelli
Dodd	Lieberman	Warner
Domenici	Lincoln	Wyden
Dorgan	Lott	
Durbin	Lugar	

NAYS—25

Brownback	Gorton	Roberts
Bunning	Gramm	Shelby
Burns	Grassley	Smith (NH)
Campbell	Gregg	Thomas
Coverdell	Helms	Thompson
Craig	Hutchinson	Voinovich
Crapo	Hutchison	Wellstone
Enzi	Inhofe	
Feingold	Nickles	

NOT VOTING—2

Hollings	McCain

The bill (S. 254) was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent 5 minutes be given to myself and Senator LEAHY, in that order.

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

Mr. HATCH. Mr. President, in the past, time seemed to roll past school shootings and similar tragedies. The public was quickly distracted. Yet, Littleton was different. The need to do something about the serious problem of youth violence has always been apparent. The tragedy of a month ago gave us the ingenuity and dedication to follow through.

I have said since the outset of this debate that this issue is a complex problem and one which requires dedication and a spirit of cooperation. I felt that we needed to examine this and other acts of school violence and not single-out one politically attractive interest as a cause. In doing what's right for our children and in doing what's right for the public at large, our personal interests had to take a back seat. While I believe the cooperative spirit was lacking on occasion, I believe that the Senate has crafted a consensus product and one which I intend to support.

At the start of this debate, I along with several of my colleagues announced a comprehensive plan to respond to the problem of violent juvenile crime. Our Youth Violence Plan contains four main components:

1. Prevention and Enforcement Assistance to State and Local Government;

2. Parental Empowerment and Stemming the Influence of Cultural Violence;

3. Getting Tough on Violent Juveniles and Those Who Commit Violent Crimes with a Firearm; and

4. Providing for Safe and Secure Schools.

Each element of this plan—all of it—is included in S. 254 as amended.

I. Prevention & Enforcement Assistance to State and Local Government: The first tier of this plan involved passage of the underlying bill—S. 254, the Violent and Repeat Juvenile Offender and Accountability Act. We have provided a targeted infusion of funds to State and local authorities to combat juvenile crime. S. 254 provides over $1 billion a year to the States to fight juvenile crime and prevent juvenile delinquency. We need to reach out to young children early in life, insure that parents are empowered to do what they believe is best for their children, and take meaningful steps to give local education and enforcement officials the tools they need to hold violent juveniles accountable. S. 254 accomplishes this goal.

II. Parental Empowerment and Stemming the Influence of Cultural Violence: The second tier of our plan involved Congress taking steps to empower parents, educators and the entertainment industry to do more to limit the exposure of America's children to violence in our popular culture. We offered several amendments to the underlying bill which furthered this leg of our plan and all of them passed the Senate. For example, this bill gives parents the power to screen undesirable material from entering their homes over the Internet. We have given the entertainment industry the tools it needs to develop and enforce pre-existing ratings systems so that children are not exposed to material that the industry itself has deemed unsuitable for children. And we have established a National Commission on Youth Violence. It is time for us to hold Hollywood—and the rest of the entertainment industry—a bit more accountable.

III. Getting Tough on Violent Juveniles and Enforce Existing Law: A third tier of our plan insured that violent juveniles—teenagers who commit violent crimes—will be held accountable. Part of the solution is to insure that when a teenager brings a gun to school, he or she is held accountable by school authorities and the criminal justice system. We take care of this in the bill. We also extend the Youth Handgun Safety Act to semi-automatic assault rifles. The bill before the Senate contains reforms like the juvenile Brady provision—a measure which will prohibit firearms possession by violent juvenile offenders. We increase penalties for transferring a gun to a minor and other corrupting acts.

Most importantly, we respond to the biggest of gun law loopholes—the Clinton Administration's failure to enforce the gun laws already on the books. We insure that the Department of Justice will fulfill its obligation to enforce the law. Prosecuting violent gun offenders will be made a priority for this Administration whether they like it or not.

IV. Safe and Secure Schools: The fourth element of our plan revolves around the basic right that all students share—the right to receive the quality education they deserve. Our teachers and students need to know that their school is safe and that, should they take action to deal with a violent student, the teacher will be protected. Our bill promotes safe and secure schools, free of undue disruption and violence, so that our teachers can teach and our children can learn. We provide greater flexibility to local communities in how they use federal education funds. We also provide teachers with limited civil liability protection should they take action to remove a problem child from school.

These are just some of the many, many reforms contained in this bill. There has been a sense among many Americans that we are powerless to reverse the trend of violence. People believe we are powerless to deal with violent juvenile crime and that we are powerless to change our culture. It is this feeling of powerlessness which threatened our collective ambition for meaningful, penetrating solutions in the wake of the Littleton tragedy. I believe the Senate has taken a meaningful step towards shedding this defeatism.

Do I agree with everything in this bill? No. For example, I oppose to the gun show regulatory and taxing amendment. But addressing this gun show issue has been evolutionary. Both sides have moved on this and—perhaps—we can find common ground as the bill moves through the House and conference.

Given the seriousness of our youth violence problem—and the number of warning signs that tragedies will continue unless all of us come together—we must move forward. We should join together and pass this bill.

Finally, in closing I want to end this debate with a reminder. We have been on this bill for two weeks talking about violent juvenile crime, about the events in Littleton, about kids who use guns, and about kids influenced by violence in the media. Unfortunately, all of that is very true.

But let us not lose sight of the fact that there are millions of kids in this country, hundreds of thousands in Utah, who are really good young people. We give a lot of attention and this bill focuses even more of it on young people who get into trouble with the law. Let's not forget that about the kids who fly straight. As we wrap up consideration of this bill, let's thank the millions of young people across this land that work hard, study long hours, respect and love their parents and friends, and care for others around them.

Mr. President, I would like added as cosponsors of this bill and have their names appear as cosponsors immediately following my name: Senator LEAHY, Senator SESSIONS, Senator BIDEN and Senator FEINSTEIN. I am very proud to be able to be the prime sponsor with these wonderful cosponsors.

Senator BIDEN was one of the first cosponsors on this bill. I am more than pleased that my ranking member, Senator LEAHY is a cosponsor and a prime cosponsor.

S. 254 is a testament to those who worked on it and a product which, on the whole, will help our young people and do something significant about the problems of juvenile crime.

I want to thank a few of the people who have worked on this bill. Let me first acknowledge the Majority Leader who worked with me to keep this bill alive. Given the demanding Senate schedule, it would have been easier for him to have refused to take up the bill or pull it down. We have a bill passing the Senate because he wanted to do what's right.

Let me also acknowledge Ranking Member, Senator LEAHY. He and I reached agreement on this important bill after much discussion and he ably managed the bill for his side of the aisle.

I also want to commend Senator SESSIONS—the Chairman of the Youth Violence Subcommittee. S. 254 became the vehicle for quite of bit of politically charged legislation but it was Senator SESSIONS who stayed on me for more than two years and who never lost sight of the need to make the juvenile justice reforms we make in the underlying bill.

Also, let me commend Senator BIDEN who came on this bill as a cosponsor when others were unwilling. A leader on crime control issues, he was instrumental in setting a cooperative tone which helped get this bill moving.

Senator ALLARD, Senator CRAIG, Senator BROWNBACK, and Senator ASHCROFT are to be commended for their leadership and counsel. Senator FEINSTEIN should be applauded for her cooperation. There are many others but I will end it there.

At the staff level, I want to commend several people.

First, on the Judiciary Committee staff, let me acknowledge a few people who have worked very hard on this bill. Committee Counsels Rhett Dehart and Mike Kennedy are to be commended for their lead work on this important bill. When others were skeptical about its prospects they were there to make the substantive case for moving this bill.

They worked very hard, for several years, to get this bill introduced, reported, and passed. This bill's passage is a testament to their tireless efforts.

In addition, I want to acknowledge and thank Kristi Lee, the Chief Counsel of the Youth Violence subcommittee for her work.

I also want to commend a few others on the Committee Staff: Sharon Prost, Anna Cabral, Ed Haden, Craig Wolf, Catherine Campbell, David Muhlhausen, Leah Belaire, Makan Delrahim, Jeanne Lopatto, Alison Vinson, Joelle Scott, Elle Parker, Krista Redd, and Luke Austin. They all worked around the clock on this bill. The amount of preparation that goes into these bills is significant and they were given little time to prepare for the floor. They are a great staff and I thank them for their efforts. Thanks as well should be given to the Committee's Chief Counsel and Staff Director, Manus Cooney. He is one of the first staff directors in the committee's history.

On Senator LEAHY's committee staff I want to acknowledge the Minority Chief Counsel—Bruce Cohen for his cooperative efforts and leadership. Beryl Howell, Senator LEAHY's General Counsel should also be commended for her substantive work on the underlying Hatch-Leahy substitute and managers' package. Ed Barron is a true gentleman and an able lawyer.

Let me also acknowledge the Youth Violence Subcommittee's Minority Chief Counsel, Sheryl Walter and Glen Shor with the Criminal Justice Overight Subcommittee.

Others I would be remiss in not mentioning include:

Dave Hoppie, Robert Wilkie, and Jim Hecht of the Majority Leader's staff;

Stewart Verdery and Eric Euland of the Whip's office;

Ken Foss, Candi Wolff, and Jade West of the Policy Committee;

Mike Bennett, Karen Knutson, Kris Ardizzone, David Crane, and Paul Clement.

Let me acknowledge the hard work of Mary Kay MacMillan, Tony Coe, Bill Jensen, and Tim Trushel of the Senate Legislative Counsel's office, who all put in extraordinary effort in preparing this bill and many amendments.

And finally, I would be remiss if I did not express thanks to our wonderful floor and cloakroom staff: Elizabeth Letchworth, Dave Schiappa, Tripp Baird, Malloy McDaniel, Marshall Hiton, Dan Dukes, Laura Martin, and Myra Baron. These folks keep things running during our hectic debates, and we appreciate them.

I am very grateful to finally have this ordeal over. It has been a very, very difficult bill, as all of these crime bills usually are. I think if anybody tries to make this just a gun bill, they have missed the point of what we have accomplished here.

Sure, there have been some amendments on guns that are very crucial and very important in the eyes of many people on the floor, but this bill is so much more—ranging from accountability, calling on youth to be responsible for their actions, to prevention moneys. For the first time in years, we have balanced prevention and accountability and law enforcement. The law enforcement aspect will help bring the law down on violent juveniles and others who aid them in committing these crimes. We have made real inroads and we have taken a number of very important steps with regard to changing the culture of violence in our society. That is important. Yes, we faced some tough amendments on guns. I don't like all of the results on this bill. But the fact of the matter is, they were votes, they were voted up and down, the Senate has spoken, and we need to recognize that for what it is.

At this point I again express my appreciation to my friend, Senator LEAHY, for the patience he has had with me, the patience he has had on the floor, the assistance he has been. It has been a real privilege to work for him. I respect and admire him and hope to do a lot of constructive things with him in the future.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished senior Senator from Utah for his kind remarks. We have worked very closely together on this. We have seen a bill go through a major evolution on the floor. Frankly, that is what the Senate should do in working its will through a bill. But I must say to my friend from Utah, I do not think that would have been possible if he and I had not been able to work together, if we had not been in constant contact, day by day, hour by hour and, perhaps to his regret at times, minute by minute.

I once said Senators are merely constitutional impediments to their staff—maybe I said it more than once. If we had not had superb staffs working on this, I do not know what we could have done.

We had Senators who came together, even though they normally seem politically far apart. The distinguished Senator from Alabama, Senator SESSIONS, an original cosponsor of this bill; the distinguished Senator from Delaware, Senator BIDEN; myself and Senator HATCH—coming together, bringing so many other Senators together.

One need only look at the major managers' package we passed. I say to my friend from Utah, I think when we introduced our managers' amendment that, as much as anything, broke the logjam and made passage of this bill possible. We tried to accommodate many Senators on both sides of the aisle who had legitimate matter of concern. In that process we came together to shape a bill. The managers' amendment agreement was more than just saying what is good for one Senator or another Senator. This is a juvenile justice bill and the managers' amendment helped shape the contours of that collective product.

As a parent, I think back to the time when my children were going to school. I thought what a happy and wonderful time in their life it was. I knew it was one place where they were safe. We did not have to worry about anything more than, did they study enough for their geometry test or history test or did they get their English assignment in on time? The worst injury you might worry about was if somebody in the playground was to slip and fall and bruise an arm or a leg.

Parents should not have to worry about their children going to school. But even today as we debated this—as we talked about Columbine, where the President and the First Lady were traveling today—we saw, again, on the TV, pictures of another school shooting by another juvenile in Georgia, leaving children injured and being flown to a hospital. Every parent in this country is reminded, again, that often today our children are not safe, even when we send them off to a place where they should be. That is not the way it should be.

We have worked tirelessly on this bill. I think it is a better bill than when it began. The intentions were always the same: To make sure our juveniles are safe, our people are safe, that we choose the right course for juveniles when they do commit crimes.

The Senate has improved this bill. It is more comprehensive and more respectful of the core protections in the Federal juvenile legislation that served us well in past decades. It is more respectful of the primary role of the States in prosecuting these matters. We do recognize that no legislation is perfect, legislation alone is not enough to stop youth violence.

I hope parents, teachers, and juveniles themselves will stop and say: Can we not do better? Can we not have time together? Can we not love our children as we should? Can we not love each other as we should? Can we not look at some of the principles I knew so well when I was growing up, given to me by my parents, principles I hope my wife and I passed on to our children?

Can we not go to those basic principles and understand, even in a country of a quarter of a billion people, that we do not need the violence we see in this country?

It is not just a question of gun control. It is not just a question of more courts or more police. It is not just a question of more laws. But it is a question of, what do we want to be as a nation? We are blessed in this nation. We are the most powerful, wealthiest nation history has ever known. We live better than anybody ever could have imagined. We have so much going for us. Should not we stop and say, when it comes to our children, the most precious resource we have, that we must do all that we can to protect them and nurture them and teach them to be responsible?

Since we began consideration of this important legislation last week, we

have gotten both good news and bad news on the crime front. We got the good news at the beginning of this week when the FBI released the latest crime rate statistics showing a decline in serious crime for the seventh consecutive year. Preliminary reports indicate that the rate of serious violent and property crime in this country went down another 7 percent in 1998, with robbery down 11 percent, murders down 8 percent, car thefts down 10 percent, and declines in other crime categories as well.

But we are all acutely aware that we also got bad news today. Yet another school shooting by a juvenile—this time in Georgia—with children injured and being flown to hospitals. Every parent in this country is reminded again that our children are not safe, even when we send them off to a place where they should be. The only thing parents should have to worry about when they wave good-bye to their children in the morning is whether their child remembered his or her homework and lunch money. They should not have to worry about whether they will get shot.

The growing list of schoolyard shootings by children in Arkansas, Washington, Oregon, Tennessee, California, Pennsylvania, Kentucky, Mississippi, last month in Littleton, Colorado, and today in Georgia, is simply unacceptable and intolerable.

Each one of us wants to do something to stop this violence. We have before us a bill that reflects hard work and committed effort on both sides of the aisle to address the juvenile crime problem. Senator HATCH and Senator SESSIONS have worked tirelessly for several years now to make a difference. While we have strongly disagreed in the past on the right approach to juvenile crime, I have always respected their good intentions. I am glad that this year we have continued the progress we made in the last Congress to find common ground on this important legislation.

In light of the significant improvements we have been able to make to the bill here on the Senate floor over the last eight days, the bill is a better, stronger and better balanced bill. It is more comprehensive and more respectful of the core protections in federal juvenile justice legislation that have served us so well over the last three decades. At the same time it is more respectful of the primary role of the states in prosecuting these matters. I greatly appreciate the Chairman of the Judiciary Committee adding me as a principal cosponsor of our bill.

I recognize, as we all do, that no legislation is perfect and that legislation alone is not enough to stop youth violence. We can pass an assortment of new laws and still turn on the news to find out that some child somewhere in the country has turned violent and turned on other children and teachers, with a gun or other weapon, with terrible results.

All of us—whether we are parents, grandparents, teachers, psychologists, or policy-makers—are puzzling over the causes of kids turning violent in our country. The root causes are likely multi-faceted. We can all point to inadequate parental involvement or supervision, over-crowded classrooms and over-sized schools that add to students' alienation, the easy accessibility of guns, the violence depicted on television, in movies and video games, or inappropriate content available on the Internet. There is no single cause and no single legislative solution that will cure the ill of youth violence in our schools or in our streets. Nevertheless, this legislation is a firm and significant step in the right direction.

I have said before that a good proposal that works should get the support of all of us. Our first question should be whether a program or proposal will help our children effectively, not whether it is a Democratic or Republican proposal. The Managers' amendment and package of amendments that the Chairman and I were able to put together for adoption yesterday reflects that philosophy. It shows that when this body rolls up its sleeves and gets to work, we can make significant progress. I commend the Chairman for his leadership in this effort and I am glad we were able to work together constructively to improve this bill.

This bill, S. 254, started out as a much-improved bill from the one reported by the Judiciary Committee in the last Congress. In fact, as I looked through this bill I was pleasantly surprised to see that proposals that the Republicans on the Judiciary Committee specifically voted down in 1997 were incorporated at the outset into this bill. These are changes that I and other Democrats have been urging on our Republican colleagues for the past few years, and that they have resisted until they quietly incorporated them into this bill.

Federalism. For example, I tried in July 1997 to amend S. 10 to protect the State's traditional prerogative in handling juvenile offenders and avoid the unnecessary federalization of juvenile crime that so concerns the Chief Justice and the Federal judiciary. Specifically, my 1997 amendment would have limited the federal trial as an adult of juveniles charged with nonviolent felonies to circumstances when the State is unwilling or unable to exercise jurisdiction. This amendment was defeated, with all the Republicans voting against it.

This bill, S. 254, contained a new provision designed to address these federalism concerns that would direct federal prosecutors to ''exercise a presumption in favor of referral'' of juvenile cases to the appropriate State or tribal authorities, where there is ''concurrent jurisdiction,'' unless the State declines jurisdiction and there is a substantial federal interest in the case. Yet, concerns remained that this bill would undermine a State's traditionally prerogative to handle juvenile offenders.

The changes we make to the underlying bill in the Hatch-Leahy Managers' amendment satisfy my concerns. For example, S. 254 as introduced would repeal the very first section of the Federal Criminal Code dealing with ''Correction of Youthful Offenders.'' This is the section that establishes a clear presumption that the States—not the federal government—should handle most juvenile offenders [18 U.S.C. section 5001]. While the original S. 254 would repeal that provision, the Managers' amendment retains it in slightly modified form.

In addition, the original S. 254 would require Federal prosecutors to refer most juvenile cases to the State in cases of ''concurrent jurisdiction . . . over both the offense and the juvenile.'' This language created a recipe for sharp lawyering. Federal prosecutors could avoid referral by simply claiming there was no ''concurrent'' jurisdiction over the ''offense'' due to linguistic or other differences between the federal and state crimes. Even if the juvenile's conduct violated both Federal and State law, any difference in how those criminal laws were written could be used to argue they were different offenses altogether. This was a huge loophole that could have allowed federal prosecutors to end-run the presumption of referral to the State.

We fix this in the Managers' Amendment, and clarify that whenever the federal government or the State have criminal laws that punish the same conduct and both have jurisdiction over the juvenile, federal prosecutors should refer the juvenile to the State in most instances.

Finally, I was concerned that, contrary to current law, a federal prosecutor's decision to proceed against a juvenile in federal court would not be subject to any judicial review. The Managers' Amendment would permit such judicial review, except in cases involving serious violent or serious drug offenses.

Federal Trial of Juveniles as Adults. Another area of concern has been the ease with which S. 254 would allow federal prosecutors to prosecute juveniles 14 years and older as adults for any felony. While I have long favored simplifying and streamlining current federal procedures for trying juveniles, I believe that judicial review is an important check in the system, particularly when you are dealing with children.

This bill, S. 254, included a ''reverse waiver'' proposal allowing for judicial review of most cases in which a juvenile is charged as an adult in federal court. I had suggested a similar proposal in July 1997, when I tried to amend S. 10 before the Judiciary Committee to permit limited judicial review of a federal prosecutor's decision to try certain juveniles as adults. S. 10 granted sole, non-reviewable authority to federal prosecutors to try juveniles

as adults for any federal felony, removing federal judges from that decision altogether. My 1997 amendment would have granted federal judges authority in appropriate cases to review a prosecutor's decision and to handle the juvenile case in a delinquency proceeding rather than try the juvenile as an adult.

Only three States in the country granted prosecutors the extraordinary authority over juvenile cases that S. 10 proposed, including Florida. Earlier this year, we saw the consequences of that kind of authority, when a local prosecutor in that State charged as an adult a 15-year-old mildly retarded boy with no prior record who stole $2 from a school classmate to buy lunch. The local prosecutor charged him as an adult and locked him up in an adult jail for weeks before national press coverage forced a review of the charging decision in the case.

This was not the kind of incident I wanted happening on the federal level. Unfortunately, my proposal for a ''reverse waiver'' procedure providing judicial review of a prosecutor's decision was voted down in Committee, with no Republican on the Committee voting for it.

I was pleased that S. 254 contained a ''reverse waiver'' provision, despite the Committee's rejection of this proposal two years ago. Though made belated, this was a welcome change in the bill. The Managers' amendment makes important improvements to that provision.

First, S. 254 gives a juvenile defendant only 20 days to file a reverse waiver motion after the date of the juvenile's first appearance. This time is too short, and could lapse before the juvenile is indicted and is aware of the actual charges. The Managers' amendment extends the time to make a reverse waiver motion to 30 days, which begins at the time the juvenile defendant appears to answer an indictment.

Second, S. 254 requires the juvenile defendant to show by ''clear and convincing'' evidence that he or she should be tried as a juvenile rather than an adult. This is a very difficult standard to meet, particularly under strict time limits. Thus, the Managers' amendment changes this standard to a ''preponderance'' of the evidence.

Juvenile Records. As initially introduced, S. 254 would require juvenile criminal records for any federal offense, no matter how petty, to be sent to the FBI. This criminal record would haunt the juvenile as he grew into an adult, with no possibility of expungement from the FBI's database.

The Managers' amendment makes important changes to this record requirement. The juvenile records sent to the FBI will be limited to acts that would be felonies if committed by an adult. In addition, under the Managers' amendment, a juvenile would be able after 5 years to petition the court to have the criminal record removed from the FBI database, if the juvenile can show by clear and convincing evidence that he or she is no longer a danger to the community. Expungement of records from the FBI's database does not apply to juveniles convicted of rape, murder or certain other serious felonies.

Increasing Witness Tampering Penalties. This bill, S. 254, also contains a provision to increase penalties for witness tampering that I first suggested and included in the ''Youth Violence, Crime and Drug Abuse Control Act of 1997,'' S. 15, which was introduced in the first weeks of the 105th Congress, at the end of the last Congress in the ''Safe Schools, Safe Streets and Secure Borders Act of 1998,'' S. 2484, and again in S. 9, the comprehensive package of crime proposals introduced with Senator DASCHLE at the beginning of this Congress. This provision would increase the penalty for using or threatening physical force against any person with intent to tamper with a witness, victim or informant from a maximum of ten to twenty years' imprisonment. In addition, the provision adds a conspiracy penalty for obstruction of justice offenses involving witnesses, victims and informants.

I have long been concerned about the undermining of our criminal justice system by criminal efforts to threaten or harm witnesses, victims and informants, to stop them from cooperating with and providing assistance to law enforcement. I tried to include this provision, along with several other law enforcement initiatives, by amendment to S. 10 during Committee mark-up on July 11, 1997, but this amendment was voted down by all the Republicans on the Committee. At the end of the mark-up, however, this witness tampering provision was quietly accepted to S. 10 and I am pleased that it is also included in S. 254.

Eligibility Requirements for Accountability Block Grant. This bill, S. 254, substantially relaxes the eligibility requirements for the new juvenile accountability block grant. By contrast, S. 10 in the last Congress would have required States to comply with a host of new federal mandates to qualify for the first cent of grant money, such as permitting juveniles 14 years and older to be prosecuted as adults for violent felonies, establishing graduated sanctions for juvenile offenders, implementing drug testing programs for juveniles upon arrest, and nine new juvenile record-keeping requirements. These record-keeping mandates would have required, for example, that States fingerprint and photograph juveniles arrested for any felony act and send those records to the FBI, plus make all juvenile delinquency records available to law enforcement agencies and to schools, including colleges and universities. We could find no State that would have qualified for this grant money without agreeing to change their laws in some fashion to satisfy the twelve new mandates.

In 1997, I tried to get the Judiciary Committee to relax the new juvenile record-keeping mandates under the accountability grant program during the mark-up of S. 10. My 1997 amendment would have limited the record-keeping requirements to crimes of violence or felony acts committed by juveniles, rather than to all juvenile offenses no matter how petty. But my amendment was voted down on July 23, 1997, by the Republicans on the Committee. Finally, two years later, S. 254 reflects the criticism I and others Democrats on the Judiciary Committee leveled at the strict eligibility and record-keeping requirements in S. 10.

Indeed, the Senate decisively rejected this approach when it defeated an amendment by a Republican Senator that would have revived those straight-jacket eligibility requirements. Specifically, his amendment would have required States to try as adults juveniles 14 years or older who committed certain crimes. As I pointed out during floor debate on this amendment, only two States would have qualified for grant funds unless they agreed to change their laws.

Moreover, the current bill removes the record-keeping requirements altogether from the Juvenile Accountability Block Grant. Instead, S. 254 sets up an entirely new Juvenile Criminal History Block Grant, funded at $75 million per year. To qualify for a criminal history grant, States would have to promise within three years to keep fingerprint supported records of delinquency adjudications of juveniles who committed a felony act. No more photographs required. No more records of mere arrests required. No more dissemination of petty juvenile offense records to schools required. Instead, only juvenile delinquency adjudications for murder, armed robbery, rape or sexual molestation must be disseminated in the same manner as adult records; other juvenile delinquency adjudications records may only be used for criminal justice purposes. These limitations are welcome changes to the burdensome, over-broad record-keeping requirements in the prior version of the Republican juvenile crime bill.

The eligibility requirements for the Juvenile Accountability Block Grant now number only three, including that the State have in place a policy of drug testing for appropriate categories of juveniles upon arrest.

Core Protections for Children. Much of the debate over reforming our juvenile justice system has focused on how we treat juvenile offenders who are held in State custody. Republican efforts to roll back protections for children in custody failed in the last Congress. These protections were originally put in place when Congress enacted the Juvenile Justice and Delinquency Prevention Act of 1974 to create a formula grant program for States to improve their juvenile justice systems. This Act addressed the horrific conditions in which children were being detained by State authorities in close proximity to adult inmates—conditions

that too often resulted in tragic assaults, rapes and suicides of children.

As the JJDPA has evolved, four core protections have been adopted—and are working—to protect children from adult inmates and to ensure development of alternative placements to adult jails. These four core protections for juvenile delinquents are:

Separation of juvenile offenders from adult inmates in custody (known as sight and sound separation);

Removal of juveniles from adult jails or lockups, with a 24-hour exception in rural areas and other exceptions for travel and weather related conditions;

Deinstitutionalizaton of status offenders; and to study and direct prevention efforts toward reducing the disproportionate confinement of minority youth in the juvenile justice system.

Over strong objection by most of the Democrats on the Judiciary Committee in the last Congress, S. 10 eliminated three of the four core protections and substantially weakened the ''sight and sound'' separation standard for juveniles in State custody. At the same time the Committee appeared to acknowledge the wisdom and necessity of such requirements when it adopted an amendment requiring separation of juveniles and adult inmates in Federal custody.

This bill, S. 254, as introduced was an improvement over S. 10 in its retention of modified versions of three out of the four core protections. Specifically, S. 254 included the sight and sound standard for juveniles in Federal custody reflected in a 1997 amendment to S. 10. The same standard is used to apply to juveniles delinquents in State custody.

Legitimate concerns were raised that the prohibition on physical contact in S. 254 would still allow supervised proximity between juveniles and adult inmates that is ''brief and incidental or accidental,'' since this could be interpreted to allow routine and regular—though brief—exposure of children to adult inmates. For example, guards could routinely escort children past open adult cells multiple times a day on their way to a dining area.

The Hatch-Leahy managers' Amendment makes significant progress on the ''sight and sound separation'' protection and the ''jail removal'' protection. Specifically, our Managers' amendment makes clear that when parents in rural areas give their consent to have their children detained in adult jails after an arrest, the parents may revoke their consent at any time. In addition, the judge who approves the juvenile's detention must determine it is in the best interests of the juvenile, and may review that detention—as the judge must periodically—in the presence of the juvenile.

The managers' amendment also clarifies that juvenile offenders in rural areas may be detained in an adult jail for up to 48 hours while awaiting a court appearance, but only when no alternative facilities are available and appropriate juvenile facilities are too far away to make the court appearance or travel is unsafe to undertake.

The Hatch-Leahy managers' amendment also significantly improves the sight and sound separation requirement for juvenile offenders in both Federal and State custody. The amendment incorporates the guidance in current regulations for keeping juveniles separated from adult prisoners. Specifically, the Managers' amendment would require separation of juveniles and adult inmates and excuse only ''brief and inadvertent or accidental'' proximity in non-residential areas, which may include dining, recreational, educational, vocational, health care, entry areas, and passageways.

I am pleased we were able to make this progress. I appreciate that a number of Members remain seriously concerned, as do I, about how S. 254 changes the disproportionate minority confinement protection in current law. This bill, S. 254, removes any reference to minorities and requires only that efforts be made to reduce over-representation of any segment of the population. I am disappointed that Senators WELLSTONE and KENNEDY's amendment to restore this protection did not succeed yesterday, but will continue to fight in conference to restore this protection.

Prevention. S. 254 includes a $200 million per year Juvenile Delinquency Prevention Challenge Grant to fund both primary prevention and intervention uses after juveniles have had contact with the juvenile justice system. I and a number of other members were concerned that in the competition for grant dollars, the primary prevention uses would lose out to intervention uses in crucial decisions on how this grant money would be spent. With the help of Senator KOHL, we have included in the Hatch-Leahy Managers' amendment a clear earmark that eighty percent of the money, or $160 million per year if the program is fully funded, is to be used for primary prevention uses and the other twenty percent is to be used for intervention uses. Together with the 25 percent earmark, or about $112 million per year if that program is fully funded, for primary prevention in the Juvenile Accountability Block Grant that was passed by the Senate in the Hatch-Biden-Sessions amendment, this bill now reflects a substantial amount of solid funding for primary prevention uses.

Prosecutors' Grants. I expressed some concern when the Senate passed the Hatch-Biden-Sessions amendment authorizing $50 million per year for prosecutors and different kinds of assistance to prosecutors to speed up prosecution of juvenile offenders. I pointed out that this amendment did not authorize any additional money for judges, public defenders, counselors, or corrections officers. The consequence would be to only exacerbate the backlog in juvenile justice systems rather than helping it.

The Managers' amendment fixes that by authorizing $50 million per year in grants to State juvenile court systems to be used for increased resources to State juvenile court judges, juvenile prosecutors, juvenile public defenders, and other juvenile court system personnel.

Sense of Senate. I mentioned before that S. 254 includes a Sense of the Senate resolution urging States to try juveniles 10 to 14 years old as adults for crimes, such as murder, that would carry the death penalty if committed by an adult—the resolution does not urge the death penalty for such children. While Vermont is probably one of the few States that expressly allows for the trial of juveniles 10 years and older as adults for certain crimes, I do not believe that this is a matter on which the Senate must or should opine. The Managers' amendment correctly deletes that Sense of the Senate from the bill.

State Advisory Groups. S. 254 incorporates changes I recommended to S. 10 in the last Congress to ensure the continued existence and role of State Advisory Groups, or SAGs, in the development of State plans for addressing juvenile crime and delinquency, and the use of grant funds under the JJDPA. As originally introduced, S. 10 had abolished the role of SAGs. The Judiciary Committee in 1997 adopted my amendment to preserve SAGs and require representation from a broad range of juvenile justice experts from both the public and private sectors.

While, as introduced, S. 254 preserved SAGs, it eliminated the requirement in current law that gives SAGs the opportunity to review and comment on a grant award to allow these experts to provide input on how best to spend the money. In addition, while the bill authorizes the use of grant funds to support the SAG, the bill does require States to commit any funds to ensure these groups can function effectively. I am pleased that the Chairman and I were able to accept an amendment sponsored by Senators KERREY, ROBERTS, and others, to ensure appropriate funding of SAGs at the State level and to support their annual meetings.

Protecting Children From Guns. Significantly, we have amended this bill with important gun control measures that we all hope will help make this country safer for our children. The bill as now been amended: bans the transfer to and possession by juveniles of assault weapons and high capacity ammunition clips; increases criminal penalties for transfers of handguns, assault weapons, and high capacity ammunition clips to juveniles; bans prospective gun sales to juveniles with violent crime records; expands the youth crime gun interdiction initiative to up to 250 cities by 2003 for tracing of guns used in youth crime; and increases federal resources dedicated to enforcement of firearms laws by $50 million a year. These common-sense initiatives were first included in the

comprehensive Leahy law enforcement amendment that was tabled by the majority, but were later included in successful amendments sponsored by Republican Senators. No matter how these provisions were finally included in the bill, they will help keep guns out of hands of children and criminals, while protecting the rights of law abiding adults to use firearms.

In addition, through the efforts of Senators LAUTENBERG, SCHUMER, KERREY and others, we were able to require background checks for all firearm purchases at all gun shows. After three Republican amendments failed to close the gun show loophole in the Brady law, and, in fact, created many new loopholes in the law, we finally prevailed. With the help of Vice President GORE's tie-breaking vote, a majority in the U.S. Senate stood up to the gun lobby and did the right thing. This is real progress. Conclusion.

I said at the outset of the debate on this bill that I would like nothing better than to pass responsible and effective juvenile justice legislation. I want to pass juvenile justice legislation that will be helpful to the youngest citizens in this country—not harm them. I want to pass juvenile justice legislation that assists States and local governments in handling juvenile offenders—not impose a ''one-size-fits-all'' Washington solution on them. I want to prevent juveniles from committing crimes, and not just narrowly focus on punishing children. I want to keep children who may harm others away from guns. This bill would make important contributions in each of these areas, and I am pleased to support its passage.

I thank the Republican manager of this important measure for his work and dedication to this effort. I commend the Minority Leader and the Minority Whip for their assistance and attention to this debate. There would not be a juvenile justice bill without them. I thank Senator KENNEDY, Senator SCHUMER, Senator KOHL and all the Democratic Members of the Judiciary Committee for helping manage this effort. Senators BINGAMAN, ROBB, BOXER, WELLSTONE and LAUTENBERG should also be singled out for their consistent efforts to improve this bill. And I would like to thank the staff of the Senate Judiciary Committee, Republican and Democrat, including Manus Cooney, Sharon Prost, Rhett DeHart, Michael Kennedy and Anna Cabral from Chairman HATCH's staff and Bruce Cohen, Beryl Howell, Ed Pagano, Ed Barron, J.P. Dowd, Julie Katzman and Michael Carrasco from my own. In addition Michael Myers, Stephaine Robinson, Melody Barnes and Angela Williams from Senator KENNEDY's staff and Sheryl Walter, Jon Leibowitz, Brian Lee, Neil Quinter, David Hantman, Bob Schiff, Jennifer Leach and Glen Shor, Sander Lurie and Tony Orza were exceptional in staffing these matters. I thank them all for their dedication and public service.

I thank Senators on both side of the aisle who worked with us, but I want to congratulate the distinguished chairman and thank him for his help.

Mr. HATCH. I likewise congratulate the ranking member.

Mr. President, I ask 5 minutes be accorded to the subcommittee chairman of the Judiciary Committee who did more than any other single person to bring the good parts of this bill to the floor. He deserves a lot of recognition. This is his first term in the Senate. To have such a significant role on a bill of this magnitude I think is a great star in Senator SESSIONS' crown. I certainly recognize that and tell him what a pleasure it has been to work with him and with his staff in doing this.

Let me just add one last thing. The Senator is right, the Senator from Vermont. We are here trying to save our children. We are here trying to make this a better world for them. We are here trying to make it clear to people in this country there is such a thing as discipline and we have to abide by certain rules in society. This bill will help a lot of young kids out there to realize there are rules and they are worthy rules; if they will abide by them, we will continue to have a great society for the next 200-plus years. To the extent this bill has come through, as extensive and good as it is, we owe a lot to the Senator from Georgia.

I want to end this debate with a reminder. We have been on this bill for 2 weeks talking about violent juvenile crime, about the events in Littleton, about kids who use guns and about kids influenced by violence in the media. Unfortunately for all of us, that is true. But let us not lose sight of the millions of kids in this country, hundreds of thousands in Utah, who are really good young people.

We give a lot of attention, and the bill focuses even more, on young people who get into trouble with the law. Let us not forget that about the kids who fly straight. As we wrap up consideration of this bill, let's thank the millions of young people across this land who work hard, study long hours, respect and love their parents and friends, and care for others around them. There are millions and millions of good kids in this country. What we are trying to make sure is the kids who were led astray, the kids who we think may not be so good, they are going to get a break—or at least they are going to understand what the law is with regard to violence. This bill, I think, will go a long way to solving these problems.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Utah, who is a master legislator, who took this bill through storms none of us expected would occur. This was an emotional time in America. It has generated an awful lot of amendments and ideas, some of which are good and some of which I frankly think are not healthy.

I believe we need to focus on prosecuting criminals who use guns. It always galled me as a former Federal prosecutor myself that here this administration blamed the Congress for not passing more laws when their own Department of Justice had allowed prosecutions of gun cases to drop 40 percent. You wonder why we are passing laws if they are not using them.

Those were some of the matters that came up. My vision for this bill from the beginning was to create a Federal program to assist the local juvenile justice systems in America. We put money where these judges and prosecutors and probation officers are overwhelmed by the huge crush of juvenile cases. We have increased funding dramatically for adult programs for crimefighting but we have not done the same for juveniles. Those juveniles, then, come on and become adult criminals.

I hope everybody in America who cares about what is happening will ask how their juvenile court system is doing. Does the judge in their town have an option when a child is arrested to send them to prison, detention, boot camp, alternative schools, drug treatment, mental health, family counseling? Can the judge impose that? Can he impose a probation order and then have the resources to make sure that youngster is at home at night at 7 like he ordered, or do we do like most courts in America, because they do not have enough resources, so orders are written but nobody enforces them?

If we love these children, if we care about these children, when they are arrested, we will drug test them, because if they are using drugs, they are going to continue in the life of crime. Sixty-seven to 70 percent of the people in America who are arrested for a felony test positive for an illegal drug. It is an accelerant to crime. This legislation does that kind of thing.

It provides money for drug testing. It provides money for recordkeeping. We hope every juvenile court system in America will input criminal history records into the Federal NCIC, National Crime Information Center, that the FBI manages. They want these records because these children move around and some of them are very violent. Those records need to be maintained. This bill provides for that.

It provides for research on which programs are working. Many of them are not successful, according to the Department of Justice, and we need to make sure these prevention programs are working well. It provides for research for that.

I am of a belief that this legislation—and it can use some work in conference, and I know Senator HATCH and others will try to improve it—can help us create a better juvenile justice system so we can intervene effectively at the first arrest. We can make that youngster's first brush with the law their last because we deal with them seriously and not as a revolving door.

Sometimes we have to use some form of detention because some of these kids just will not mind otherwise. We know that. They have multiple arrests.

I believe we have made some progress. I am honored to have worked with Senator LEAHY, Senator BIDEN, and certainly Senator HATCH, the chairman of our committee. He is an outstanding legislator, a man of integrity and principle, and an outstanding constitutional lawyer who cares about his country and serves it well every day.

I yield the floor.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

BUYING FLOOD DAMAGED VEHICLES

Mr. LOTT. Mr. President, consumers, motor vehicle administrators, law enforcement, and the automotive and insurance industries anxiously await Congressional action on appropriate and workable title branding legislation. Legislation that provides used car purchasers with much needed pre-purchase disclosure information for severely damaged vehicles.

As a result of varying state approaches, consumers are not always advised of a vehicle's damage history. The National Salvage Motor Vehicle Consumer Protection Act, S. 655, that I introduced back in March, would help correct this problem. It provides grant funds to states to encourage their adoption of uniform terms and procedures for salvage and other severely damaged vehicles. While a mandatory federal scheme was suggested during the last Congress, there were serious Constitutional concerns and the real potential that Congress would create an expensive unfunded mandate on states. The approach taken in S.655 overcomes these problems and provides states with offsetting funding.

Mr. President, it is clear that any title branding legislation Congress adopts must contain a rational definition for vehicles that sustain significant water damage.

The Congressionally chartered Motor Vehicle Titling, Registration and Salvage Advisory Committee, whose recommendations for curtailing title fraud and automobile theft spurred my sponsorship of S.655, came to the reasoned conclusion that water damage was so potentially insidious in nature that a separate and distinct consumer disclosure category needed to be created. One that distinguished flood vehicles from salvage and nonrepairable vehicles.

S. 655, which is similar to the bipartisan measure I coauthored with Senator Ford during the last Congress, adopts a distinct flood vehicle category and improves upon the definition initially proposed by the task force.

Mr. President, I am sure my colleagues are aware that the State of Illinois, which initially adopted the task force's recommended flood definition, subsequently revised it based on anti-consumer results. Illinois found that branding ''any vehicle that has been submerged in water to the point that rising water has reached over the door sill or has entered the passenger or truck compartment'' caused too many vehicles to be unnecessarily branded as ''flood'' vehicles. Vehicles that were significantly devalued and lost their manufacturers warranty when the only damage the vehicle suffered was wet carpets or wet floor mats.

S.655 is a good example of the need to balance competing consumer interests when establishing uniform titling definitions. Instead of unnecessarily and inappropriately branding vehicles with mere cosmetic damage, this legislation rightly brands as ''flood'' those vehicles which sustain water damage that impairs a car or truck's electrical, mechanical, or computerized functions. It also requires the ''flood'' designation for vehicles acquired by an insurer as part of a water damage settlement. This measure also includes an independent flood inspection as recommended by a working group of the National Association of Attorney's General.

Mr. President, I ask my collegues to heed the call of used-car buyers and provide them with a reasonable and workable title branding measure. One that includes all of the minimal definitions needed to protect them from title fraud and automobile theft.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 19, 1999, the federal debt stood at $5,593,797,968,334.37 (Five trillion, five hundred ninety-three billion, seven hundred ninety-seven million, nine hundred sixty-eight thousand, three hundred thirty-four dollars and thirty-seven cents).

Five years ago, May 19, 1994, the federal debt stood at $4,588,987,000,000 (Four trillion, five hundred eighty-eight billion, nine hundred eighty-seven million).

Ten years ago, May 19, 1989, the federal debt stood at $2,780,326,000,000 (Two trillion, seven hundred eighty billion, three hundred twenty-six million) which reflects a doubling of the debt—an increase of almost $3 trillion—$2,813,471,968,334.37 (Two trillion, eight hundred thirteen billion, four hundred seventy-one million, nine hundred sixty-eight thousand, three hundred thirty-four dollars and thirty-seven cents) during the past 10 years.

NATIONAL MARITIME DAY

Mr. LOTT. Mr. President, I would like to take a moment to recognize that today is National Maritime Day, when the Nation pays tribute to the American Merchant Mariners who have given their lives in the service of their country. Throughout the history of the United States, our U.S.-flag Merchant Marine has always been there, providing the support that time and again has proven to be essential to victory. It is with the most profound gratitude for the service and sacrifice of America's Merchant Marine veterans that we reflect upon the importance of our U.S.-flag fleet on this day.

On April 29, 1999, I was privileged to be given a very special momento by a group of Merchant Marine Veterans of World War II. It was a patch, of the kind worn by Merchant Mariners during World War II, and it was designed in 1944 by Walt Disney Studios. Walt Disney's people created a mascot for the Merchant Marine, called ''Battlin' Pete,'' and the patch shows Pete knocking out an Axis torpedo.

The presentation was made to express the veterans' gratitude for a very important piece of legislation that the Senate passed last year. Last year's veterans' benefits bill ensures that those American Merchant Marine veterans who served our country in World War II between August 16, 1945—the day that hostilities were officially declared at an end by President Truman—and December 31, 1946—the cut-off day for World War II service for all other service branches—receive honorable discharges for their service and are eligible for veterans' burial and cemetery benefits. This is the least we can do for these deserving veterans. I was privileged to introduce legislation during the 105th Congress seeking that change, and it was later incorporated into the veterans' benefits bill.

The overwhelming majority of World War II Merchant Mariners were previously awarded veterans status. Now, those who served in harm's way through the war's final days are also being recognized. Although Japan officially surrendered in August of 1945, harbors in Japan, Germany, Italy, France—indeed, across the world—still were mined. Twenty-two U.S.-government-owned vessels, carrying military cargoes, were damaged or sunk by mines after V-J Day. At least four U.S. Merchant Mariners were killed and 28 injured aboard these vessels. Even as Americans at home were celebrating victory, American Merchant Mariners carried on as they have always done—bravely serving their country with pride and professionalism.

I am proud that, at that April ceremony, the first honorable discharges for this previously forgotten group went to two Merchant Marine veterans from my home state of Mississippi: Mr. Robert Hoomes and Mr. Louis Breaux. Also, I was pleased that Mr. Joseph Katusa, National Chairman, Merchant Marine Fairness Committee, received

his honorable discharge. The ceremony was attended by my good friend and colleague, Congressman BOB STUMP, Chairman, House Veterans' Affairs Committee; Mr. Rudy de Leon, Under Secretary of Defense for Personnel and Readiness; Admiral Jim Loy, Commandant, U.S. Coast Guard; and Mr. George Searle, National President, American Merchant Marine Veterans. I would like to thank them for participating in the ceremony and acknowledging the service of Mr. Breaux, Mr. Hoomes, and Mr. Katusa, and the role that these, and all, Merchant Marine veterans played in preserving freedom.

As we mark National Maritime Day, it is important to note that our country's Merchant Mariners continue to stand ready to serve. In fact, the leaders of the major maritime labor unions—the Marine Engineers' Beneficial Association; the International Organization of Masters, Mates and Pilots; the National Maritime Union of America; the American Maritime Officers; and the Seafarers International Union of North America—recently expressed their readiness to support America's military effort in the Balkans. Recent reports that Greek seamen are refusing to support that effort is a reminder of why the United States requires its own highly capable Merchant Marine.

Mr. President, I will treasure that patch of ''Battlin' Pete'' from the Merchant Marine Veterans of World War II. It will always remind me of the importance of National Maritime Day, and of the sacrifices that America's Merchant Mariner veterans have made in the service of their country. For those who braved the Murmansk run; for those who served through the conflicts in Korea, Vietnam, and the Persian Gulf; for those who today stand ready to sail into harm's way with our Armed Forces; we salute you on this day.

EXPRESSION ON VOTES

Mr. BROWNBACK. Mr. President, I regret that due to family business which took me out of the country, I was unable to cast several recorded votes during yesterday's session. While my vote would not have altered the outcome of any of the motions, I would like to express how I would have voted had I been able:

On vote No. 120, a Cloture Motion regarding the motion to proceed to consideration of S. 96, Y2K liability legislation. I would have voted ''AYE.'' It is high time we move to consideration of this important legislation. The turn of the millennium is fast approaching and we must work to protect our citizens and businesses against harmful litigation that benefits no one.

On vote No. 121, amendment numbered 351 to S. 254 offered by Senator ALLARD regarding memorials in public schools, I would have voted ''AYE.'' This amendment will allow students and faculty members to grieve for classmates and colleagues killed on school property in a way that makes them most comfortable.

On vote No. 122, an amendment numbered 352 to S. 254 offered by Senators KOHL and HATCH regarding mandatory safety locks on guns, I would have voted ''AYE.'' This amendment was an example of the importance of bipartisan compromise. The Kohl-Hatch amendment requires all handguns sold or transferred by a licensed dealer to be sold with a locking device. In addition, this amendment provides important liability protections for gun owners who use these safety devices.

On vote No. 13, an amendment numbered 353 to S. 254 offered by Senators HATCH and FEINSTEIN I would have voted ''AYE.'' This important amendment increased penalties for participating in a crime as a gang member; makes it illegal to travel or use the mail for gang business; makes it illegal to transfer firearms to children to commit a crime; makes it illegal to clone pagers; prohibits the distribution of certain information relating to explosives or destructive devices; makes it illegal to wear body armor in the commission of a crime and donates surplus body armor to local Law enforcement agencies; and strengthens penalties for Eco-terrorism.

On vote No. 124, an amendment to S. 254 offered by Senator BYRD I would have voted ''AYE.'' This amendment allows states to enforce their own alcoholic beverage control laws by allowing state prosecutors to bring an injunction in Federal Court if interstate shippers violate State laws.

HEALTH AND THE AMERICAN CHILD

Mr. HATCH. Mr. President, yesterday I met with former Secretary of Health and Human Services Louis Sullivan, who now chairs the prestigious Public Health Policy Advisory Board (PHPAB). Dr. Sullivan presented to me their new report entitled ''Health and the American Child: A Focus on the Mortality Among Children.''

I was immediately struck by the fact that the findings of the PHPAB report underscore both the need for the legislation we are debating here today and the tremendous importance we must place on prevention efforts so that we can reduce unnecessary deaths of our Nation's youth.

According to ''Health and the American Child,'' in the past two decades, two causes of child death have dramatically increased—homicide and suicide, which account for 14% and 7% respectively of all deaths for children under age 19. In teenage black males, the levels are so striking that the report uses the term ''epidemic'' to describe an eight-fold increase in homicide rates among African American youth, now their number one cause of death.

''Homicide and suicide, the greatest new risks to children's health today, require both heightened preventive action as well as research into children's mental health and the social fabric in which they grow and develop.'' And that is precisely what we have been talking about during our debate on S. 254.

The PHPAB report goes on to define the contributing risk factors associated with mortality in children. Homicide and suicide, as the major killers of our children, are most closely associated with firearms, drug and alcohol use, and motor vehicles. These significant increases in both morbidity and mortality among our youth must be addressed and demand aggressive preventive action on our part.

I commend ''Health and the American Child'' to my colleagues and would be glad to make it available to any Senators who care to have the benefit of its considerable findings. ''Health and the American Child'' is really a call to action. It shows so dramatically why this bill we are debating today is important, and why we must set partisan rhetoric aside to get this legislation passed and enacted.

NATIONAL MISSILE DEFENSE ACT

Mr. COCHRAN. Mr. President, on March 17, of this year the Senate passed S. 257, the National Missile Defense Act of 1999, by a vote of 97–3. Subsequently, the House adopted as H.R. 4 a different version of the legislation, and today the House has agreed to the substance of the Senate bill. No further action is required on the bill, and it now goes to the President for his signature.

After many years of debate, Congress has passed legislation stating the national policy to be that the United States will deploy a national missile defense as soon as technologically possible.

Section 2 of the bill notes that, like all discretionary programs, national missile defense is subject to the authorization and appropriation of funds.

Section 3 states that we support the continued reductions in Russian nuclear force levels. There is no linkage between Russian nuclear force levels, or any arms control agreement, and the national missile defense deployment policy of the bill.

I urge the President to sign this bill and put to rest the concerns of many that our country would continue its vulnerability to ballistic missile attack. With the signing of this bill, a new era of commitment to missile defense will begin.

TRADE

Mr. THOMAS. Mr. President, I rise today to address an issue of critical importance to the domestic lamb industry and to producers in my home state of Wyoming. In September 1998, a coalition of individuals from all segments of the U.S. lamb industry filed a Section 201 trade petition with the U.S. International Trade Commission under laws

embedded in the Trade Act of 1974 and every trade act this nation has agreed to since that time.

Our domestic industry filed this trade case in response to the surging, record-setting levels of imported lamb meat from Australia and New Zealand. These individuals, although representing different sectors of the U.S. lamb industry, collectively signed onto this legal battle because each entity has witnessed a drastic impact from lamb imports—imports that increased nearly 50 percent between 1993 and 1997 and continue at an aggressive rate still today.

Under a Section 201 petition, the International Trade Commission is required to conduct an investigation to confirm or dispel the claims asserted within the trade case. Twice the Commissioners heard arguments from both the domestic industry and the importers. Twice the Commissioners rejected the importers arguments. In both instances, the Commissioners voted unanimously—during the injury phase in February and again in March, when they recommended that the President impose some form of trade relief. The Commission's report, and the industry's trade case, now await a final determination by President Clinton.

According to the Commission's report, wholesale imported lamb cuts consistently undercut the price of identical domestic cuts. Evidence of importers underselling domestically produced lamb was found in 79 percent of the product-to-product comparisons with margins of 20 percent to 40 percent. Other comparisons have found margin disparities reaching as high as 70 percent. It is evident that our domestic industry is suffering from the flood of cheap, imported lamb that has swamped the U.S. market and forced prices below break-even levels.

Time is of the essence in this matter as President Clinton has until June 4, 1999, to render his decision on what trade relief, if any, to implement. It is important to remember that under our own trade laws, the requirement of demonstrating that imports are threatening serious injury to the domestic industry has been met. As a result, I urge the President to impose strong, effective and temporary trade relief. More importantly, I urge the President to act on behalf of our producers by seriously considering the undisputed facts outlined in the Commission's report.

EMERGENCY MEDICAL SERVICES EFFICIENCY ACT

Mr. GRAMS. Mr. President, I rise today on behalf of all those who serve their fellow citizens through their active participation in the nation's emergency care system to make my remarks on the introduction of S. 9–1–1, the ''Emergency Medical Services Act of 1999.''

Mr. President, as a Senator who is deeply concerned about the every-expanding size and scope of the federal government, I've long believed Washington is too big, too clumsy and too removed to deal effectively with many of the issues in which it already meddles. However, I also believe there's an overriding public health interest in ensuring a viable and seamless EMS system across the country. By designating this week as national EMS Week, our nation recognizes those individuals who make the EMS system work.

There's no more appropriate time to reaffirm our commitment to EMS by addressing some of the problems the system is presented with daily.

I've often said that Congress has a tendency to wait until there's a crisis before it acts, but Congress cannot wait until there's a crisis in the EMS system before we take steps to improve it. There's simply too much at stake.

Whether we realize it or not, we all depend on and expect the constant readiness of emergency medical services. To ensure that readiness, we need to make efforts to secure the stability of the system. This has been my focus in drafting the EMSEA.

The most important thing we can do to maintain the vitality of the EMS system is to compel the government to reimburse for the services it says it will pay for under Medicare.

In the meetings I've had with ambulance providers, emergency medical technicians, emergency physicians, nurses, and other EMS-related personnel, their most common request is to base reimbursement on a ''prudent layperson'' standard, rather than the ultimate diagnosis reached in the emergency room.

While the Balanced Budget Act of 1997 [BBA] contained a provision basing reimbursement for emergency room services on the prudent layperson standard, I find it troubling HCFA refuses to include ambulance transportation in its regulations as a service covered by the patient protections enacted as part of Medicare Plus Choice. I also believe it is unacceptable that beneficiaries participating in fee-for-service are not granted the protections afforded to those in Medicare Plus Choice.

There has been a great debate in the Senate for the last year regarding protections for consumers against HMOs. Many of my colleagues would be startled to learn of the treatment many seniors have experienced at the hands of their own government through the Medicare fee-for-service program. The federal government would do better to lead by example rather than usurping powers from state insurance commissioners by imposing federal mandates on health insurance plans already governed by the states.

To illustrate how prevalent the problem of the federal government denying needed care to Medicare beneficiaries is, I want to share with you a case my staff worked on relating to Medicare reimbursement for ambulance services. I mentioned this case last year, but it is worth repeating. Please keep in mind that this is the fee-for-service Medicare program.

In 1994, Andrew Bernecker of Braham, Minnesota was mowing with a power scythe and tractor when he fell. The rotating blades of the scythe severely cut his upper arm. Mr. Bernecker tried to walk toward his home but was too faint from the blood loss, so he crawled the rest of the way. Afraid that his wife, who was 86 years old at the time, would panic—or worse, have a heart attack—he crawled to the pump and washed as much blood and dirt off as he could. His wife saw him and immediately called 911 for an ambulance.

He was rushed to the hospital where Mr. Bernecker ultimately spent some time in the intensive care unit and had orthopedic surgery. A tragic story.

In response to the bills submitted to Medicare, the government sent this reply with respect to the ambulance billing: ''Medicare Regulations Provide that certain conditions must be met in order for ambulance services to be covered. Medicare pays for ambulance services only when the use of any other method of transportation would endanger your health.'' The government denied payment, claiming the ambulance wasn't medically necessary.

Apparently, Medicare believed the man's wife—who was, remember, 86 years old—should have been able to drive him to the hospital for treatment. Mr. and Mrs. Bernecker appealed, but were denied and began paying what they could afford each month for the ambulance bill.

After several years of paying $20 a month, the Berneckers finally paid off the ambulance bill. Medicare later reopened the case and reimbursed the Berneckers, but unfortunately, Mr. Bernecker is no longer with us.

I have a few more examples I'd like to share with my colleagues to assure them this is not an isolated incident. In fact, I encourage all of my colleagues to meet and speak with their EMS providers to see first-hand how the lack of consistent reimbursement policy impacts their ability to provide services. This one provision of the Emergency Medical Services Efficiency Act will bring fairness and clarity for both the beneficiary and the EMS provider trying to help those in need.

In Austin, Minnesota, a 66-year-old male was found in a shopping center parking lot slumped over the steering column of his car. The car was in drive, up against a light pole with the wheels spinning and the tread burning off the tires. An Austin policeman at the scene requested an ambulance and the driver was transported to the emergency room. Ambulance transportation reimbursement was denied based on the assumption that the driver could have used other means to get to the emergency room. Apparently, since he was already in the car, he was supposed to drive himself to the hospital despite being unresponsive.

Another case in Minnesota involved a 74-year-old male who was complaining

to his family about an upset stomach when he collapsed. The frightened family began CPR and summoned an ambulance via 9–1–1. The city's fire department was the first on scene and applied an automatic external defibrillator, which advised against shock. Paramedics arrived and continued CPR en route to the emergency room. The patient ultimately died of cardiac arrest. Again, Medicare fee-for-service denied payment for the ambulance because it was deemed unnecessary.

Finally, Mr. President, a 74-year-old female complained of flu-like symptoms. Her family checked on her and found she was acting confused and strange. They summoned emergency medical services. Paramedics arrived to find the woman awake but confused as to time and events. They discovered she had a history of cardiac disease and diabetes. The paramedics tested her blood-sugar level and found it below 40. For those of you unfamiliar with diabetes, a blood sugar level below 70 is dangerous and could lead to seizure. But once again, Medicare denied payment.

Mr. President, I have a stack of actual run tickets from EMS providers in Minnesota, with names and other identifiers deleted, all demonstrating what a problem this is for Medicare beneficiaries and EMS providers. Again, I urge all of my colleagues to meet with their EMS providers and ask how these denials affect them.

Title II of the Emergency Medical Services Efficiency Act creates a Federal Commission on Emergency Medical Services which will make recommendations and provide input on how federal regulatory actions affect all types of EMS providers.

EMS needs a seat at the table when health care and other regulatory policy is made. Few things are more frustrating for ambulance services than trying to navigate and comply with the tangled mess of laws and regulations from the federal level on down, only to receive either a reimbursement that doesn't cover the costs of providing the service or a flat denial of payment.

Mr. President, I came across this chart two years ago which demonstrates how a Medicare claim moves from submittal to payment, denial, or write-off by the ambulance provider. Look at this chart and tell me how a rural ambulance provider who depends on volunteers has the manpower or expertise to navigate this mess. And, in the event it is navigated successfully, ambulance services are regularly reimbursed at a level that doesn't even cover their costs.

Mr. President, I have heard complaints from many individuals about the cost of ambulance care. In fact, some within this very body criticize ambulance providers for the high prices they charge for their services. While I do not doubt there are cases of abuse, I know for a fact an overwhelming majority of EMTs, Paramedics, Emergency Nurses and EMS providers are trying to provide the best possible care for their patients at a reasonable price.

Let's talk about how much it costs to run just one ambulance. There's the cost of the dispatcher who remains on the line to give pre-arrival assistance. The ambulance itself, which costs from $85,000 to $100,000. The radios, beepers, and cellular telephones used to communicate between the dispatcher, ambulance, and hospital. The supplies and equipment in the ambulance, including everything from defibrillators to bandages. The two Emergency Medical Technicians or Paramedics who both drive the ambulance and provide care to the patient. The vehicle repair, maintenance, and insurance costs. The liability insurance for the paramedics. And the list goes on.

Yes, the costs can be high, but it's clear to me that, with the uncertainty ambulance providers face out in the field each day, they need to be prepared for very type of injury or condition. Mr. President, that's expensive.

I'm convinced those who complain about the high costs of emergency care would be the first to complain if the ambulance that arrived to care for them in an emergency didn't have the life-saving equipment needed for treatment.

Let's be honest with ourselves: we want the quickest and best service when we face an emergency—and that costs money.

Mr. President, many of our political debates in Washington center around how to better prepare for the 21st century. I've always supported research and efforts to expand the limits of technology and continue to believe technological innovations and advances in biomedical and basic scientific research hold tremendous promise.

Under the new EMSEA, federal grant programs will be clarified to ensure EMS agencies are eligible for programs that relate to highway safety, rural development, and tele-health technology.

Emergency Medical Services have come a long way since the first ambulance services began in Cleveland and New York City during the 1860s.

Indeed, the scientific and technological advances have created a new practice of medicine in two short decades, and have dramatically improved the prospects of surviving serious trauma. There's reason to believe further advances will have equally meaningful results.

Innovations like tele-health technology may soon allow EMTs, nurses, and paramedics to perform more sophisticated procedures under a physician's supervision via real-time, ambulance-mounted monitors and cameras networked to emergency departments in specific service areas. By not considering EMS agencies for federal grant dollars, we may cause significant delays in the application of current technologies. That would be a mistake.

In August of 1996, the National Highway Traffic and Safety Administration and the Health Resources and Services Administration, Maternal and Child Health Bureau issued a report, ''Emergency Medical Services: Agenda for the Future.'' The report outlined specific ways EMS can be improved, and one of the stated goals was the authorization of a ''lead federal agency.''

After consultation with those in the EMS field throughout the country, I believe the most appropriate action is to take our time and get it right by conducting a study to determine which current or new office would best coordinate federal EMS efforts.

Those are the major provisions of the legislation I introduce today.

Mr. President, in 1995, there were approximately 100 million visits to emergency departments across this nation. Roughly 20 percent of those visits started with a call for an ambulance. Each one of those calls is important, especially to those seeking assistance and to the responding EMS personnel. While EMS represents a small portion of health care spending overall, it is critically important. It serves as the access point for the sickest among us and it would be tragic for Congress to deny its role in improving the system.

Over the past several years, I've been privileged to get to know the men and women who dedicate their talents to serving others in an emergency.

The nation owes a great deal to the EMS personnel who have dedicated themselves to their profession because they care about people and want to help those who are suffering. Nobody gets rich as a professional paramedic, and there's no monetary compensation at all as a volunteer. The field of emergency medical services presents many challenges—but offers the reward of knowing you helped someone in need of assistance.

Every year, the American Ambulance Association recognizes EMS personnel across the country for their contributions to the profession, and bestows upon them the Stars of Life Award.

This year, 94 individuals have been chosen by their peers to be honored for demonstrating exceptional kindness and selflessness in performing their duties.

Mr. President, Minnesota suffered a tremendous loss this year. On January 14, while extricating a victim of an automobile accident, two EMTs were hit by a car. Brenda HagE, an EMT and Registered Nurse, was transported in traumatic arrest to a nearby hospital where she was pronounced dead. Ms. HagE is survived by her husband Darby and two children.

I ask that the Senate observe a moment of silence for Ms. HagE and all EMS personnel who have died in the line of duty.

Mr. President, I've talked with many professional EMTs, paramedics, and emergency nurses, and most tell me they wouldn't think of doing anything else for their chosen career. Similarly, volunteer EMS personnel tell me of the indescribable satisfaction they feel when they help those in their community get the care they need.

So, in honoring them during this National EMS Week, I can think of no better way to recognize their service than through legislation that will help them help others.

I ask my colleagues to support them by supporting S. 9–1–1, the ''Emergency Medical Services Act.''

Mr. President, I ask unanimous consent that the names of the 1999 American Ambulance Association Stars of Life honorees be printed in the RECORD.

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

1999 STARS OF LIFE

AZ—Theresa J. Pareja, Rural/Metro Fire Department;

AR—Rae Meyer, Rural/Metro Ambulance and John C. Warren, Columbia County Ambulance Service;

CA—Marti Aho-Fazio, American Medical Response—Sonoma Division, Dean B. Anderson, American Medical Response—Sonoma Division, Chris S. Babler, Rural/Metro Ambulance, Carlos Flores, American Medical Response, May Anne Godfrey-Jones, Hall Ambulance Service, Inc., Randy Kappe, American Medical Response, Frank Minitello, American Medical Response, and Penny Vest, Hall Ambulance Service, Inc.;

CO—Doug Jones, American Medical Response;

CT—Todd Beaton, American Medical Response, Michael Case, Hunter's Ambulance Service, and John M. Gopoian, Hunter's Ambulance Service;

FL—Clara DeSue, Rural/Metro Ambulance, Leroy Funderburk, American Medical Response—West Florida, Andrea Hays, Rural/Metro Ambulance, and Keith A. Lund, American Medical Response;

GA—Deborah Lighton, American Medical Response—Georgia and Kelly J. Potts, Mid Georgia Ambulance Service;

IL—Carolyn Gray, Consolidated Medical Transport, Inc., James Gray, Consolidated Medical Transport, Inc. and Cristen Miller MEDIC EMS;

IA—Paul Andorf, MEDIC EMS, Dennis L. Cosby, Lee County EMS Ambulance, Inc., and Danny Eversmeyer, Henry County Health Center EMS;

KS—Tom Collins, Metropolitan Ambulance Services Trust and Bill D. Witmer, American Medical Response;

LA—Pattie Desoto, Med Express Ambulance Service, Inc., Michael Noel, Priority Mobile Health, John Richard, Med Express Ambulance Service, Inc., Scott Saunier, Acadian Ambulance & Air Med Services, and Pete Thomas, Priority Mobile Health;

MD—Lily Puletti, Rural/Metro Ambulance and Michael Zeiler, Rural/Metro Ambulance;

MA—Daniel Doucette, Lyons Ambulance Service, Leonard Gallego, American Medical Response, Mark Lennon, Action Ambulance Service, Inc. and Edward McLaughlin, Lyons Ambulance Service;

MI—Steve Champagne, Huron Valley Ambulance, Edgar ''Butch'' R. Dusette Jr., Medstar Ambulance, Mary Elsen, Medstar Ambulance, Steven J. Frisbie, LifeCare Ambulance Service, Richard Landis, American Medical Response, Tony L. Sorensen, LIFE EMS, and Norma Weaver, Huron Valley Ambulance;

MN—Barbara Erickson, Life Link III and Jesse Simkins, Gold Cross Ambulance;

MS—Carlos J. Redmon, American Medical Response (South Mississippi);

MO—Michelle D. Endicott, Newton County Ambulance District and Lynette Lindholm, Metropolitan Ambulance Services Trust;

NH—David Deacon, Rockingham Regional Ambulance, Inc., Jason Preston, Rockingham Regional Ambulance Inc., Joseph Simone, Action Ambulance Service, Inc., Joanna Umenhoffer, Rockingham Regional Ambulance, Inc., and Roland Vaillancourt, Rockingham Regional Ambulance, Inc.;

NJ—Laurie Rovan, Med Alert Ambulance and Roberta Winters, Rural/Metro Corp.;

NM—LeeAnn J. Phillips, American Medical Response;

NY—Susan Bull, Rural/Metro Medical Services, Nicholas Cecci, Rural/Metro Medical Services Southern Tier, Daniel Connors, Rural/Metro Medical Services, Scott Crewell, Rural/Metro Medical Services—Intermountain, Frank D'Ambra, Rural/Metro Corp., Doug Einsfeld, American Medical Response—Long Island, Kevin Jones, Rural/Metro Medical Services—Intermountain, Patty Palmeri, Rural/Metro Corp., Carl Sharak, Rural/Metro, Samuel Stetter, Rural/Metro Medical Services Southern Tier, and Jean Zambrano, Rural/Metro Medical Services;

NC—Chris Murdock, Mecklenburg EMS Agency, Corinne Rust, Mecklenburg EMS Agency, and John Sepski, Mecklenburg EMS Agency;

OH—Duane J. Wolf, Stofcheck Ambulance Service, Inc. and Eric Wrask, Rural/Metro;

OR—Larry B. Hornaday, Metro West Ambulance, Tony D. Mooney, Pacific West Ambulance, and Mark C. Webster, American Medical Response—Oregon;

PA—Jerry Munley, Rural/Metro Medical Services;

SD—Travis H. Spier, Rural/Metro Medical Services—South Dakota;

TN—Brian C. Qualls, Rural/Metro and Rodney B. Ward, Rural/Metro—Memphis;

TX—Robert Moya, American Medical Response, Luis Salazar, Life Ambulance Service, and Mike Sebastian, Life Ambulance Service;

UT—Monica Masterson, Gold Cross Services and Robert Torgerson, Gold Cross Services;

VT—John G. Potter, Regional Ambulance Service, Inc.;

VA—Beverly Leigh, American Medical Response—Richmond;

WA—Jack N. Erickson, Olympic Ambulance, Gary D. McVay, American Medical Response—Washington, Aaron J. Schmidt, Olympic Ambulance Service, and Rand P. Whitney, Rural/Metro Ambulance.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 6:09 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 883. An act to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

H.R. 1553. An act to authorize appropriations for fiscal year 2000 and fiscal year 2001 for the National Weather Service, Atmospheric Research, and National Environmental Satellite, Data and Information Service activities of the National Oceanic and Atmospheric Administration, and for other purposes.

H.R. 1654. An act to authorization appropriations for the National Aeronautics and Space Administration for fiscal years 2000, 2001, and 2002, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate of the bill (S. 4) to declare it to be the policy of the United States to deploy a national missile defense.

ENROLLED BILL SIGNED.

At 6:56 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 114. An act making supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes.

The enrolled bill was signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 883. An act to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; to the Committee on Energy and Natural Resources.

H.R. 1553. An act to authorize appropriations for fiscal year 2000 and fiscal year 2001 for the National Weather Service, Atmospheric Research, and National Environmental Satellite, Data and Information Service activities of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3118. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the semiannual report for the period October 1, 1999 through March 31, 1999; to the Committee on Governmental Affairs.

EC–3119. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–58, ''Insurance Demutualization Amendment Act of 1999,'' adopted by the Council on April 13, 1999; to the Committee on Governmental Affairs.

EC–3120. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. Act 13–59, ''Petition Circulation Requirements Temporary Amendment Act of 1999'', adopted by the Council on April 13, 1999; to the Committee on Governmental Affairs.

EC–3121. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–65, ''Closing of Public Alleys in Square 51, S.O. 98–145, Act of 1999'', adopted by the Council on April 13, 1999; to the Committee on Governmental Affairs.

EC–3122. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–66, ''Chief Technology Officer Year 2000 Remediation Procurement Authority Temporary Amendment Act of 1999'', adopted by the Council on April 13, 1999; to the Committee on Governmental Affairs.

EC–3123. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–64, ''Solid Waste Facility Permit Amendment Act of 1999'', adopted by the Council on April 13, 1999; to the Committee on Governmental Affairs.

EC–3124. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–3125. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–3126. A communication from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, pursuant to law, the Agency's Accountability Report for fiscal year 1998; to the Committee on Governmental Affairs.

EC–3127. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period October 1, 1998 through March 31, 1999; ordered to lie on the table.

EC–3128. A communication from the Assistant Secretary for Management and Budget/Chief Financial Officer, Department of Health and Human Services, transmitting, pursuant to law, the Department's Accountability Report for fiscal year 1998; to the Committee on Governmental Affairs.

EC–3129. A communication from the Federal Co-Chairman, Appalachian Regional Commission, transmitting, pursuant to law, a report relative to an evaluation of the system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC–3130. A communication from the Chairperson, Cost Accounting Standards Board, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report for calendar years 1997 and 1998; to the Committee on Governmental Affairs.

EC–3131. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period October 1, 1998 to March 30, 1999; to the Committee on Governmental Affairs.

EC–3132. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for March 1999; to the Committee on Governmental Affairs.

EC–3133. A communication from the Director, Office of Personnel Management, transmitting, a draft of proposed legislation entitled ''Federal Employees Health Benefits Children's Equity Act of 1999''; to the Committee on Governmental Affairs.

EC–3134. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severly Disabled, transmitting, pursuant to law, the report of a rule relative to additions and deletions from the Procurement List, received May 12, 1999; to the Committee on Governmental Affairs.

EC–3135. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severly Disabled, transmitting, pursuant to law, the report of a rule relative to additions to the Procurement List, received May 18, 1999; to the Committee on Governmental Affairs.

EC–3136. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 6A for the Period October 1, 1993 through June 30, 1998''; to the Committee on Governmental Affairs.

EC–3137. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 4B for the Period October 1, 1995 through September 30, 1998''; to the Committee on Governmental Affairs.

EC–3138. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated May 13, 1999; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, and to the Committee on Foreign Relations.

EC–3139. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of fifty-five rules relative to Safety/Security Zone Regulations (RIN2115–AA97) (1999–0014), received April 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3140. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Gulf Intracoastal Waterway, Florida (CGD07–98–083)'' (RIN2115–AE47) (1999–0007), received April 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3141. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Ward Cove, Tongass Narrows, Ketchikan, AK (COTP Southeast Alaska 99–001)'' (RIN2115–AA97) (1999–0013), received April 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3142. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Bergen County United Way Fireworks, Hudson River, Manhattan, New York (CGD01–99–018)'' (RIN2115–AA97) (1999–0012), received April 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3143. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Dignitary Arrival/Departure New York (CGD01–98–006)'' (RIN2115–AA97) (1999–0016), received May 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3144. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; St. Croix International Triathlon, St. Croix, USVI (CGD07–99–016)'' (RIN2115–AE46) (1999–0007), received April 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3145. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Air and Sea Show, Fort Lauderdale, Florida (CGD07–99–017)'' (RIN2115–AE46) (1999–0008), received April 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3146. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Empire State Regatta, Albany, New York (CGD01–98–162)'' (RIN2115–AE46) (1999–0012), received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3147. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Connecticut River, CT (CGD01–99–032)'' (RIN2115–AE47) (1999–0009), received May 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC–3148. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Anchorage Areas/Anchorage Grounds Regulations; Port Everglades, Florida (CGD07–99–003)'' (RIN2115–AA98) (1999–0002), received April 22, 1999; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–122. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia relative to the Omnibus Reconciliation Act of 1993; to the Committee on Finance.

SENATE JOINT RESOLUTION NO. 490

Whereas, prior to 1993, federal Medicaid regulations allowed states flexibility in the treatment of assets in determining eligibility; and

Whereas, Connecticut, New York, Indiana, and California were able to establish public/private long-term care partnerships to provide incentives for the purchase of long-term care insurance; and

Whereas, under these partnership programs, if a policyholder requires long-term care and eventually exhausts his private insurance benefits, the policyholder is permitted to keep more of his assets while still qualifying for Medicaid coverage; and

Whereas, the Omnibus Budget Reconciliation Act of 1993 included a provision, §13612 (a) (C), that discourages additional states from implementing such partnerships; and

Whereas, this provision requires states to make recovery from the estates of persons who had enjoyed enhanced Medicaid asset protection, thereby making the asset protection provided by the public/private partnerships only temporary; and

Whereas, the General Assembly, pursuant to Senate Joint Resolution No. 365 (1997), urged Congress to repeal §13612 (a) (C) of the Omnibus Budget Reconciliation Act of 1993; and

Whereas, the Governor has requested that Congress remove §13612 (a) (C) and allow additional states to establish asset protection programs for individuals who purchase qualified long-term care insurance policies without requiring that states recover such assets upon a beneficiary's death; and

Whereas, the removal of §13612 (a) (C) would make such partnerships much more attractive to potential participants, especially if they are motivated by a desire to pass some of their assets on to their children; and

Whereas, having long-term care insurance reduces the possibility that individuals will spend down to Medicaid eligibility levels; and

Whereas, long-term care insurance, by reducing the Medicaid expenditures for policyholders, helps states control Medicaid costs; and

Whereas, Congress has not yet acted to repeal §13612 (a) (C) of the Omnibus Budget Reconciliation Act of 1993; now, therefore, be it

Resolved by the Senate the House of Delegates concurring, That the Congress of the United States be urged to establish a limited pilot program which exempts the Commonwealth of Virginia from the provisions of §13612 (a) (C) of the Omnibus Budget Reconciliation Act of 1993 requiring states to make recovery from the estates of persons who had enjoyed enhanced Medicaid asset protection; and, be it

Resolved Further, That the Clerk of the Senate transmit a copy of this resolution to the President of the United States Senate, the Speaker of the House of Representatives, and the Congressional Delegation of Virginia in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.

POM–123. A joint resolution adopted by the Legislature of the State of Maine relative to the interstate truck weight limits; to the Committee on Commerce, Science, and Transportation.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

Whereas, the issue of interstate truck weight limits is of great concern for a number of reasons; and

Whereas, economic development interests in northern and central Maine are increasingly frustrated at their loss of transportation productivity due to the disparity in weight limits between the state highways and the Interstate Highway System; and

Whereas, this disparity has resulted in the diversion of heavy through trucks from the Interstate Highway System to more congested State highways, raising safety concerns in the Legislature and in municipal groups. A fatal crash on Route 9 in Dixmont and a fuel truck crash in Augusta have further raised concern; and

Whereas, an increase in the interstate gross vehicle weight limit for 6-axle combination vehicles, from 80,000 pounds to between 90,000 and 95,000 pounds, is supported by an engineering review that was recently conducted by the Maine Department of Transportation; and

Whereas, a recommendation to increase interstate weight limits is also supported by the Maine State Police, the Maine Department of Economic and Community Development, the Maine Turnpike Authority, the Maine Better Transportation Association, the Maine Chamber and Business Alliance and the Maine Motor Transportation Association, now, therefore, be it

Resolved, That We, your Memorialists, request that the President of the United States and the United States Congress amend federal law to increase the interstate gross vehicle weight limits for 6-axle combination vehicles to between 90,000 and 95,000 pounds and maintain the current freeze on longer combination vehicles; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives of the United States and each member of the Maine Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 303. A bill to amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes (Rept. No. 106–51).

EXECUTIVE REPORTS OF A COMMITTEE

The following executive reports of a committee were submitted:

By Mr. THOMPSON, for the Committee on Governmental Affairs:

John T. Spotila, of New Jersey, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

Lorraine Pratte Lewis, of the District of Columbia, to be Inspector General, Department of Education.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Hiram E. Puig-Lugo, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Stephen H. Glickman, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

Eric T. Washington, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON (for herself, Mr. DURBIN, Mr. HELMS, and Mrs. FEINSTEIN):

S. 1086. A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes; to the Committee on Finance.

By Mr. HUTCHINSON:

S. 1087. A bill to amend title 38, United States Code, to add bronchioloalveolar carcinoma to the list of diseases presumed to be service-connected for certain radiation-exposed veterans; to the Committee on Veterans Affairs.

By Mr. KYL:

S. 1088. A bill to authorize the Secretary of Agriculture to convey certain administrative sites in national forests in the State of Arizona, to convey certain land to the City of Sedona, Arizona for a wastewater treatment facility, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. MCCAIN, Mr. HOLLINGS, Mr. KERRY, Mr. BREAUX, and Mr. INOUYE):

S. 1089. A bill to authorize appropriations for fiscal years 2000 and 2001 for the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself, Mr. SMITH of New Hampshire, and Mr. LOTT):

S. 1090. A bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):

S. 1091. A bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAPO:

S. 1092. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to regulation of pharmacists, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 1093. A bill to establish the Galisteo Basin Archaeological Protection Sites, to provide for the protection of archaeological sites in the Galisteo Basin of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 1094. A bill to require a school to forward certain information regarding transferring students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CONRAD (for himself and Mr. HATCH):

S. 1095. A bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities; to the Committee on Finance.

By Mr. HUTCHINSON (for himself and Mrs. LINCOLN):

S. 1096. A bill to preserve and protect archaeological sites and historical resources of

the central Mississippi Valley through the establishment of the Mississippi Valley National Historical Park as a unit of the National Park System on former Eaker Air Force Base in Blytheville, Arkansas; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself, Mr. HUTCHINSON, Mr. BROWNBACK, Mr. GRAMS, Mr. INHOFE, Mr. HAGEL, Mr. SESSIONS, and Mr. SANTORUM):

S. 1097. A bill to offset the spending contained in the fiscal year 1999 emergency supplemental appropriations bill in order to protect the surpluses of the social security trust funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DODD:

S. 1098. A bill to amend chapter 89 of title 5, United States Code, to modify service requirements relating to creditable service with congressional campaign committees; to the Committee on Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. KERREY, Mr. JOHNSON, and Mr. DASCHLE):

S. 1099. A bill to establish a mechanism for using the duties imposed on products of countries that fail to comply with WTO dispute resolution decision to provide relief to injured domestic producers; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. CRAPO, and Mr. DOMENICI):

S. 1100. A bill to amend the Endangered Species Act of 1973 to provide that the designation of critical habitat for endangered and threatened species be required as part of the development of recovery plans for those species; to the Committee on Environment and Public Works.

By Mr. REED:

S. 1101. A bill to provide for tort liability of firearms dealers who transfer firearms in violation of Federal firearms law; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 104. A resolution to authorize testimony, production of documents, and legal representation in United States v. Nippon Miniature Bearing, Inc., et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. DURBIN, Mr. HELMS, and Mrs. FEINSTEIN):

S. 1086. A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes; to the Committee on Finance.

IRA ROLLOVER TO CHARITY ACT

• Mrs. HUTCHISON. Mr. President, today, I am pleased to introduce, along with Senator DURBIN, the IRA Rollover to Charity Act of 1999. This legislation has the support of numerous charitable organizations across the United States. The effect of this bill would be to unlock billions of dollars in savings Americans hold and make them available to charity.

Mr. President, the legislation will allow individuals to roll assets from an Individual Retirement Account (IRA) into a charity or a deferred charitable gift plan without incurring any income tax consequences. Thus, the donation would be made to charity without ever withdrawing it as income and paying tax on it.

Americans hold well over $1 trillion in assets in IRAs. Nearly half of America's families have IRAs. Recent studies show that assets of qualified retirement plans comprise a substantial part of the net worth of many persons. Many individuals would like to give a portion of these assets to charity.

Under current law, if an IRA is transferred into a charitable remainder trust, donors are required to recognize all such income. Therefore, absent the changes called for in the legislation, the donor will have taxable income in the year the gift is funded. The IRA Rollover to Charity Act lifts the disincentives contained in our complicated and burdensome tax code and will unleash a critical source of funding for our nation's charities. This is a common sense way to remove obstacles to private charitable giving.

Under the legislation, upon reaching age 59½, an individual could move assets penalty-free from an IRA directly to charity or into a qualifying deferred charitable gift plan—e.g. charitable reminder trusts, pooled income funds and gift annuities. In the latter case the donor would be able to receive an income stream from the retirement plan assets, which would be taxed according to normal rules. Upon the death of the individual, the remainder would be transferred to charity.

Mr. President, I hope the Senate will join in this effort to provide a valuable new source of philanthropy for our nation's charities. This legislation has the support of numerous universities and charitable groups, including the Charitable Accord, an umbrella organization representing more than 1,000 organizations and associations.

Mr. President, I have just returned from the Balkans. I have seen first hand the wonderful work that is being done by charitable groups in dealing with the massive refugee crisis that has occurred there. As terrible as this crisis has been, it would be worse if not for the great work that is being done by charitable groups. Our bill will help direct additional resources to those charities and thousands of others. I urge my colleagues to co-sponsor this legislation.•

By Mr. KYL:

S. 1088. A bill to authorize the Secretary of Agriculture to convey certain administrative sites in national forests in the State of Arizona, to convey certain land to the City of Sedona, Arizona for a wastewater treatment facility, and for other purposes; to the Committee on Energy and Natural Resources.

THE ARIZONA NATIONAL FOREST IMPROVEMENT ACT OF 1999

Mr. KYL. Mr. President, the U.S. Forest Service is interested in exchanging or selling six unmanageable, undesirable and/or excess parcels of land in the Prescott, Tonto, Kaibab and Coconino National Forests. In addition, the Forest Service has agreed to sell land to the City of Sedona for use as an effluent disposal system. If the parcels are sold, the Forest Service wants to use the proceeds from five of these sales to either fund new construction or upgrade current administrative facilities at these national forests. Funds generated from the sale of the other parcels could be used to fund acquisition of sites, or construction of administrative facilities at any national forest in Arizona. Transfers of land completed under this bill will be done in accordance with all other applicable laws, including environmental laws.

Mr. President, this bill will enhance customer and administrative services by allowing the Forest Service to consolidate and update facilities and/or relocate facilities to more convenient locations. It offers a simple and commonsense way to enhance services for national forest users in Arizona, and to facilitate the disposal of unmanageable, undesirable and/or excess parcels of national forest lands. This bill will also facilitate the construction of a much needed wastewater treatment plant for the City of Sedona.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Arizona National Forest Improvement Act of 1999''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the city of Sedona, Arizona.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. SALE OR EXCHANGE OF ADMINISTRATIVE SITES.

(a) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any and all right, title, and interest of the United States in and to the following National Forest System land and administrative sites:

(1) The Camp Verde Administrative Site, comprising approximately 213.60 acres, as depicted on the map entitled ''Camp Verde Administrative Site'', dated April 12, 1997.

(2) A portion of the Cave Creek Administrative Site, comprising approximately 16 acres, as depicted on the map entitled ''Cave Creek Administrative Site'', dated May 1, 1997.

(3) The Fredonia Duplex Housing Site, comprising approximately 1.40 acres, and the Fredonia Housing Site, comprising approximately 1.58 acres, as depicted on the map entitled ''Fredonia Duplex Dwelling, Fredonia Ranger Dwelling'', dated August 28, 1997.

(4) The Groom Creek Administrative Site, comprising approximately 7.88 acres, as depicted on the map entitled ''Groom Creek Administrative Site'', dated April 29, 1997.

(5) The Payson Administrative Site, comprising approximately 296.43 acres, as depicted on the map entitled ''Payson Administrative Site'', dated May 1, 1997.

(6) The Sedona Administrative Site, comprising approximately 21.41 acres, as depicted on the map entitled ''Sedona Administrative Site'', dated April 12, 1997.

(b) CONSIDERATION.—Consideration for a sale or exchange of land under subsection (a) may include the acquisition of land, existing improvements, and improvements constructed to the specifications of the Secretary.

(c) APPLICABLE LAW.—Except as otherwise provided in this section, any sale or exchange of land under subsection (a) shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for the National Forest System.

(d) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any land or administrative site exchanged under subsection (a).

(e) SOLICITATION OF OFFERS.—

(1) IN GENERAL.—The Secretary may solicit offers for the sale or exchange of land under this section on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(f) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 4. CONVEYANCE TO CITY OF SEDONA.

(a) IN GENERAL.—The Secretary may sell to the city of Sedona, Arizona, by quitclaim deed in fee simple, all right, title, and interest of the United States in and to approximately 300 acres of land as depicted on the map in the environmental assessment entitled ''Sedona Effluent Management Plan'', dated August 1998, for construction of an effluent disposal system in Yavapai County, Arizona.

(b) DESCRIPTION.—A legal description of the land conveyed under subsection (a) shall be available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia.

(c) CONSIDERATION.—

(1) FAIR MARKET VALUE.—As consideration for the conveyance of land under subsection (a), the City shall pay to the Secretary an amount equal to the fair market value of the land as determined by an appraisal acceptable to the Secretary and prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions.

(2) COST OF APPRAISAL.—The City shall pay the cost of the appraisal of the land.

(3) PAYMENT.—Payment of the amount determined under paragraph (1) (including any interest payable under paragraph (4)) shall be paid, at the option of the City—

(A) in full not later than 180 days after the date of the conveyance of the land; or

(B) in 7 equal annual installments commencing not later than January 1 of the first year following the date of the conveyance and annually thereafter until the total amount has been paid.

(4) INTEREST RATE.—Any payment due for the conveyance of land under this section shall accrue, beginning on the date of the conveyance, interest at a rate equal to the current (as of the date of the conveyance) market yield on outstanding, marketable obligations of the United States with maturities of 1 year.

(d) RELEASE.—Subject to compliance with all Federal environmental laws by the Secretary before the date of conveyance of land under this section, on conveyance of the land, the City shall agree in writing to hold the United States harmless from any and all claims to the land, including all claims resulting from hazardous materials on the conveyed land.

(e) RIGHT OF REENTRY.—At any time before full payment is made for the conveyance of land under this section, the conveyance shall be subject to a right of reentry in the United States if the Secretary determines that—

(1) the City has not complied with the requirements of this section or the conditions prescribed by the Secretary in the deed of conveyance; or

(2) the conveyed land is not used for disposal of treated effluent or other purposes related to the construction of an effluent disposal system in Yavapai County, Arizona.

SEC. 5. DISPOSITION OF FUNDS.

(a) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of a sale or exchange under this Act in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the ''Sisk Act'').

(b) USE OF PROCEEDS.—Funds deposited under subsection (a) shall be available to the Secretary, without further Act of appropriation, for—

(1) the acquisition, construction, or improvement of administrative facilities for the Coconino National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest; or

(2) the acquisition of land and or an interest in land in the State of Arizona.

By Ms. SNOW (for herself, Mr. MCCAIN, Mr. HOLLINGS, Mr. KERRY, Mr. BREAUX, and Mr. INOUYE):

S. 1089. A bill to authorize appropriations for fiscal years 2000 and 2001 for the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COAST GUARD AUTHORIZATION ACT OF 1999

Ms. SNOWE. Mr. President, today I am pleased to introduce the Coast Guard Authorization Act of 1999.

The Coast Guard provides many critical services for our nation. Dedicated Coast Guard personnel save an average of more than 5,000 lives, $2.5 billion in property, and assist more than 100,000 other mariners in distress. Through boater safety programs and maintenance of an extensive network of aids to navigation, the Coast Guard protects thousands of additional people engaged in coastwise trade, commercial fishing activities, or simply enjoying a day of recreation out on our bays, oceans, and waterways.

The Coast Guard enforces all federal laws and treaties related to the high seas and U.S. waters. This includes marine resource protection and pollution control. As one of the five armed forces, it provides a critical component of the nation's defense strategy, something weighing heavily on all of our minds lately.

Last year, Congress enacted the Coast Guard Authorization Act of 1998, which authorized the Coast Guard through Fiscal Year 1999. The bill I am introducing today reauthorizes the Coast Guard for the next two years—Fiscal Years 2000 and 2001.

It authorizes both appropriations and personnel levels for these two years. It also contains various provisions that are designed to provide greater flexibility to the Coast Guard on personnel administration; strengthen marine safety provisions; includes sufficient funding to allow for a 4.4 percent pay raise; and other provisions.

One provision that deserves particular mention relates to icebreaking services. The President's FY 2000 budget request includes a proposal to decomission 11 WYTL-class harbor tugs. These tugs provide vital icebreaking services throughout the northern states, including my home state of Maine. While I understand that the age of this vessel class may require some action by the agency, I feel it would be premature to decommission these vessels before the Coast Guard has identified a means to rectify any potentially harmful degradation of services. The Coast Guard has identified seven waterways within Maine that would suffer a meaningful degradation of service should these tugs be brought offline now. These waterways provide necessary transport routes for oil tankers, commercial fishing vessels, and cargo ships. The costs would be excessive to the local communities should that means of transport be cut off. As such, the bill I am introducing today includes a measure that would require the Coast Guard to submit a report to Congress before removing these tugs from service that will include an analysis of the use of this class of harbor tugs to perform icebreaking services; the degree to which the decommissioning of each such vessel would result in a degradation of current services; and recommendations to remediate such degradation.

As part of its law enforcement mission in 1998, the Coast Guard seized 75 vessels transporting more than 100,000 pounds of illegal narcotics headed for our shores. This bill provides funding to maintain many of the new drug interdiction initiatives of the past few years. The Coast Guard has proven time and again its ability to stem the tide of drugs entering our nation through water routes.

Finally, the Coast Guard is the lead federal agency for preventing and responding to major pollution incidents in the coastal zone. It responds to more than 17,000 pollution incidents in the average year. This bill includes a provision that provides the Coast Guard with emergency borrowing authority from the Oil Spill Liability Trust Fund. The measure would enhance the

Coast Guard's ability to effectively respond to major oil spills.

Mr. President, this is a good bill that enjoys bipartisan support on the Commerce Committee. I look forward to moving this bill to the Senate floor at the earliest opportunity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Coast Guard Authorization Act of 1999''.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS

(a) AUTHROIZATION FOR FISCAL YEAR 2000.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2000 as follows:

(1) For the operation and maintenance of the Coast Guard, $2,941,039,000, of which $334,000,000 shall be available for defense-related activities and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $350,326,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $21,709,000, to remain available until expended,of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligation otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, such sums as may be necessary, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $19,500,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $26,000,000, to remain available until expended.

(b) AUTHORIZATION FOR FISCAL YEAR 2001.—funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2001, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,941,039,000, of which $25,000,000 shall be derived form the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $350,326,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $21,709,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, such sums as may be necessary, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $19,500,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $26,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2000.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 36,350 as of September 30, 2000.

(b) TRAINING STUDENT LOADS FOR FISCAL YEAR 2000.—For fiscal year 2000, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 100 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,000 student years.

(c) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2001.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 36,350 as of September 30, 2001.

(d) TRAINING STUDENT LOADS FOR FISCAL YEAR 2001.—For fiscal year 2001, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 100 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,000 student years.

TITLE II—PERSONNEL MANAGEMENT

SEC. 201. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking ''commander'' and inserting ''captain''.

SEC. 202. COAST GUARD RESERVE SPECIAL PAY.

Section 308d(a) of title 37, United States Code, is amended by inserting ''or the Secretary of the Department in which the Coast Guard is operating'' after ''Secretary of Defense''.

SEC. 203. COAST GUARD MEMBERSHIP ON THE USO BOARD OF GOVERNORS.

Section 1305(b) of title 36, United States Code, is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) The Secretary of Transportation, or the Secretary's designee, when the Coast Guard is not operating under the Department of the Navy.''.

SEC. 204. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

''Sec. 511. Compensatory absence from duty for military personnel at isolated duty stations

''The Secretary may prescribe regulations to grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended to read as follows:

''511. Compensatory absence from duty for military personnel at isolated duty stations''.

SEC. 205. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end a new subsection (c) to read as follows:

''(c) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.'';

(2) in section 260(a), by inserting ''and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title'' after ''promotion''; and

(3) in section 271(a), by inserting at the end therefore the following: ''The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.''

TITLE III—MARINE SAFETY

SEC. 301. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radio-telephone Act (33 U.S.C. 1203(b)), is amended by striking ''United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.'' and inserting ''United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

SEC. 302. REPORT ON ICEBREAKING SERVICES.

(a) REPORT.—Not later than 9 months afer the date of enactment of this Act, the Commandant of the Coast Guard shall submit to

the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House, a report on the use of WYTL-class harbor tugs. The report shall include an analyis of the use of such vessels to perform icebreaking services; the degree to which, if any, the decommissioning of each such vessel would result in a degradation of current icebreaking services; and in the event that the decommissioning of any such vessel would result in a significant degradation of icebreaking services, recommendations to remediate such degradation.

(b) 9–MONTH WAITING PERIOD.—The Commandant of the Coast Guard shall not plan, implement or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs until 9 months after the date of the submission of the report required by subsection (a) of this section.

SEC. 303. OIL SPILL LIABILITY TRUST FUND ANNUAL REPORT.

(a) IN GENERAL.—The report regarding the Oil Spill Liability Trust Fund required by the Conference Report (House Report 101–892) accompanying the Department of Transportation and Related Agencies Appropriations Act, 1991, as that requirement was amended by section 1122 of the Federal Reports Elmination and Sunset Act of 1995 (26 U.S.C. 9509 note), shall no longer be submitted to Congress.

(b) REPEAL.—Section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (26 U.S.C. 9509 note) is amended by—

(1) striking subsection (a); and

(2) striking ''(b) REPORT ON JOINT FEDERAL AND STATE MOTOR FUEL TAX COMPLIANCE PROJECT.—''.

SEC. 304. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND BORROWING AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended after the first sentence by inserting ''To the extent that such amount is not adequate for removal of a discharge or the mitigation or prevention of a substantial threat of a discharge, the Coast Guard may borrow from the Fund such sums as may be necessary, up to a maximum of $100,000,000, and within 30 days shall notify Congress of the amount borrowed and the facts and circumstances necessitating the loan. Amounts borrowed shall be repaid to the Fund when, and to the extent that removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.''.

Mr. MCCAIN. Mr. President, I want to express my strong support for the Coast Guard Authorization Act of 1999. I would like to commend Senator SNOWE, the Chair of the Commerce Subcommittee on Oceans and Fisheries, for her leadership on Coast Guard issues. Earlier in the year, Senator SNOWE convened a hearing on the Coast Guard's fiscal year 2000 budget request. The Commandant of the Coast Guard testified at the hearing and explained the priorities and challenges that the Coast Guard will face in the coming years and the ways that the agency will handle them.

The Coast Guard is a branch of the armed forces and a multi-mission agency. The Coast Guard is responsible for our national defense, search and rescue services on our nation's waterways, maritime law enforcement, including drug interdiction and environmental protection, marine inspection, licensing, port safety and security, aids to navigation, waterways management, and boating safety. This bill will furnish the Coast Guard with funding authority to continue to provide the United States with high quality performance of its diverse duties through fiscal year 2001. I commend the men and women of the Coast Guard who serve their country with honor and distinction.

I believe the bill that we have introduced today is an important first step in providing authorizing legislation for the Coast Guard for fiscal years 2000–2001. The funding levels are currently based on the Administration's transmitted legislative proposal. However, I am particularly concerned about the Coast Guard's ability to continue to fight the war on drugs. The vast majority of drugs enter our country illegally after being transported over our waterways. As the primary maritime law enforcement agency, the Coast Guard has proven that it can effectively stop drugs from reaching our streets. In fiscal year 1998, the Coast Guard seized 82,623 pounds of cocaine and 31,365 pounds of marijuana. Campaign STEEL WEB, the comprehensive, multi-year strategy to fight the war on drugs deserves full support and funding from both the Administration and the Congress. Before the Commerce Committee concludes its consideration of this bill, I intend to determine whether the Administration's bill will provide an adequate level of funding for the Coast Guard's drug interdiction activities. I will also seek to ensure that funding is spent on the most effective drug interdiction programs.

The bill also incorporates several non-controversial provisions included in the Administration's bill which would provide for a variety of improvements for the day-to-day operation of the Coast Guard. I look forward to working with Senator SNOWE and other members of the Commerce Committee during the Senate's consideration of the Coast Guard Authorization Act of 1999.

By Mr. CHAFEE (for himself, Mr. SMITH of New Hampshire, and Mr. LOTT):

S. 1090. A bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980; to the Committee on Environment and Public Works.

THE SUPERFUND PROGRAM COMPLETION ACT OF 1999

Mr. CHAFEE. Mr. President, I rise today to introduce the Superfund Program Completion Act of 1999. This bill represents our efforts to focus on the areas where bipartisan consensus is achievable this year. The bill provides liability relief for many parties trapped in Superfund—in fact, it exempts or limits the liability of the vast bulk of all parties involved in Superfund litigation. The bill includes very strong provisions to facilitate the redevelopment of Brownfields, and it starts to wind down the Federal role in site cleanup, while enhancing the role of the states.

The bill includes many provisions that have enjoyed widespread bipartisan support in the Senate. The Brownfields title will provide $100 million in grants for state, tribal and local governments to identify, assess and redevelop Brownfields sites. It protects prospective purchasers of contaminated sites, innocent owners of properties adjacent to the source of contamination, and innocent property owners who exercised due diligence upon purchase. These provisions have been included in past bills supported by Democrats and Republicans over the last six years.

The bill exempts a number of parties from Superfund liability and incorporates provisions of S. 2180, the Superfund Recycling Equity Act of 1998, cosponsored last year by Senators LOTT and DASCHLE, as well as 64 other members of the Senate. Our bill exempts small businesses, contributors of very small amounts of hazardous waste, and contributors of small amounts of municipal solid waste. The bill limits the liability of larger generators or transporters of municipal solid waste, as well as owners or operators of co-disposal landfills where municipal solid waste is disposed. The bill limits the liability of so-called de minimis parties—generally one percent contributors or less—as well as municipalities and small businesses with a limited ability to pay.

It is well known that Superfund liability—retroactive, strict, joint and several liability—often can be terribly unfair. It does not make any sense to make Superfund liability even more unfair to the parties who do not receive liability relief in this bill by merely shifting the share of the exempt or limited parties onto those that remain liable. This bill does not do that. Instead, where we grant liability relief, we direct EPA to use the taxes already collected from industry to pay the cost of the exemptions. This seems only fair.

The bill also requires EPA to perform an impartial fair-share allocation at Superfund NPL sites and to give all parties an opportunity to settle for their allocated amount. In performing the allocation, EPA is directed to use the factors first proposed by Vice President GORE when he was serving in the House. EPA is given discretion to design the process, and parties that do not participate or settle remain liable to Superfund's underlying liability provisions, which remain unchanged except for those fortunate parties provided the new protections noted above.

As EPA proudly boasts, cleanup is complete or underway at over 90 percent of the sites on the current NPL. While it is cleaning up the sites at a rate of 85 per year, it has listed only an average of about 26 per year. Last year, the General Accounting Office surveyed the states and EPA about the approximately 3,000 sites identified as

possible National Priority List sites, but not yet listed. Only 232 of these sites were identified by either EPA, a state, or both, as likely to be listed on the NPL. Clearly, this program is much closer to the end than in the beginning.

This bill requires EPA to plan how it will proceed at those 3,000 sites still awaiting a decision regarding listing. Everyone knows that the vast bulk of these sites will not be listed on the Superfund List, they will be cleaned up by the states, as the GAO report confirms. Under our bill, new listings on the National Priority List must be requested by the Governor of the affected state, and EPA is limited to listing 30 sites per year.

The bill provides finality at sites cleaned up in state cleanup programs unless a state asks for help, fails to take action, or a true emergency is present. This will give greater confidence to prospective developers that state cleanup decisions will not be second-guessed by EPA. The bill strengthens state programs and starts to bring Superfund to an end.

The bill makes EPA's authorization and appropriation process more transparent. There are separate line items for EPA's cleanup program—the heart of the program—and all other activities such as Brownfields, support for research and development, Department of Justice enforcement, et cetera. No longer will increases in popular programs such as Brownfields come at the expense of the cleanup program. Authorization levels for the cleanup recognize that the program's workload is decreasing and will ramp down over time.

The bill allows the program to be funded from either general revenues or the Trust Fund. It is my view that the Superfund taxes should not be reimposed, and I will strongly oppose their reimposition absent comprehensive Superfund reform that includes needed improvements to provisions governing natural resource damages, liability, and the cleanup process. To the extent that EPA improves its cost recovery performance and the Trust Fund balance exceeds levels needed to fund the liability relief provided in this bill, then that balance, instead of general revenues, can be used for Superfund cleanup.

It is possible that EPA can recover enough past cleanup expenditures to pay for the full 5-year reauthorization program. Since the program's inception, EPA has spent approximately $15.9 billion on cleanup, the vast majority of it from industry-paid Superfund taxes deposited in the Trust Fund. Unfortunately, EPA has only recovered $2.4 billion of this total. Even discounting nearly $6.9 billion in expenditures that have been written-off by EPA or are no longer considered recoverable, there is approximately $6.6 billion that EPA could recover for the Trust Fund.

It is well known that Senator SMITH and I have long advocated comprehensive reform of the Superfund program. We have not abandoned that goal. However, in many ways, the bill we introduce today is more far-reaching than our efforts in the last two Congresses. Except for the liability provisions described above, the major focus of this bill is how to address sites not yet in the federal Superfund program. The Superfund Program Completion Act addresses the future of the Superfund program.

The major reforms included in our previous efforts are not a part of the new bill. This bill does not address liability for damages to natural resources. The bill does not include liability relief for large responsible parties, such as federal funding of the fair shares attributed to bankrupt, defunct and insolvent parties. The bill does not make changes to Superfund's provisions regarding the conduct of cleanups.

I still believe reforms are needed for natural resource damages, liability for large responsible parties, and the cleanup process. Unfortunately, the administration no longer supports legislative reform in these areas. Even in previous years, when the administration claimed to support such reforms, agreement was not possible. Given the remote prospects for concurrence on these issues, Senator SMITH and I decided to set the issues aside for now and move forward with an agenda that we believe can generate bipartisan support.

I cannot understand why anyone would fail to support this bill. It will accelerate Brownfields redevelopment. It will strengthen state programs in anticipation of the day we all know is coming—the day when the Superfund program becomes the small emergency program that was originally intended. It limits or eliminates the liability of many parties who were caught in Superfund's incredibly broad liability net, and it does so in a manner that is fair to those that are left. It does not undermine the so-called ''polluter pays'' principle, but in fact strengthens it by creating an incentive for EPA to improve its cost recovery performance.

The committee will move forward quickly on this bill. The committee will hold hearings on the bill next week. We will work through the Memorial Day recess to address Members' concerns, then hold a markup within 10 days of returning from the recess. The bill will be ready for floor action prior to the July Fourth recess.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Superfund Program Completion Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—BROWNFIELDS REVITALIZATION

SEC. 101. BROWNFIELDS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 127. BROWNFIELDS.

''(a) DEFINITIONS.—In this section:

''(1) BROWNFIELD FACILITY.—

''(A) IN GENERAL.—The term 'brownfield facility' means real property, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance.

''(B) EXCLUSIONS.—The term 'brownfield facility' does not include—

''(i) any portion of real property that, as of the date of submission of an application for assistance under this section, is the subject of an ongoing removal under title I;

''(ii) any portion of real property that has been listed on the National Priorities List or is proposed for listing as of the date of the submission of an application for assistance under this section;

''(iii) any portion of real property with respect to which cleanup work is proceeding in substantial compliance with the requirements of an administrative order on consent, or judicial consent decree that has been entered into, or a permit issued by, the United States or a duly authorized State under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(iv) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(v) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(vi) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(C) FACILITIES OTHER THAN BROWNFIELD FACILITIES.—That a facility may not be a brownfield facility within the meaning of

subparagraph (A) has no effect on the eligibility of the facility for assistance under any provision of Federal law other than this section.

''(2) ELIGIBLE ENTITY.—

''(A) IN GENERAL.—The term 'eligible entity' means—

''(i) a general purpose unit of local government;

''(ii) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

''(iii) a government entity created by a State legislature;

''(iv) a regional council or group of general purpose units of local government;

''(v) a redevelopment agency that is chartered or otherwise sanctioned by a State;

''(vi) a State; and

''(vii) an Indian Tribe.

''(B) EXCLUSION.—The term 'eligible entity' does not include any entity that is not in substantial compliance with the requirements of an administrative order on consent, judicial consent decree that has been entered into, or a permit issued by, the United States or a duly authorized State under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) with respect to any portion of real property that is the subject of the administrative order on consent, judicial consent decree, or permit.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(b) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT AND RESPONSE ACTIONS.—

''(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make grants to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

''(B) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under subparagraph (A)—

''(i) shall be performed in accordance with section 101(35)(B); and

''(ii) may include a process to identify and inventory potential brownfield facilities.

''(c) BROWNFIELD REMEDIATION GRANT PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary, the Administrator shall establish a program to provide grants to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(2) ASSISTANCE FOR RESPONSE ACTIONS.—On approval of an application made by an eligible entity, the Administrator, in consultation with the Secretary, may make grants to the eligible entity to be used for response actions (excluding site characterization and assessment) at 1 or more brownfield facilities.

''(d) GENERAL PROVISIONS.—

''(1) MAXIMUM GRANT AMOUNT.—

''(A) IN GENERAL.—The total of all grants under subsections (b) and (c) shall not exceed, with respect to any individual brownfield facility covered by the grants, $350,000.

''(B) WAIVER.—The Administrator may waive the $350,000 limitation under subparagraph (A) based on the anticipated level of contamination, size, or status of ownership of the facility.

''(2) PROHIBITION.—

''(A) IN GENERAL.—No part of a grant under this section may be used for payment of penalties, fines, or administrative costs.

''(B) EXCLUSIONS.—For the purposes of subparagraph (A), the term 'administrative cost' does not include the cost of—

''(i) investigation and identification of the extent of contamination;

''(ii) design and performance of a response action; or

''(iii) monitoring of natural resources.

''(3) AUDITS.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants under this section as the Inspector General considers necessary to carry out the objectives of this section. Audits shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

''(4) LEVERAGING.—An eligible entity that receives a grant under this section may use the funds for part of a project at a brownfield facility for which funding is received from other sources, but the grant shall be used only for the purposes described in subsection (b) or (c).

''(5) AGREEMENTS.—Each grant made under this section shall be subject to an agreement that—

''(A) requires the eligible entity to comply with all applicable State laws (including regulations);

''(B) requires that the eligible entity shall use the grant exclusively for purposes specified in subsection (b) or (c);

''(C) in the case of an application by an eligible entity under subsection (c), requires payment by the eligible entity of a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent of the costs of the response action for which the grant is made, is from non-Federal sources of funding.

''(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out this section.

''(e) GRANT APPLICATIONS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a grant under this section for 1 or more brownfield facilities.

''(B) COORDINATION.—In developing application requirements, the Administrator shall coordinate with the Secretary and other Federal agencies and departments, such that eligible entities under this section are made aware of other available Federal resources.

''(C) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in obtaining grants under this section.

''(2) APPROVAL.—The Administrator, in consultation with the Secretary, shall make an annual evaluation of each application received during the prior fiscal year and make grants under this section to eligible entities that submit applications during the prior year and that the Administrator, in consultation with the Secretary, determines have the highest rankings under the ranking criteria established under paragraph (3).

''(3) RANKING CRITERIA.—The Administrator, in consultation with the Secretary, shall establish a system for ranking grant applications that includes the following criteria:

''(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

''(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

''(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

''(ii) The demonstration by applicants of the intent and ability to create new or expand existing business, employment, recreation, or conservation opportunities on completion of any necessary response action.

''(iii) If commercial redevelopment is planned, the estimated additional full-time employment opportunities and tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

''(iv) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

''(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

''(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

''(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.

''(C) The extent to which a grant will enable the creation of or addition to parks, greenways, or other recreational property.

''(D) The extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield facility is located because of the small population or low income of the community.''.

SEC. 102. CONTIGUOUS PROPERTIES.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended by adding at the end the following:

''(o) CONTIGUOUS PROPERTIES.—

''(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—

''(A) IN GENERAL.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

''(i) the person did not cause, contribute, or consent to the release or threatened release;

''(ii) the person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility; and

''(iii) the person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(B) GROUND WATER.—With respect to hazardous substances in ground water beneath a

person's property solely as a result of subsurface migration in an aquifer from a source or sources outside the property, appropriate care shall not require the person to conduct ground water investigations or to install ground water remediation systems.

''(2) COOPERATION, ASSISTANCE, AND ACCESS.—A party described in paragraph (1) may be considered an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) if the party has failed to substantially comply with the requirement stated in section 122(p)(2)(H) with respect to the facility.

''(3) ASSURANCES.—The Administrator may—

''(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

''(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).''.

(b) NATIONAL PRIORITIES LIST.—

(1) IN GENERAL.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8)—

(i) in subparagraph (B), by inserting ''and'' after the semicolon at the end; and

(ii) by adding at the end the following:

''(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

''(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

''(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''; and

(B) by adding at the end the following:

''(h) LISTING OF PARTICULAR PARCELS.—

''(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

''(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) limits the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.''.

(2) REVISION OF NATIONAL PRIORITIES LIST.—Not later than 180 days after the date of enactment of this Act, the President shall revise the National Priorities List to conform with the amendments made by paragraph (1).

(c) CONFORMING AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by striking ''of this section'' and inserting ''and the exemptions and limitations stated in this section''.

SEC. 103. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All deposition of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRIES.—

''(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person has not failed to substantially comply with the requirement stated in section 122(p)(2)(H) with respect to the facility.

''(F) NO AFFILIATION.—The person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.''.

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 102) is amended by adding at the end the following:

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

''(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n)(1) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

''(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

''(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

''(4) AMOUNT.—A lien under paragraph (2)—

''(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.''.

SEC. 104. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the matter that precedes clause (i), by striking ''deeds or'' and inserting ''deeds, easements, leases, or''; and

(B) in the matter that follows clause (iii)—

(i) by striking ''he'' and inserting ''the defendant''; and

(ii) by striking the period at the end and inserting '', has provided full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility, and has taken no action that impeded the effectiveness or integrity of any institutional control employed under section 121 at the facility.''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) REASON TO KNOW.—

''(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that—

''(I) at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

''(II) the defendant exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

''(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

''(II) alternative standards and practices under clause (iii).

''(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

''(I) IN GENERAL.—The Administrator may by regulation issue alternative standards

and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

''(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

''(aa) The results of an inquiry by an environmental professional.

''(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

''(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

''(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

''(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

''(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

''(gg) Specialized knowledge or experience on the part of the defendant.

''(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

''(ii) Commonly known or reasonably ascertainable information about the property.

''(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.''.

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)) not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE II—STATE RESPONSE PROGRAMS

SEC. 201. STATE RESPONSE PROGRAMS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 103(a)) is amended by adding at the end the following:

''(40) FACILITY SUBJECT TO STATE CLEANUP.—The term 'facility subject to State cleanup' means a facility that—

''(A) is not listed or proposed for listing on the National Priorities List; and

''(B)(i) has been archived from the Comprehensive Environmental Response, Compensation, and Liability Information System;

''(ii) was included on the Comprehensive Environmental Response, Compensation, and Liability Information System before the date of enactment of this section and is not listed or proposed for listing on the National Priorities List within 2 years after the date of enactment of this section; or

''(iii) is added to the Comprehensive Environmental Response, Compensation, and Liability Information System after the date of enactment of this section, if at least 2 years have elapsed since the earlier of—

''(I) inclusion of the facility on the Comprehensive Environmental Response, Compensation, and Liability Information System; or

''(II) issuance at the facility of an order under section 106(a).

''(41) QUALIFYING STATE RESPONSE PROGRAM.—The term 'qualifying State response program' means a State program that includes the elements described in section 128(b).''.

(b) QUALIFYING STATE RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(a)) is amended by adding at the end the following:

''SEC. 128. QUALIFYING STATE RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—The Administrator shall provide grants to States to establish and expand qualifying State response programs that include the elements listed in subsection (b).

''(b) ELEMENTS.—The elements of a qualifying State response program are the following:

''(1) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

''(A) response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

''(B) in the case of a voluntary response action, if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

''(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

''(3) Mechanisms for approval of a response action plan, or a requirement for certification or similar documentation from the State to the person conducting a response action indicating that the response is complete.

''(c) ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO A STATE PLAN.—

''(1) ENFORCEMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a release or threatened release of a hazardous substance at a facility subject to State cleanup, neither the President nor any other person may use any authority under this Act to take an enforcement action against any person regarding any matter that is within the scope of a response action that is being conducted or has been completed under State law.

''(B) EXCEPTIONS.—The President may bring an enforcement action under this Act with respect to a facility described in subparagraph (A) if—

''(i) the enforcement action is authorized under section 104;

''(ii) the State requests that the President provide assistance in the performance of a response action and that the enforcement bar in subparagraph (A) be lifted;

''(iii) at a facility at which response activities are ongoing the Administrator—

''(I) makes a written determination that the State is unwilling or unable to take appropriate action, after the Administrator has provided the Governor notice and an opportunity to cure; and

''(II) the Administrator determines that the release or threat of release constitutes a public health or environmental emergency under section 104(a)(4);

''(iv) the Administrator determines that contamination has migrated across a State line, resulting in the need for further response action to protect human health or the environment; or

''(v) in the case of a facility at which all response actions have been completed, the Administrator—

''(I) makes a written determination that the State is unwilling or unable to take appropriate action, after the Administrator has provided the Governor notice and an opportunity to cure; and

''(II) makes a written determination that the facility presents a substantial risk that requires further remediation to protect human health or the environment, as evidenced by—

''(aa) newly discovered information regarding contamination at the facility;

''(bb) the discovery that fraud was committed in demonstrating attainment of standards at the facility; or

''(cc) a failure of the remedy under the State remedial action plan or a change in land use giving rise to a clear threat of exposure.

''(C) EPA NOTIFICATION.—

''(i) IN GENERAL.—In the case of a facility at which there is a release or threatened release of a hazardous substance, pollutant, or contaminant and for which the Administrator intends to undertake an administrative or enforcement action, the Administrator, prior to taking the administrative or enforcement action, shall notify the State of the action the Administrator intends to take and wait for an acknowledgment from the State under clause (ii).

''(ii) STATE RESPONSE.—Not later than 48 hours after receiving a notice from the Administrator under clause (i), the State shall notify the Administrator if the facility is currently or has been subject to a State remedial action plan.

''(iii) PUBLIC HEALTH OR ENVIRONMENTAL EMERGENCY.—If the Administrator finds that a release or threatened release constitutes a public health or environmental emergency under section 104(a)(4), the Administrator may take appropriate action immediately after giving notification under clause (i) without waiting for State acknowledgment.

''(2) COST OR DAMAGE RECOVERY ACTIONS.—Paragraph (1) shall not apply to an action brought by a State, Indian Tribe, or general purpose unit of local government for the recovery of costs or damages under this Act.

''(3) SAVINGS PROVISION.—

''(A) EXISTING AGREEMENTS.—A memorandum of agreement, memorandum of understanding, or similar agreement between

the President and a State or Indian tribe defining Federal and State or tribal response action responsibilities that was in effect as of the date of enactment of this section with respect to a facility to which paragraph (1)(C) does not apply shall remain effective until the agreement expires in accordance with the terms of the agreement.

''(B) NEW AGREEMENTS.—Nothing in this subsection precludes the President from entering into an agreement with a State or Indian tribe regarding responsibility at a facility to which paragraph (1)(C) does not apply.''.

SEC. 202. NATIONAL PRIORITIES LIST COMPLETION.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by striking subsection (b) and inserting the following:

''(b) NATIONAL PRIORITIES LIST COMPLETION.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the President shall complete the evaluation of all facilities classified as awaiting a National Priorities List decision to determine the risk or danger to public health or welfare or the environment posed by each facility as compared with the other facilities.

''(2) MAXIMUM NUMBER.—For fiscal years 2000 through 2004, the President shall add a maximum of 30 facilities to the National Priorities List on an annual basis.

''(3) REQUIREMENT OF REQUEST BY THE GOVERNOR OF A STATE.—No facility shall be added to the National Priorities List without the President having first received a written communication from the Governor of the State in which the facility is located requesting that the facility be added.''.

SEC. 203. FEDERAL EMERGENCY REMOVAL AUTHORITY.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C), by striking ''consistent with the remedial action to be taken'' and inserting ''not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility,'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by striking ''12 months'' and inserting ''3 years''.

SEC. 204. STATE COST SHARE.

Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking ''(c)(1) Unless'' and inserting the following:

''(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

''(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless'';

(2) in paragraph (1), by striking ''taken obligations'' and inserting ''taken, obligations'';

(3) by striking ''(2) The President'' and inserting the following:

''(2) CONSULTATION.—The President''; and

(4) by striking paragraph (3) and inserting the following:

''(3) STATE COST SHARE.—

''(A) IN GENERAL.—The Administrator shall not provide any funding for remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator that provides assurances that the State will pay, in cash or through in-kind contributions, 10 percent of the costs of—

''(i) the remedial action; and

''(ii) operation and maintenance costs.

''(B) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under this section.

''(C) INDIAN TRIBES.—The requirements of this paragraph shall not apply in the case of remedial action to be taken on land or water—

''(i) held by an Indian Tribe;

''(ii) held by the United States in trust for an Indian Tribe;

''(iii) held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation); or

''(iv) within the borders of an Indian reservation.

TITLE III—FAIR SHARE LIABILITY ALLOCATIONS AND PROTECTIONS

SEC. 301. LIABILITY EXEMPTIONS AND LIMITATIONS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 201(a)) is amended by adding at the end the following:

''(42) CODISPOSAL LANDFILL.—The term 'codisposal landfill' means a landfill that—

''(A) was listed on the National Priorities List as of the date of enactment of this paragraph;

''(B) received for disposal municipal solid waste or sewage sludge; and

''(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if the landfill contains predominantly municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

''(43) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' means waste material generated by—

''(i) a household (such as a single- or multi-family residence) or a public lodging (such as a hotel or motel); or

''(ii) a commercial, institutional, or industrial source, to the extent that—

''(I) the waste material is substantially similar to waste normally generated by a household or public lodging (without regard to differences in volume); or

''(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge and, regardless of when generated, would be conditionally exempt small quantity generator waste under the regulation issued under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)).

''(B) INCLUSIONS.—The term 'municipal solid waste' includes food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

''(C) EXCLUSIONS.—The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators or waste from manufacturing or processing (including pollution control) operations that is not described in subclause (I) or (II).

''(44) MUNICIPALITY.—

''(A) IN GENERAL.—The term 'municipality' means a political subdivision of a State (including a city, county, village, town, township, borough, parish, school district, sanitation district, water district, or other public entity performing local governmental functions).

''(B) INCLUSIONS.—The term 'municipality' includes a natural person acting in the capacity of an official, employee, or agent of any entity described in subparagraph (A) in the performance of a governmental function.

''(45) SEWAGE SLUDGE.—The term 'sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned treatment works.''.

(b) EXEMPTIONS AND LIMITATIONS.—

(1) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 103(b)) is amended by adding at the end the following:

''(q) LIABILITY EXEMPTION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person shall be liable to the United States or to any other person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List to the extent that—

''(1) the person is liable solely under paragraph (3) or (4) of subsection (a); and

''(2) the person is—

''(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated;

''(B) a business entity that, during the tax year preceding the date of transmittal of written notification that the business is potentially liable, employs not more than 100 individuals; or

''(C) a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that employs not more than 100 individuals, from which all of the person's municipal solid waste was generated.

''(r) DE MICROMIS CONTRIBUTOR EXEMPTION.—

''(1) IN GENERAL.—In the case of a vessel or facility listed on the National Priorities List, no person described in paragraph (3) or (4) of subsection (a) shall be liable to the United States or to any other person (including liability for contribution) for any response costs under this section if the activity specifically attributable to the person resulted in the disposal or treatment of not more than 200 pounds or 110 gallons of material containing a hazardous substance at the vessel or facility before the date of enactment of this subsection, or such greater amount as the Administrator may determine by regulation.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Administrator determines that material described in paragraph (1) has contributed or may contribute significantly, individually, to the amount of response costs at the facility.

''(s) SMALL BUSINESS EXEMPTION.—

''(1) IN GENERAL.—No person shall be liable to the United States or to any person (including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List if—

''(A) the person is a business that—

''(i) during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had full- and part-time employees whose combined time was equivalent to 75 or fewer full-time employees; or

''(ii) for that taxable year reported $3,000,000 or less in gross revenue;

''(B) the activity specifically attributable to the person resulted in the disposal or treatment of material containing a hazardous substance at the vessel or facility before the date of enactment of this subsection; and

''(C) the person is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the material containing a hazardous substance referred to in subparagraph (A) contributed significantly or could contribute significantly to the cost of the response action with respect to the facility.

''(t) MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE EXEMPTION AND LIMITATIONS.—

''(1) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

''(A) IN GENERAL.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of section 107(a) and on the potentially responsible party's having arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment of, municipal solid waste or municipal sewage sludge at a facility listed on the National Priorities List.

''(B) SETTLEMENT AMOUNT.—

''(i) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (i) with respect to liability under paragraph (3) or (4) of section 107(a) on the basis of a payment of $5.30 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

''(ii) REVISION.—

''(I) IN GENERAL.—The President may revise the settlement amount under clause (i) by regulation.

''(II) BASIS.—A revised settlement amount under subclause (I) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste.

''(C) CONDITIONS.—The provisions for settlement described in this subparagraph shall not apply with respect to a facility where there is no waste except municipal solid waste or municipal sewage sludge.

''(D) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amount under subparagraph (B) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

''(2) MUNICIPAL OWNERS AND OPERATORS.—

''(A) AGGREGATE LIABILITY OF LARGE MUNICIPALITIES.—

''(i) IN GENERAL.—With respect to a codisposal landfill that is owned or operated in whole or in part by municipalities with a population of 100,000 or more (according to the 1990 census), and that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate amount of liability of such municipal owners and operators for response costs under this section shall be not greater than 20 percent of such costs.

''(ii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 35 percent with respect to a municipality if the President determines that the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility.

''(iii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 10 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(B) AGGREGATE LIABILITY OF SMALL MUNICIPALITIES.—

''(i) IN GENERAL.—With respect to a codisposal landfill that is owned or operated in whole or in part by municipalities with a population of less than 100,000 (according to the 1990 census), that is not subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate amount of liability of such municipal owners and operators for response costs under this section shall be not greater than 10 percent of such costs.

''(ii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 20 percent with respect to a municipality if the President determines that the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility.

''(iii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 5 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(3) APPLICABILITY.—This subsection shall not apply to—

''(A) a person that acted in violation of subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) at a facility that is subject to a response action under this title, if the violation pertains to a hazardous substance the release of threat of release of which caused the incurrence of response costs at the facility;

''(B) a person that owned or operated a codisposal landfill in violation of the applicable requirements for municipal solid waste landfill units under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) after October 9, 1991, if the violation pertains to a hazardous substance the release of threat of release of which caused the incurrence of response costs at the facility; or

''(C) a person under section 122(p)(2)(G).

''(4) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

''(5) NOTICE OF APPLICABILITY.—The President shall provide a potentially responsible party with notice of the potential applicability of this section in each written communication with the party concerning the potential liability of the party.

''(u) RECYCLING TRANSACTIONS.—

''(1) LIABILITY CLARIFICATION.—As provided in paragraphs (2), (3), (4), and (5), a person who arranged for recycling of recyclable material shall not be liable under paragraph (3) or (4) of subsection (a) with respect to the material.

''(2) RECYCLABLE MATERIAL DEFINED.—For purposes of this subsection, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto.

''(3) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—Transactions involving scrap paper, scrap plastic, scrap glass, scrap textiles, or scrap rubber (other than whole tires) shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(A) The recyclable material met a commercial specification grade.

''(B) A market existed for the recyclable material.

''(C) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(D) The recyclable material could have been a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(E) For transactions occurring 90 days or more after the date of enactment of this subsection, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (hereinafter in this subsection referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(F) For purposes of this paragraph, 'reasonable care' shall be determined using criteria that include (but are not limited to)—

''(i) the price paid in the recycling transaction;

''(ii) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material; and

''(iii) the result of inquiries made to the appropriate Federal, State, or local environmental agency (or agencies) regarding the consuming facility's past and current compliance with substantive (not procedural or administrative) provisions of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this subparagraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be deemed to be a substantive provision.

''(4) TRANSACTIONS INVOLVING SCRAP METAL.—

''(A) Transactions involving scrap metal shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(i) the person met the criteria set forth in paragraph (3) with respect to the scrap metal;

''(ii) the person was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal

Act subsequent to the enactment of this subsection and with regard to transactions occurring after the effective date of such regulations or standards; and

''(iii) the person did not melt the scrap metal prior to the transaction.

''(B) For purposes of subparagraph (A)(iii), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points (referred to as 'sweating').

''(C) For purposes of this paragraph, the term 'scrap metal' means—

''(i) bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled; and

''(ii) notwithstanding subparagraph (A)(iii), metal byproducts from copper and copper-based alloys that—

''(I) are not 1 of the primary products of a secondary production process;

''(II) are not solely or separately produced by the production process;

''(III) are not stored in a pile or surface impoundment; and

''(IV) are sold to another recycler that is not speculatively accumulating such metal byproducts;

except for scrap metals that the Administrator excludes from this definition by regulation.

''(5) TRANSACTIONS INVOLVING BATTERIES.—Transactions involving spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries shall be deemed to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) can demonstrate by a preponderance of the evidence that at the time of the transaction—

''(A) the person met the criteria set forth in paragraph (3) with respect to the spent lead-acid batteries, spent nickel-cadmium batteries, or other spent batteries, but the person did not recover the valuable components of such batteries; and

''(B)(i) with respect to transactions involving lead-acid batteries, the person was in compliance with applicable Federal environmental regulations or standards, and any amendments thereto, regarding the storage, transport, management, or other activities associated with the recycling of spent lead-acid batteries;

''(ii) with respect to transactions involving nickel-cadmium batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of spent nickel-cadmium batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto; or

''(iii) with respect to transactions involving other spent batteries, Federal environmental regulations or standards are in effect regarding the storage, transport, management, or other activities associated with the recycling of such batteries, and the person was in compliance with applicable regulations or standards or any amendments thereto.

''(6) EXCLUSIONS.—

''(A) The exemptions set forth in paragraphs (3), (4), and (5) shall not apply if—

''(i) the person had an objectively reasonable basis to believe at the time of the recycling transaction—

''(I) that the recyclable material would not be recycled;

''(II) that the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(III) for transactions occurring before 90 days after the date of the enactment of this subsection, that the consuming facility was not in compliance with a substantive (not procedural or administrative) provision of any Federal, State, or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(ii) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling;

''(iii) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances); or

''(iv) with respect to any item of a recyclable material, the item contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable Federal laws.

''(B) For purposes of this paragraph, an objectively reasonable basis for belief shall be determined using criteria that include (but are not limited to) the size of the person's business, customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances), the price paid in the recycling transaction, and the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(C) For purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be deemed to be a substantive provision.''.

(2) TRANSITION RULES.—

(A) IN GENERAL.—The exemptions under subsections (q), (r), and (s) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(q), 9607(r), 9607(s)) (as added by paragraph (1)) shall not apply to any settlement or judgment approved by a United States Federal District Court—

(i) before the date of enactment of this Act; or

(ii) not later than 180 days after the date of enactment of this Act.

(B) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided in subsection (u) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(u)) (as added by paragraph (1)) shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to the date of enactment of this Act.

(c) SERVICE STATION DEALERS.—Section 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''No person'' and inserting ''A person'';

(B) by striking ''may recover'' and inserting ''may not recover'';

(C) by striking ''if such recycled oil'' and inserting ''unless the service station dealer''; and

(D) by striking subparagraphs (A) and (B) and inserting the following:

''(A) mixed the recycled oil with any other hazardous substance; or

''(B) did not store, treat, transport, or otherwise manage the recycled oil in compliance with any applicable regulations or standards promulgated under section 3014 of the Solid Waste Disposal Act (42 U.S.C. 6935) and other applicable authorities that were in effect on the date of such activity.''; and

(2) by striking paragraph (4).

SEC. 302. EXPEDITED SETTLEMENT FOR CERTAIN PARTIES.

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by striking the subsection heading and inserting the following:

''(g) EXPEDITED FINAL SETTLEMENT.—'';

(2) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking ''(1)'' and all that follows through subparagraph (A) and inserting the following:

''(1) PARTIES ELIGIBLE.—

''(A) IN GENERAL.—As expeditiously as practicable, the President shall—

''(i) notify each potentially responsible party that meets 1 or more of the conditions stated in subparagraphs (B), (C), and (D) of the party's eligibility for a settlement; and

''(ii) offer to reach a final administrative or judicial settlement with the party.

''(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the liability is for response costs based on paragraph (3) or (4) of section 107(a) and the party's contribution of a hazardous substance at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

''(i) MINIMAL AMOUNT OF MATERIAL.—The amount of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total amount of material containing hazardous substances at the facility. The amount of a potentially responsible party's contribution shall be presumed to be minimal if the amount is 1 percent or less of the total amount of material containing a hazardous substance at the facility, unless the Administrator promptly identifies a greater threshold based on site-specific factors.

''(ii) HAZARDOUS EFFECTS.—The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing a hazardous substance at the facility.'';

(C) in subparagraph (C) (as redesignated by subparagraph (A))—

(i) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(ii) by striking ''(C) The potentially responsible party'' and inserting the following:

''(C) OWNERS OF REAL PROPERTY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party''; and

(iii) by striking ''This subparagraph (B)'' and inserting the following:

''(ii) APPLICABILITY.—Clause (i)''; and

(D) by adding at the end the following:

''(D) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that—

''(I) the potentially responsible party is—

''(aa) a natural person;

''(bb) a small business; or

''(cc) a municipality;

''(II) the potentially responsible party demonstrates an inability to pay or has only a limited ability to pay response costs, as determined by the Administrator under a regulation promulgated by the Administrator, after—

''(aa) public notice and opportunity for comment; and

''(bb) consultation with the Administrator of the Small Business Administration and the Secretary of Housing and Urban Development; and

''(III) in the case of a potentially responsible party that is a small business, the potentially responsible party does not qualify for the small business exemption under section 107(s) because of the application of section 107(s)(2).

''(ii) SMALL BUSINESSES.—

''(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term 'small business' means a business entity that—

''(aa) during the taxable year preceding the date of transmittal of notification that the business is a potentially responsible party, had full- and part-time employees whose combined time was equivalent to that of 75 or fewer full-time employees or for that taxable year reported $3,000,000 or less in gross revenue; and

''(bb) is not affiliated through any familial or corporate relationship with any person that is or was a party potentially responsible for response costs at the facility.

''(II) CONSIDERATIONS.—At the request of a small business, the President shall take into consideration the ability of the small business to pay response costs and still maintain its basic business operations, including—

''(aa) consideration of the overall financial condition of the small business; and

''(bb) demonstrable constraints on the ability of the small business to raise revenues.

''(III) INFORMATION.—A small business requesting settlement under this paragraph shall promptly provide the President with all information needed to determine the ability of the small business to pay response costs.

''(IV) DETERMINATION.—A small business shall demonstrate the extent of its ability to pay response costs, and the President shall perform any analysis that the President determines may assist in demonstrating the impact of a settlement on the ability of the small business to maintain its basic operations. The President, in the discretion of the President, may perform such an analysis for any other party or request the other party to perform the analysis.

''(V) ALTERNATIVE PAYMENT METHODS.—If the President determines that a small business is unable to pay its total settlement amount immediately, the President shall consider such alternative payment methods as may be necessary or appropriate.

''(iii) MUNICIPALITIES.—

''(I) CONSIDERATIONS.—The President shall consider the inability or limited ability to pay of a municipality to the extent that the municipality provides information with respect to—

''(aa) the general obligation bond rating and information about the most recent bond issue for which the rating was prepared;

''(bb) the amount of total available funds (other than dedicated funds or State assistance payments for remediation of inactive hazardous waste sites);

''(cc) the amount of total operating revenues (other than obligated or encumbered revenues);

''(dd) the amount of total expenses;

''(ee) the amounts of total debt and debt service;

''(ff) per capita income and cost of living;

''(gg) real property values;

''(hh) unemployment information; and

''(ii) population information.

''(II) EVALUATION OF IMPACT.—A municipality may submit for consideration by the President an evaluation of the potential impact of the settlement on the provision of municipal services and the feasibility of making delayed payments or payments over time.

''(III) RISK OF DEFAULT OR VIOLATION.—A municipality may establish an inability to pay for purposes of this subparagraph by showing that payment of its liability under this Act would—

''(aa) create a substantial demonstrable risk that the municipality would default on debt obligations existing as of the time of the showing, go into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that would substantially reduce the level of protection of public health and safety; or

''(bb) necessitate a violation of legal requirements or limitations of general applicability concerning the assumption and maintenance of fiscal municipal obligations.

''(IV) OTHER FACTORS RELEVANT TO SETTLEMENTS WITH MUNICIPALITIES.—In determining an appropriate settlement amount with a municipality under this subparagraph, the President may consider other relevant factors, including the fair market value of any in-kind services that the municipality may provide to support the response action at the facility.

''(iv) OTHER POTENTIALLY RESPONSIBLE PARTIES.—This subparagraph does not affect the President's authority to evaluate the ability to pay of a potentially responsible party other than a natural person, small business, or municipality or to enter into a settlement with such other party based on that party's ability to pay.

''(E) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

''(i) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.''.

(b) SETTLEMENT OFFERS.—Section 122(g) of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

''(6) SETTLEMENT OFFERS.—

''(A) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the Administrator shall notify any person that the Administrator determines is eligible under paragraph (1) of the person's eligibility for the expedited final settlement.

''(B) OFFERS.—As soon as practicable after receipt of sufficient information, the Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

''(C) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.''.

SEC. 303. FAIR SHARE SETTLEMENTS AND STATUTORY ORPHAN SHARES.

(a) IN GENERAL.—Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by adding at the end the following:

''(n) FAIR SHARE ALLOCATION.—

''(1) PROCESS.—The President shall conduct an impartial fair share allocation of response costs at National Priority List facilities.

''(2) FACTORS.—In conducting an allocation under this subsection, the President, without regard to any theory of joint and several liability, shall estimate the fair share of each potentially responsible party using principles of equity, the best information reasonably available to the President, and the following factors:

''(A) the quantity of hazardous substances contributed by each party;

''(B) the degree of toxicity of hazardous substances contributed by each party;

''(C) the mobility of hazardous substances contributed by each party;

''(D) the degree of involvement of each party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

''(E) the degree of care exercised by each party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

''(F) the cooperation of each party in contributing to any response action and in providing complete and timely information to the United States or the allocator; and

''(G) such other equitable factors as the President considers appropriate.

''(3) SCOPE.—A fair share allocation under this subsection shall include any response costs at a National priorities List facility that are not addressed in a settlement or a judgment approved by a United States Federal District Court—

''(A) before the date of enactment of this subsection; or

''(B) not later than 180 days after the date of enactment of this subsection.

''(4) SETTLEMENTS BASED ON ALLOCATIONS.—

''(A) IN GENERAL.—A party may settle any liability to the United States for response costs under this Act for its allocated fair share, including a reasonable risk premium that reflects uncertainties existing at the time of settlement.

''(B) COMPLETION OF OBLIGATIONS.—A person that is undertaking a response action under an administrative order issued under section 106 or has entered into a settlement decree with the United States of a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

''(5) UNFUNDED AND UNATTRIBUTABLE SHARES.—Any share attributable to an insolvent, defunct, or bankrupt party, or a share that cannot be attributed to any particular party, shall be allocated among any responsible parties not described in subsection (q), (r), (s), (t), or (u) of section 107 or section 122(g).

''(o) STATUTORY ORPHAN SHARES.—

''(1) IN GENERAL.—For purposes of this section, the statutory orphan share is the difference between—

''(A) the liability of a party described in subsection (q), (s), (t), or (u) of section 107 or section 122(g); and

''(B) the President's estimate of the liability of the party, notwithstanding any exemption from or limitation on liability in this Act.

''(2) DETERMINATION OF STATUTORY ORPHAN SHARES.—

''(A) IN GENERAL.—The President shall include an estimate of the statutory orphan share of a party described in section 107(t) or section 122(g), based on the best information reasonably available to the President, at any time at which the President seeks judicial approval of a settlement with the party.

''(3) TRANSITION RULE AND SUBSEQUENT SETTLEMENTS.—

''(A) IN GENERAL.—Each settlement presented for judicial approval on or after the date that is 1 year after the date of enactment of this subsection shall include an estimate of the statutory orphan share for each party described in subsection (q), (s), and (u) of section 107 that is involved in the settlement.

''(B) SUBSEQUENT SETTLEMENTS.—The President shall include in a subsequent settlement at the same facility a revised statutory orphan share estimate if the President—

''(i) determines that the subsequent settlement includes a new statutory orphan share; or

''(ii) has good cause to revise an earlier statutory orphan share estimate.

''(4) FINAL SETTLEMENTS.—

''(A) IN GENERAL.—A judicially-approved consent decree or settlement shall identify the total statutory orphan share owing for a facility if the consent decree or settlement—

''(i) includes remedial project construction for the last operable unit at the facility; or

''(ii) provides funding for remedial project construction described in clause (i).

''(B) FUNDING AND REIMBURSEMENT.—A consent decree or settlement described in subparagraph (A) shall include full funding of any statutory orphan shares in accordance with this section.

''(5) HAZARDOUS SUBSTANCE SUPERFUND.—A statutory orphan share constitutes an obligation of the Hazardous Substance Superfund.

''(p) GENERAL PROVISIONS APPLICABLE TO STATUTORY ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

''(1) IN GENERAL.—A fair share settlement under subsection (g) and a statutory orphan share under subsection (n) shall be subject to paragraph (2).

''(2) PROVISIONS APPLICABLE TO STATUTORY ORPHAN SHARES AND FAIR SHARE SETTLEMENTS.—

''(A) STAY OF LITIGATION AND ENFORCEMENT.—

''(i) IN GENERAL.—All contribution and cost recovery actions under this Act against each party described in sections 107(t) and 122(g) are stayed until the Administrator offers those parties a settlement.

''(ii) SUSPENSION OF STATUTE OF LIMITATIONS.—Any statute of limitations applicable to an action described in clause (i) is suspended during the period that a stay under this subparagraph is in effect.

''(B) FAILURE OR INABILITY TO COMPLY.—If the President fails to fund a statutory orphan share, reimburse a party as required by subsection (g), or include a statutory orphan share estimate in any settlement when required to do so under this Act, the President shall not—

''(i) issue any new order under section 106 at the facility to any non-Federal party; or

''(ii) commence or maintain any new or existing action to recover response costs at the facility.

''(C) AMOUNTS OWED.—

''(i) HAZARDOUS SUBSTANCE SUPERFUND MANAGEMENT.—The President may provide partial reimbursement payments to a party on a schedule that ensures an equitable distribution of reimbursement payments to all eligible parties on a timely basis.

''(ii) PRIORITY.—The priority for reimbursement shall be based on the length of time that has passed since the settlement between the United States and the party.

''(iii) PAYMENT FROM FUNDS MADE AVAILABLE FOR SUBSEQUENT FISCAL YEARS.—Any amounts payable in excess of available appropriations in any fiscal year shall be paid from amounts made available for subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

''(D) CONTRIBUTION PROTECTION.—

''(i) IN GENERAL.—A settlement under this subsection, section 107(t), or section 122(g) shall provide complete protection from all claims for contribution or cost recovery for response costs that are addressed in the allocation under subsection (n).

''(ii) COSTS BEYOND SCOPE OF ALLOCATION.—In the case of response costs at a facility that, as a result of a prior, judicially-approved settlement at the facility, are not within the scope of an allocation under subsection (n), a party shall retain the right to seek cost recovery or contribution from any other party in accordance with the prior settlement, except that no party may seek contribution for any response costs at the facility from—

''(I) a party described in subsection (q), (r), (s), or (u) of section 107; or

''(II) a party that has settled its liability under section 107(t) or 122(g).

''(E) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—A person that, after the date of enactment of this subsection, commences a civil action for contribution under this Act against a person that is not liable by operation of subsections (q), (r), (s), or (u) of section 107, or has resolved its liability to the United States under subsection (n), section 107(t), or 122(g), shall be liable to that person for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees.

''(F) ILLEGAL ACTIVITIES.—Subsections (q), (r), (s), (t), and (u) of section 107 and section 122(g) shall not apply to—

''(i) any person whose liability for response costs under section 107(a) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility;

''(ii) a person described in section 107(o); or

''(iii) a bona fide prospective purchaser.

''(G) EXCEPTION.—

''(i) IN GENERAL.—The President may decline to reimburse or offer a settlement to a potentially responsible party under subsections (g) and (n) or section 122(g) if the President makes a decision concerning a reimbursement or offer of a settlement under clause (ii).

''(ii) REQUIREMENTS FOR REIMBURSEMENT OR OFFER OF A SETTLEMENT.—A potentially responsible party may be denied a reimbursement or settlement under clause (i)—

''(I) to the extent that the person or entity has operational control over a vessel or facility, if—

''(aa) the person or entity fails to provide full cooperation to, assistance to, and access to the vessel or facility to persons that are responsible for response actions at the vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions at the vessel or facility); or

''(bb) the person or entity acts in such a way as to impede the effectiveness or integrity of any institutional control employed at the vessel or facility; or

''(II) if the person or entity fails to comply with any request for information or administrative subpoena issued by the President under this Act.

''(H) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.

''(I) WAIVER.—

''(i) RESPONSE COSTS IN ALLOCATION.—A party that settles its liability under this subsection waives the right to seek cost recovery or contribution under this Act for any response costs that are addressed in the allocation.

''(ii) RESPONSE COSTS OF FACILITY.—A party that settles its liability under subsection 107(t) or section 122(g) waives its right to seek cost recovery or contribution under this Act for any response costs at the facility.

''(J) PERFORMANCE OF RESPONSE ACTIONS.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the President may require, as a condition of settlement under subsection (n) and section 107(t), that 1 or more parties conduct a response action at the facility.

''(ii) REIMBURSEMENT.—

''(I) IN GENERAL.—The President shall reimburse a party described in subparagraph (A) for costs incurred in excess of the party's allocated fair share.

''(II) PRO RATA REIMBURSEMENT.—The President shall provide equitable pro rata reimbursement to such parties on at least an annual basis.

''(iii) RESPONSE ACTIONS.—No party described in subsections (q), (r), (s), or (u) of section 107 or 122(g) may be required to perform a response action as a condition of settlement or ordered to conduct a response action under section 106.

''(K) JUDICIAL REVIEW.—

''(i) IN GENERAL.—A court shall not approve any settlement under this Act unless the settlement includes an estimate of the statutory orphan share that is fair, reasonable and consistent with this Act.

''(ii) STATUTORY ORPHAN SHARE SETTLEMENT.—If a court determines that an estimate of a statutory orphan share is not fair, reasonable, or consistent with this Act, the court may—

''(I) approve the settlement; and

''(II) disapprove and remand the estimate of the statutory orphan share.''.

(b) REGULATIONS.—The President shall issue regulations to implement this title not later than 180 days after the date of enactment of this Act.

TITLE IV—FUNDING

SEC. 401. USES OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) IN GENERAL.—The Comprehensive Environmental Response Compensation, and Liability Act of 1980 is amended by striking sections 111 and 112 (42 U.S.C. 9611, 9612) and inserting the following:

''SEC. 111. USES OF HAZARDOUS SUBSTANCE SUPERFUND.

''(a) IN GENERAL.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated from the Hazardous Substance Fund for the purposes specified in subparagraphs (A) and (B) of paragraph (2) not more than $1,000,000,000 for the 5-year period beginning on the date of enactment of the Superfund Program Completion Act of 1999.

''(B) RESPONSE ACTIONS.—There are authorized to be appropriated from the Hazardous Substance Superfund for the performance of response actions the amounts described in paragraph (2)(C).

''(2) SPECIFIC USES.—The President shall use amounts appropriated out of the Hazardous Substance Superfund only—

''(A) to enter into mixed funding agreements in accordance with section 122;

''(B) to reimburse a party for response costs incurred in excess of the allocated share of the party as described in a final settlement under section 122; and

''(C) for the performance of response actions to the extent that the total amount in the Hazardous Substance Superfund is greater than—

''(i) in fiscal year 2000, $1,000,000,000;

''(ii) in fiscal year 2001, $800,000,000;

''(iii) in fiscal year 2002, $600,000,000;

''(iv) in fiscal year 2003, $400,000,000; and

''(v) in fiscal year 2004, $200,000,000.

''(b) CLAIMS AGAINST HAZARDOUS SUBSTANCE SUPERFUND.—

''(1) IN GENERAL.—Claims against the Hazardous Substance Superfund shall not be valid or paid in excess of the total amount in the Hazardous Substance Superfund at any 1 time.

''(2) VALIDITY OF CLAIMS EXCEEDING AMOUNT IN HAZARDOUS SUBSTANCE SUPERFUND.—Claims against the Hazardous Substance Superfund in excess of the total amount in the Hazardous Substance Superfund shall become valid only when additional amounts are collected for, appropriated for, or otherwise added to the Hazardous Substance Superfund.

''(3) INSUFFICIENT BALANCE.—

''(A) IN GENERAL.—The President shall not issue an order or seek to recover costs for a response action at a facility if the amount in the Hazardous Substance Superfund is insufficient to enable the President to enter into an agreement or reimburse a party at the facility under subsection (a).

''(B) AUTHORIZATION OF APPROPRIATIONS.—If sufficient funds are unavailable in the Hazardous Substance Superfund to satisfy claims or to enter into agreements, there are authorized to be appropriated such amounts as are necessary to make such payments.

''(4) NO LIMITATION OF AUTHORITY.—Nothing in this subsection limits the authority of the President to act under section 104.

''(c) REGULATIONS.—

''(1) OBLIGATION OF FUNDS.—The President may promulgate regulations designating 1 or more Federal officials that may obligate amounts in the Hazardous Substance Superfund in accordance with this section.

''(2) NOTICE TO POTENTIAL INJURED PARTIES.—

''(A) IN GENERAL.—The President shall promulgate regulations with respect to the notice that shall be provided to potential injured parties by an owner and operator of any vessel or facility from which a hazardous substance has been released.

''(B) SUBSTANCE.—The regulations under subparagraph (A) shall describe the notice that would be appropriate to carry out this title.

''(C) COMPLIANCE.—

''(i) IN GENERAL.—On promulgation of regulations under subparagraph (A), an owner and operator described in that subparagraph shall provide notice in accordance with the regulations.

''(ii) PRE-PROMULGATION RELEASES.—In the case of a release of a hazardous substance that occurs before regulations under subparagraph (A) are promulgated, an owner and operator described in that subparagraph shall provide reasonable notice of any release to potential injured parties by publication in local newspapers serving the affected area.

''(iii) RELEASES FROM PUBLIC VESSELS.—The President shall provide such notification as is appropriate to potential injured parties with respect to releases from public vessels.

''(d) NATURAL RESOURCES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resource until a plan for the use of the funds for those purposes has been developed and adopted, after adequate public notice and opportunity for hearing and consideration of all public comment, by—

''(A) affected Federal agencies;

''(B) the Governor of each State that sustained damage to natural resources that are within the borders of, belong to, are managed by, or appertain to the State; and

''(C) the governing body of any Indian tribe that sustained damage to natural resources that—

''(i) are within the borders of, belong to, are managed by, appertain to, or are held in trust for the benefit of the tribe; or

''(ii) belong to a member of the tribe, if those resources are subject to a trust restriction on alienation.

''(2) EMERGENCY ACTION EXEMPTION.—Funds may be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resource only in circumstances requiring action to—

''(A) avoid an irreversible loss of a natural resource;

''(B) prevent or reduce any continuing danger to a natural resource; or

''(C) prevent the loss of a natural resource in an emergency situation similar to those described in subparagraphs (A) and (B).

''(e) POST-CLOSURE LIABILITY FUND.—The President shall use the amounts in the Post-closure Liability Fund for—

''(1) any of the purposes specified in subsection (a) with respect to a hazardous waste disposal facility for which liability has been transferred to the Post-closure Liability Fund under section 107(k); and

''(2) payment of any claim or appropriate request for costs of a response, damages, or other compensation for injury or loss resulting from a release of a hazardous substance from a facility described in paragraph (1) under—

''(A) section 107; or

''(B) any other Federal or State law.

''(f) INSPECTOR GENERAL.—

''(1) AUDIT.—In each fiscal year, the Inspector General of the Environmental Protection Agency shall conduct an annual audit of—

''(A) all agreements and reimbursements under subsection (a); and

''(B) all other activities of the Environmental Protection Agency under this Act.

''(2) REPORT.—The Inspector General of the Environmental Protection Agency shall submit to Congress an annual report that—

''(A) describes the results of the audit under paragraph (1); and

''(B) contains such recommendations as the Inspector General considers to be appropriate.

''(g) FOREIGN CLAIMS.—To the extent that this Act permits, a foreign claimant may assert a claim to the same extent that a United States claimant may assert a claim if—

''(1) the release of a hazardous substance occurred—

''(A) in the navigable waters of a foreign country of which the claimant is a resident; or

''(B) in or on the territorial sea or adjacent shoreline of a foreign country described in subparagraph (A);

''(2) the claimant is not otherwise compensated for the loss of the claimant;

''(3) the hazardous substance was released from a facility or vessel located adjacent to or within the navigable waters under the jurisdiction of, or was discharged in connection with activities conducted under—

''(A) section 20(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)(2)); or

''(B) the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); and

''(4)(A) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country; or

''(B) the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that the foreign country provides a comparable remedy for United States claimants.

''(h) AUTHORIZATION OF APPROPRIATIONS OUT OF THE GENERAL FUND.—

''(1) REMOVAL AND RESPONSE ACTIONS.—There are authorized to be appropriated to the Environmental Protection Agency out of the general fund of the Treasury or from the Hazardous Substance Superfund, in accordance with section 111(a)(2)(C), to conduct removal and response actions under this Act:

''(A) For fiscal year 2000, $900,000,000.

''(B) For fiscal year 2001, $875,000,000.

''(C) For fiscal year 2002, $850,000,000.

''(D) For fiscal year 2003, $825,000,000.

''(E) For fiscal year 2004, $800,000,000.

''(2) HEALTH ASSESSMENTS AND HEALTH CONSULTATIONS.—There are authorized to be appropriated to the Agency for Toxic Substances and Disease Registry to conduct health assessments and health consultations under this Act, and for epidemiologic and laboratory studies, preparation of toxicologic profiles, development and maintenance of a registry of persons exposed to hazardous substances to allow long-term health effects studies, and diagnostic services not otherwise available to determine whether persons in populations exposed to hazardous substances in connection with a release or suspected release are suffering from long-latency diseases:

''(A) For fiscal year 2000, $60,000,000.

''(B) For fiscal year 2001, $55,000,000.

''(C) For fiscal year 2002, $55,000,000.

''(D) For fiscal year 2003, $50,000,000.

''(E) For fiscal year 2004, $50,000,000.

''(3) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

''(A) IN GENERAL.—There are authorized to be appropriated not more than the following amounts for the purposes of section 311(a):

''(i) For fiscal year 2000, $40,000,000.

''(ii) For fiscal year 2001, $40,000,000.

''(iii) For fiscal year 2002, $40,000,000.

''(iv) For each of fiscal years 2003 and 2004, $40,000,000.

''(B) TRAINING LIMITATION.—Not more than 15 percent of the amounts appropriated under subparagraph (A) shall be used for training under section 311(a) for any fiscal year.

''(C) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—Not more than $5,000,000 of the amounts available in the Hazardous Substance Superfund may be used in any of fiscal years 2000 through 2004 for the purposes of section 311(d).

''(4) BROWNFIELD GRANT PROGRAMS.—There are authorized to be appropriated to carry out section 127 $100,000,000 for each of fiscal years 2000 through 2004.

''(5) QUALIFYING STATE RESPONSE PROGRAMS.—There are authorized to be appropriated to maintain, establish, and administer qualifying State response programs during the first 5 full fiscal years following

the date of enactment of this paragraph under a formula established by the Administrator, $100,000,000 for each of fiscal years 2000 through 2004.

''(6) DEPARTMENT OF JUSTICE.—There are authorized to be appropriated to the Attorney General for the enforcement of this Act—

''(A) for fiscal year 2000, $30,000,000;

''(B) for fiscal year 2001, $28,000,000;

''(C) for fiscal year 2002, $26,000,000;

''(D) for fiscal year 2003, $24,000,000; and

''(E) for fiscal year 2004, $22,000,000.

''(7) PROHIBITION OF TRANSFER.—None of the funds authorized to be appropriated under this subsection may be transferred to any other Federal agency.''.

(b) CONFORMING AMENDMENTS.—

(1) RESPONSE ACTIONS.—Section 104(c) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(A) in paragraph (1), by striking ''obligations from the Fund, other than those authorized by subsection (b) of this section,'' and inserting '', such response actions''; and

(B) in paragraph (7), by striking ''shall be from funds received by the Fund from amounts recovered on behalf of such fund under this Act'' and inserting ''shall be from appropriations out of the general fund of the Treasury''.

(2) INFORMATION GATHERING AND ANALYSIS.—Section 105(g)(4) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9605(g)(4)) is amended by striking ''expenditure of monies from the Fund for''.

(3) PRESIDENT.—Section 107(c)(3) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(c)(3)) is amended in the first sentence by striking ''Fund'' and inserting ''President''.

(4) OTHER LIABILITY.—Section 109(d) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9609(d)) is amended by striking the second sentence.

(5) SOURCE OF FUNDING.—Section 119(c)(3) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(3)) is amended—

(A) in the second sentence, by striking ''For purposes of section 111, amounts'' and inserting ''Amounts''; and

(B) in the third sentence—

(i) by striking ''If sufficient funds are unavailable in the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 to make payments pursuant to such indemnification or if the Fund is repealed, there'' and inserting ''There''; and

(ii) by striking ''payments'' and inserting ''expenditures''.

(6) REMEDIAL ACTION USING HAZARDOUS SUBSTANCE SUPERFUND.—Section 121(d)(4)(F) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(4)(F)) is amended—

(A) by striking '' using the Fund''; and

(B) by striking ''amounts from the Fund'' and inserting ''funds''.

(7) AVAILABILITY OF FUNDING.—Section 122(f)(4)(F) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9622(f)(4)(F)) is amended by striking ''the Fund or other sources of''.

Mr. SMITH of New Hampshire. I am pleased to join the distinguished chairman of the Committee on Environment and Public Works in introducing the Superfund Program Completion Act of 1999. This is a good day for the environment and for the American taxpayer, because this bill addresses many of the problems in Superfund that have wasted resources and delayed the cleanup of hazardous waste sites across the country.

Since I became chairman of the Superfund, Waste Control and Risk Assessment Subcommittee in 1995, I have had one overriding goal with respect to Superfund reform: To increase cleanups by decreasing the unfairness of the law.

By now, most are well aware of Superfund's dismal history. The program was created in 1980 to clean up abandoned hazardous waste sites. Begun with the best of intentions, Superfund has failed to meet even minimal expectations. Despite public and private expenditures of more than $40 billion dollars, less than 14% of approximately 1,300 sites have been cleaned up and removed from the National Priorities List over the last nineteen years.

The primary reason for this abysmal performance is Superfund's retroactive, strict, joint and several liability scheme. Under joint and several liability, the EPA or a private party can seek to hold any other potentially responsible party liable for the entire cleanup cost at a site—regardless of the type of contamination, when the material was disposed of, or whether the activity was legal at the time. Joint and several liability allows the government or a larger polluter to legally extort payments far in excess of a company's true share of responsibility for waste at a site.

Most reasonable people would agree that such a liability scheme is simply unfair. Worse yet, this unfairness has significantly hindered progress in cleaning up sites and wasted vast amounts of taxpayer funding. As one might expect, when a company is faced with paying 100% of the costs at a site for which their true liability may be less than 10%, that company will delay, negotiate, and litigate at every stop of the process. That, unfortunately, is the well-documented history of Superfund.

It is important to recognize that this unfairness is not confined to EPA's enforcement of the law. EPA merely begins the process at most sites by targeting one or more large parties who are potentially responsible for cleanup. Then those parties typically turn around and sue tens or hundreds of other parties—average citizens, small businesses, schools, churches, and others who face huge legal bills and years of expensive litigation if they don't pay up.

My position on this issue has been constant: I believe that retroactive, strict, joint and several liability is fundamentally unfair. If I had my way, I would repeal it today. Some of my colleagues see things differently, however, and the bill we introduce today represents a reasonable resolution of conflicting views on that topic.

While our legislation does not go as far as many would like, I believe it goes as far as we can if we are interested in passing a bill this Administration will sign into law. There's an old saying around here: ''Don't let the perfect be the enemy of the good.'' That is certainly the case with Superfund and the legislation we introduce today. This is a good bill. It will make a profound and positive difference in the lives of millions of Americans. It is a bill that can pass the Senate on a strong bi-partisan basis; and it is a bill that the President should sign into law.

The Superfund Program Completion Act makes major reforms in six areas. Specifically, the SPCA:

Directs EPA to finish the job that was started nearly two decades ago by completing the evaluation of the 3,000 remaining sites on the CERCLA Information System (CERCLIS).

Clearly allocates responsibility between states and EPA for future cleanups.

Protects municipalities, small business, recyclers, and other parties from unfair liability—while making the system fairer for everyone else.

Provides states $100 million per year and full authority for their own cleanup programs.

Revitalizes communities with $100 million in annual brownfields redevelopment grants.

Requires fiscal responsibility by EPA and saves taxpayers money.

Our legislation will result in more hazardous waste sites being cleaned up—and in fewer dollars being wasted on litigation. It will give much-needed and much-deserved liability relief to innocent landowners, contiguous property owners, prospective purchasers, municipalities, small businesses and recyclers. Unlike EPA's administrative reforms, this bill does not shift costs from politically popular parties to those left holding the bag. Instead, it requires payment of a statutory orphan share and authorizes the use of the Superfund Trust Fund for those shares.

For those left trapped in the Superfund liability scheme, the SPCA requires an allocation process to determine a party's fair share in an expedited settlement—instead of fighting it out for years in court.

In addition to increasing fairness, the SPCA provides much needed guidance and direction to a sometimes wayward EPA. It recognizes and builds upon the growth and strength of State hazardous waste cleanup programs. It provides new resources to States and localities for their cleanup and redevelopment efforts. As many of my colleagues know, the fear of Superfund liability has resulted in an estimated 450,000 abandoned or underutilized properties, or ''Brownfields,'' that lay fallow because private developers and municipalities don't want to be dragged into Superfund's litigation quagmire. With new resources and appropriate liability protections, our bill will allow the cleanup of those sites, spurring economic redevelopment in cities, towns, and rural areas across America.

We take a different approach to the brownfields redevelopment issue than

the Administration seeks. Along with many of my colleagues, I believe that economic redevelopment is primarily a State and local issue. Our approach provides the resources and freedom States need to make progress on this front, rather than giving EPA new authority to get into the commercial real estate and redevelopment business. That is not EPA's role, nor should it be. Where EPA does have a role is in identifying and addressing risks at uncontrolled hazardous waste sites. Our legislation ensures that EPA regains its focus on that mission.

Earlier this year, the General Accounting Office (GAO) reported that ''completion of construction at existing sites'' and reducing new entries into the program was the Environmental Protection Agency's top Superfund priority. Unfortunately, EPA's narrow focus on generating construction completion statistics appears to have diverted resources from EPA's fundamental mission—protecting human health and the environment from releases of hazardous waste.

GAO reported last year that there are still 3,000 sites awaiting a National Priorities List decision by EPA, most of which have been in the CERCLIS inventory for more than a decade. According to the report, however, more than 1,200 of those sites are actually ineligible for listing on the NPL, for a variety of reasons. Some of the sites were classified erroneously, while others either do not require cleanup, have already been cleaned up, or have final cleanup underway. EPA's failure to remove the specter of an NPL listing at these sites has likely caused significant economic and social harm to the surrounding communities. EPA needs to focus on that task.

In addition, far too many of the sites that are still potentially eligible for listing have received little or no attention from EPA. EPA admitted taking no cleanup action at all at 336 sites and provided no information for another 48 sites. The only action taken at 719 sites was an initial site assessment. EPA's inattention may be due to the fact that EPA and state officials together identified only 232 of the sites as worthy of being added to the NPL. In that case, however, the appropriate response is to archive the sites while ensuring that any necessary cleanup occurs under some other Federal or state program. EPA needs to focus on that task as well.

Unforfunately, there is also disagreement between EPA and state officials about even those 232 sites. EPA identified 132 that may be listed on the NPL in the future, but state officials agreed on only 26 of those. Conversely, state officials identified a different group of 100 sites as worthy of an NPL listing in the future.

EPA agreed with GAO's recommendation that it ''develop a joint strategy'' with the States for addressing these sites. After nearly 20 years and $20 billion in taxpayer funded EPA appropriations, it is disturbing that the agency only now is developing such a strategy. Nonetheless, Congress has an obligation to provide direction and assistance to EPA in this effort. The Superfund Program Completion Act provides that direction by:

Requiring EPA to finish evaluating and/or archiving old sites stuck in the CERCLIS inventory, correcting the current imbalance between evaluating uncontrolled sites and amassing construction completed statistics.

Providing EPA with a schedule of 30 NPL listings per year, to ensure that it and the States appropriately allocate sites for cleanup under Superfund, RCRA, or State response programs.

Increasing current law limits on EPA removal actions to provide greater flexibility in responding to sites that at least initially should be the responsibility of the Federal government, but ultimately do not require an NPL listing.

These provisions will ensure that the limited universe of sites remaining in the Superfund pipeline are dealt with quickly and safely.

In addition to keeping EPA focused on the task at hand, our bill provides increased resources and authority to the States, in recognition of the progress made by State cleanup programs in the last decade.

Superfund is notable among the major Federal environmental statutes not only for its abysmal track record, but also for its heavy reliance on EPA action rather than state implementation. In other environmental programs—RCRA, the Clean Water Act, the Safe Drinking Water Act—EPA typically sets general program direction and provides technical support while leaving implementation and enforcement to the states. In the Superfund program, however, EPA takes a direct role in both enforcement and cleanup. This leadership role was originally justified by a perceived inability or alleged unwillingness on the part of states to perform or oversee cleanups. The situation today is far different.

The Environmental Law Institute reported last year that States have now completed 41,000 cleanups, with another 13,700 in progress. The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) reports that ''States are not only addressing more sites at any given time, but are also completing more sites through streamlined State programs. State programs have matured and increased in their infrastructure capacity.''

Most now recognize that states have made great strides in their programs, and even EPA in May of 1998 released a ''Plan to Enhance the Role of States and Tribes in the Superfund Program.'' Not surprisingly, while that plan appears to provide some increased opportunities for state leadership, it also envisions a significant, on-going role for EPA.

The Superfund Program Completion Act, on the other hand, assists, recognizes and builds on the growth of state cleanup programs. The SPCA also responds to pleas from ASTSWMO, the National Governors Association and others to remove the ever-present threat of EPA over-filing and third party lawsuits under Superfund when a site is being cleaned up under a State program. The SPCA recognizes the fact that States should be the leaders in cleaning up hazardous waste sites by:

Providing $100 million annually for State core and voluntary response programs to allow States to build on their impressive record of accomplishment in this area.

Providing finality, except in cases of emergency or at a State's request, for cleanups conducted under State law.

Requiring EPA to work with the States so that sites listed on the NPL are those the Governor of the State agrees warrant an NPL listing.

Mr. President, the legislation we introduce today represents the culmination of years of hard work. In the four years I have been Chairman of the Superfund Subcommittee, we have heard from more than 100 witnesses, representing every viewpoint, in an effort to grapple with the problems caused by the Superfund law. We have communicated with thousands of individuals and organizations who have urged us to fix this law.

Senator CHAFEE and I have spent long hours with our Democratic colleagues on the Environment and Public Works Committee, and with EPA Administrator Carol Browner. So far, we and our staffs have devoted more than 600 hours to this effort. We have negotiated issues, identified areas of agreement, eliminated many areas of controversy, and pinpointed those few remaining areas where our differences will need to be resolved through the legislative process itself. I look forward to working with my colleagues on both sides of the aisle during that process.

Before I close, let me say a few words about taxes. Simply put, there are no taxes required to finance this bill, and I will oppose all attempts to attach them to it.

Congress has appropriated more than $20 billion to support EPA's Superfund program during the past 19 years. The GAO reports that amount includes more than $6 billion of unrecovered ''recoverable costs.'' ''Recoverable costs'' are taxpayer expenditures that EPA made in anticipation of recovering them from individual polluters at sites. That sum alone would be sufficient to finance EPA's cleanup efforts throughout the life of this reauthorization. Our bill allows those funds to be used for cleanup when EPA does recover them. Further, there should be no doubt that Congress will continue to appropriate funds needed for EPA to finish its job. More taxes are not required to finance this bill or to finish the Superfund program.

During the last two Congresses, I was willing to support the reimposition of

taxes to finance Superfund legislation with major changes in the areas of remedy selection and natural resource damages—as well as more sweeping liability reforms than are contained in the bill we introduce today. There remains a real need for those reforms, and I pledge to continue my efforts in that regard.

The bill we introduce today, however, is designed to achieve all that we can under the current Administration. It represents substantial, real reform that will help thousands of communities and millions of Americans. I urge my colleagues to support it.

Mr. LOTT. Mr. President, today, I am pleased to join my colleagues Senator BOB SMITH and Senator. JOHN CHAFEE in introducing the Superfund Program Completion Act. For several years Congress has worked diligently to find common ground for all parties involved, common ground that will also correct the flaws of the original law. Senator SMITH's legislation will do just that.

In 1980, Congress approved the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) which was intended to pay for the cleanup of the nation's most hazardous waste sites. This law became known as Superfund—a bit ironic since the law provides no funding, but instead requires those who operated or used the landfill to pay for the cleanup.

There is logic and fairness in requiring the polluters to pay for the cleanup; however, Superfund's liability structure was so poorly planned excessive litigation was encouraged. Cleanup did not occur and costs were passed to small businesses across the nation. Superfund did cause unnecessary lawsuits and wasted valuable time, all the while leaving sites across America polluted.

Mr. President, this new legislation by Senators SMITH and CHAFEE would exempt those small businesses who acted in good faith and are still being dragged into Superfund as third and fourth party defendants by simply throwing out their household trash. Superfund does not distinguish large from small, nor does it distinguish polluters from responsible businesses. In many instances, these business owners did nothing wrong. Yet, the law penalizes people for something that at one time was legal.

Virtually all sides agree that some small businesses should have never been pulled into the system. While this legislation would not be retroactive, it will save small businesses in other communities from future Superfund lawsuits. It is important to reward those who have acted responsibly. I believe Senator SMITH's bill is responsible.

Mr. President, I do not believe there is one Senator who is pleased with the way in which the Superfund statute has operated. Like small businesses, recyclers have also been targeted to pay for cleanup. They should not be held responsible for pollution at a Superfund site. The Administration agrees. A majority of the Congress agrees. The environmental community agrees. Senator SMITH's bill will fix the recycler's problem and remain faithful to the environment.

Over the past three decades, concern for our environment and natural resources has grown—as has the desire to recycle and reuse. This makes environmental sense. This legislation would remove an unintended yet troublesome legal obstacle to recycling. This bill corrects current law and encourages recycling. It simply recognizes that recycling is not disposal and that recyclables are not waste. Common sense tells us that recycling something is not the same as disposing of it.

This bill will help level the playing field between the use of recycled goods and competitive virgin raw materials. Currently suppliers of virgin raw materials face no Superfund liability for contamination caused by the consumer. This bill will supply the same waiver to those who sell recyclable materials.

This bill also contains protections to ensure that sham recyclers are unable to benefit from this exemption. In order for recyclers to be relieved of Superfund liability, they must act in an environmentally sound manner and sell their product to manufacturers with environmentally responsible business practices. Considering that most recyclers are currently operating in a reasonable and conscience manner, this should be an easy test.

Mr. President, the recycling portion of the bill is the product of lengthy negotiations between the federal and state governments, the environmental community and the recycling industry. It serves only one purpose—to remove from the liability loop those who collect and ship recyclables to a third party site. These negotiations have resulted in a provision that I believe to be both environmentally and fiscally sound. By removing the threat of Superfund liability for recyclers, we will encourage more recycling.

Mr. President, while this provision is not precisely the Superfund Recycling Equity Act which Senator DASCHLE and I introduced last year—a bill which was supported by 63 of our Senate colleagues—I look forward to working with all parties to ensure we pass a bill that the Administration, environmentalists, and industry can support.

Mr. President, I will also work with my colleagues to ensure that no Superfund taxes will be reinstated. After many years and millions and millions of dollars spent by the government, large businesses, municipalities, schools, and small businesses, only a fraction of the costs has been devoted to cleanup. This cannot continue to happen.

I have seen a copy of the May 14, 1999, letter from Senators CHAFEE and SMITH to the Environmental Protection Agency, and I completely agree with its conclusions. There is no need for additional tax revenue. I want to quote from their letter because the Senators said it just right.

''Many responsible parties who have already paid for their own cleanups would also be liable for reimposed taxes. They are frankly unwilling to see the tax reinstated unless there are sweeping reforms in the structure of the program, as well. We find their arguments persuasive. We will not vote to reimpose the tax, unless it is part of a comprehensive Superfund reform.''

''There is a second reason for our opposition to a tax extension at this time. As we noted in a recent letter to Administrator Browner, Congress has appropriated $15.9 billion for Superfund from its inception through 1988. The Superfund Trust Fund was created to facilitate rapid cleanups carried out by the federal government's expenditures would be recovered from responsible parties once the cleanup action was complete. This is real ''polluters pay'' principle.''

''However, only a small percentage of the $15.9 billion has been recovered. To date, the Agency has obtained commitments to recover $2.4 billion. EPA has written off $5 billion of past expenditures and GAO reports that another $1.9 billion is likely unrecoverable because EPA did not properly calculate its indirect costs. This is a troubling record. A good cost recovery program that actually made the real polluters (as opposed to the taxpaying industries) pay could have recovered sufficient funds to carry Superfund through another authorization cycle without the reimposition of taxes. We are reluctant to ask Superfund taxpayers to once again prop up a Trust Fund that EPA has allowed to dwindle.''

Mr. President, I'm very impressed with the Chairman CHAFEE and Chairman SMITH have done in getting this bill drafted and introduced. They are also working on a second major environmental bill in the waste area—RCRA. Last year we jointly requested a report from the GAO on what saving and efficiencies can be achieved with rifle shot fixes. This year Senators CHAFEE and SMITH have been diligently working on finalizing a legislative approach that is compatible to this GAO study. I know their staffs have been consulting with all the stakeholders, and I look forward to seeing this bill this summer. Hopefully, both bills will have a chance to advance through the legislative process so that the full Senate can consider them. Both approaches are reforms that Americans deserve and need.

As environmentalists talk about laws which protect the environment, Congress must determine who actually bears the burden of cost, and determine the balance. Superfund does not discriminate. The way Superfund is being implemented, it attacks our neighbors, our schools, and even our corner grocers. The Superfund Program Completion Act makes positive strides toward

correcting the balance and reflects society's progress from the 80's and incorporates the methods of the 90's.

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):

S. 1091. A bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative; to the Committee on Health, Education, Labor, and Pensions.

THE PEDIATRIC RESEARCH INITIATIVE ACT OF 1999

Mr. DEWINE. Mr. President, today I rise to introduce legislation that will increase our nation's investment in pediatric research.

Despite the medical breakthroughs that have been made by health researchers in recent years, it is obvious that health care research is under funded. I have joined with many senators to express support for doubling the budget at HIH for biomedical research. I will continue to fight for this increased funding so that NIH can expand its research efforts. An increase in funding is especially needed to improve our knowledge about illnesses and conditions affecting children.

Children under age 12 represent 30 percent of the population—and yet, NIH devotes less than 12 percent of its budget to their needs. There has been a growing consensus that children's health deserves more attention from the research community.

The bill I am introducing today would help us begin to remedy the need for stronger investment in children's health research. I thank Senator BOND for joining with me in sponsoring this important legislation. This bill would authorize the Pediatric Research Initiative within the Office of the Director of National Institutes of Health (NIH) to encourage, coordinate, support, develop, and recognize pediatric research.

The bill would authorize $50 million annually for the next three years. During the last three years, I worked with my colleagues to fund this important Initiative and as a result, it received $5 million in fiscal year (FY) 1997, $38.5 million in FY 1998, and at least $38.5 million in FY 1999. I look forward to working with my colleagues again to continue on the path toward reaching the necessary funding level.

Under this bill, the Initiative would provide $45 million over the next three years to encourage new initiatives and promising areas of pediatric research. It would also promote greater coordination in children's health research. Today, there are some 20 Institutes and Centers and Offices within NIH that do something in the way of pediatrics. In my view, we need to bring some level of coordination and focus to these efforts.

In developing this Initiative, I have made sure that it would give the Director of NIH as much discretion as possible. The money has to be spent on outside research, so that the dollars flow out to the private sector—but it can go toward basic research or clinical research.

This bill does not create any new Office, Center, or Institute. I would simply authorize funding for more research and better research coordination for children—not infrastructure.

In addition to authorizing the Initiative, the legislation would authorize new funding, through the National Institutes of Child Health and Human Development (NICHD), for pediatric research training grants to provide a major increase in support for training additional pediatric research scientists. We need to strengthen our national investment in pediatric research training.

The supply of pediatrician scientists needs to increase if we are to fulfill the new NIH policies that require the participation of children in NIH-funded clinical trials and the new Food and Drug Administration (FDA) policies that require the testing of drugs for use by children before they can receive FDA approval.

The number of pediatricians training to become subspecialists—the potential supply of future pediatrician scientists—is declining. The number of medical school pediatric departments that receive significant NIH research training grant support is limited—fewer than half receive any NIH research training grants. Many pediatricians in training have little or no exposure to research.

Together, the Pediatric Research Initiative and the pediatric research training grants are crucial investments in our country's future—and will produce great returns. If we focus on improving health care for our children, we'll set the stage for them becoming healthy adults.

This important legislation has the support of the pediatric research community in children's hopsitals and university pediatric departments all over the country, including the National Association of Children's Hospitals, Association of Medical School Pediatric Department Chairmen, American Pediatric Society, and Society for Pediatric Research, as well as the Juvenile Diabetes Foundation International, March of Dimes, Association of Ohio Children's Hospitals, and many more

I urge my colleagues to support this investment in our children and cosponsor this bill. I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 1091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pediatric Research Initiative Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) innovations in health care, deriving from scientific investigation of the highest quality, offer substantial benefits to the well-being of children and savings in health care costs;

(2) findings in pediatric research not only promote and maintain health throughout a child's lifespan, but also contribute significantly to new insights and discoveries that will aid in the prevention and treatment of illnesses and conditions among adults;

(3) the rapidly expanding knowledge base in biology and medicine is offering greater opportunities than ever for pediatric physician-scientists and basic researchers to harness this knowledge to the benefit of children and society;

(4) the relatively smaller number of children compared as to adults and the relative rarity of many of their diseases and conditions has resulted in comparatively fewer resources being devoted to pediatric research and a lesser focus on children's needs;

(5) substantially more of the support for children's health research is provided through the Federal Government than is the case for adults because of these market forces;

(6) a new commitment to invest in children's research today will make a real difference for children tomorrow;

(7) the commitment to invest in children's research should include not only added investment that is devoted to pediatric research but should also focus on ensuring the existence of a future supply of pediatric physician-scientists;

(8) the supply of pediatric physician-scientists is threatened by market demands which provide little room for support for research training for new pediatric physician-scientists;

(9) over 60 percent of the pediatric departments in the United States have no National Institutes of Health training grant support; and

(10) improvements in the level of training grant support is essential to ensuring the existence of future generations of pediatric clinical investigators who are responsible for moving research discoveries from the laboratories to the patients, and who are therefore critical to clinical research.

SEC. 3. ESTABLISHMENT OF A PEDIATRIC RESEARCH INITIATIVE.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

''SEC. 404F. PEDIATRIC RESEARCH INITIATIVE.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Office of the Director of NIH a Pediatric Research Initiative (referred to in this section as the 'Initiative'). The Initiative shall be headed by the Director of NIH.

''(b) PURPOSE.—The purpose of the Initiative is to provide funds to enable the Director of NIH to encourage—

''(1) increased support for pediatric biomedical research within the National Institutes of Health to ensure that the expanding opportunities for advancement in scientific investigations and care for children are realized;

''(2) enhanced collaborative efforts among the Institutes to support multidisciplinary research in the areas that the Director deems most promising; and

''(3) the development of adequate pediatric clinical trials and pediatric use information to promote the safer and more effective use of prescription drugs in the pediatric population.

''(c) DUTIES.—In carrying out subsection (b), the Director of NIH shall—

''(1) consult with the Institute of Child Health and Human Development and the other Institutes, in considering their requests for new or expanded pediatric research efforts, and consult with other advisors as the Director determines appropriate;

''(2) have broad discretion in the allocation of any Initiative assistance among the Institutes, among types of grants, and between basic and clinical research so long as the—

''(A) assistance is directly related to the illnesses and conditions of children; and

''(B) assistance is extramural in nature; and

''(3) be responsible for the oversight of any newly appropriated Initiative funds and annually report to Congress and the public on the extent of the total extramural support for pediatric research across the NIH, including the specific support and research awards allocated through the Initiative.

''(d) AUTHORIZATION.—To carry out this section, there is authorized to be appropriated in the aggregate, $50,000,000 for each of the fiscal years 2000 through 2002.

''(e) TRANSFER OF FUNDS.—The Director of NIH may transfer amounts appropriated under this section to any of the Institutes for a fiscal year to carry out the purposes of the Initiative under this section.''.

SEC. 4. INVESTMENT IN TOMORROW'S PEDIATRIC RESEARCHERS.

Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following:

''SEC. 452E. INVESTMENT IN TOMORROW'S PEDIATRIC RESEARCHERS.

''(a) IN GENERAL.—The Secretary shall make available within the National Institute of Child Health and Human Development enhanced support for extramural activities relating to the training and career development of pediatric researchers.

''(b) PURPOSE.—The purpose of support provided under subsection (a) shall be to ensure the future supply of researchers dedicated to the care and research needs of children by providing for—

''(1) an increase in the number and size of institutional training grants to medical school pediatric departments and children's hospitals; and

''(2) an increase in the number of career development awards for pediatricians building careers in pediatric basic and clinical research.

''(c) AUTHORIZATION.—To carry out this section, there is authorized to be appropriated, $10,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, and $20,000,000 for fiscal year 2002.''.

BY MR. CRAPO:

S. 1092. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to regulation of pharmacists, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PHARMACIST'S PATIENT PROTECTION ACT OF 1999

● Mr. CRAPO. Mr. President. I rise today to introduce the ''Pharmacist's Patient Protection Act of 1999.'' The purpose of the legislation is to stop the implementation of final regulations that have been issued by the Food and Drug Administration that will require community pharmacists to provide agency sanctioned information when certain prescription drugs are dispensed to a patient. Such regulations, commonly called ''MedGuides'', were issued in final form on December 1, 1998.

Now why would Congress want to prohibit a regulation which would give patients written information about their medications? The answer is very simple. During the 104th Congress, the House and Senate debated this very same issue, and ultimately a compromise was reached whereby FDA agreed not to promulgate its MedGuide regulations for a period of time so that the private sector would have the opportunity to work with the Administration to develop a voluntary action plan to continue to increase the quality and quantity of written information already being provided to consumers with prescription medication. Under the agreement which was enacted into law as part of the FY 97 Agriculture Appropriations, FDA is prohibited from implementing any part of the MedGuide regulations until the year 2001. When we get to the year 2001, FDA would be permitted to move forward with the MedGuide initiative only if voluntary efforts failed to get written information to 75 percent of all patients receiving a new prescription.

Regrettably, FDA has chosen not to live up to its part of the agreement. The agency's final rule to require Medication Guides for selected prescription drugs, which will take effect on June 1, 1999, is in clear violation of federal law. It appears that FDA is deliberately ignoring the law. It would be my hope that the Administration would hold in abeyance the implementation of the MedGuide regulations, and honor the remainder of the moratorium relating to this rule making. However, I am not confident that this will occur, and therefore this bill is necessary so that we can put back into place the terms of the agreement that were made with the Administration during the 104th Congress.

Finally, I should point out that holding off the implementation of the MedGuide rule will not deny patients access to prescription drug information, nor will it preclude FDA from communicating with pharmaceutical companies and community pharmacists about the importance of providing information to patients about their prescription drugs. In other words, nothing in this bill should be construed as restricting the ability of the FDA to use its existing authority regarding the provision of written patient information on a product-by-product basis with certain prescription medications.

Let the competitive retail pharmacy marketplace continue to make great strides in providing consumers with meaningful, accurate and easily understood written information about prescription drugs. I urge my colleagues to co-sponsor the ''Pharmacist's Patient Protection Act of 1999.''●

By Mr. BINGAMAN:

S. 1093. A bill to establish the Galisteo Basin Archaeological Protection Sites, to provide for the protection of archaeological sites in the Galisteo Basin of New Mexico and for other purposes; to the Committee on Energy and Natural Resources.

GALISTEO BASIN ARCHAEOLOGICAL PROTECTION ACT OF 1999

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill designed to provide for the protection of various historical sites in the Galisteo Basin. The Basin is located in and around Santa Fe County, New Mexico, as depicted by this map. (See, map) To understand the importance of these sites, it's important to understand the history of this Basin.

Mr. President, when the Spanish Conquistadores arrived in New Mexico in 1598, they found a thriving native Pueblo culture with its own unique traditions of religion, architecture, and art, which was enriched and influenced by an extensive system of trade. The subsequent history of conflict and coexistence between these two cultures, Pueblo Indian and Spanish, shaped much of the language, art, and cultural worldview of New Mexicans today.

That initial history of cultural interaction in New Mexico encompassed a period of a little over one hundred years from the 1598, through the Pueblo revolt in 1680, and the recolonization by the Spanish in the early 1700s. Among these sites are examples of both the stone and adobe pueblo architectural styles which typified Native American pueblo communities prior to and during early Spanish colonization, including two of the largest of these ancient towns, San Marcos and San Lazaro Pueblos, which each had thousands of rooms at their peak. Also included in these sites are spectacular examples of Native American petroglyph art as well as historic missions which were constructed as part of the Spaniards' drive to convert the native populace to Catholicism. The twenty six archeological sites addressed in this bill provide cohesive picture of this crucial nexus in New Mexican history, depicting the culture of the pueblo people, and illustrating how it was affected by the Spanish settlers .

Mr. President, through these sites, we have an opportunity to truly understand the simultaneous growth and the coexistence of these two cultures. Unfortunately, this is an opportunity we may soon lose. Most of these sites are not currently part of any preservation program and through weathering, erosion, vandalism, and amateur excavations are losing their interpretive value.

This legislation creates a program under the Department of the Interior to preserve these sites, and to provide interpretive research in an integrated manner. While many of these sites are on federal public land, many are privately owned and a few are on state trust lands. The vision behind this legislation is that an integrated preservation program at sites on Federal lands could serve as a foundation for archaeological research that could be augmented with voluntary cooperative agreements with state agencies and private land owners. These agreements would provide landowners with the opportunity for technical and financial assistance to preserve the sites on their property. Where the parties deem

it appropriate, the legislation would also allow for the purchase or exchange of property to acquire these very valuable sites. With such a program in place, we should be able to preserve the history embodied in these sites for future generations.

Mr. President, I would also like to add that this legislation is supported by Cochiti Pueblo which is culturally and historically tied to these sites. I have received a letter from Isaac Herrera , the Governor of Cochiti Pueblo expressing his support and that of the tribal council. Governor Herrera notes that the tribe has already donated $10,000 to the preservation of one of these sites. This legislation is also supported by the State Land Commissioner.

Let me conclude by showing you some examples of these magnificent sites. These first 2 charts are from the Comanche Gap site, they are outstanding examples of petroglyph art. The next three charts I have show three of the various pueblo sites. The first, Pueblo Blanco. As you can see the drywash at the top of the picture and the road at the bottom, these are the types of erosion threats which I mentioned earlier. The next picture is Arroyo Hondo. Again, you have a drywash at the top, a major road along the site, and development around the site, which shows the threats posed. Finally is the Pueblo of Colorado, once again showing the threat of erosion from the drywashes above.

Mr. President, I want to especially thank Jessica Schultz who has been an intern in my office this past year, and has done yeoman work in providing research for this bill and in helping to draft it.

Mr. President, I ask unanimous consent to have the text of the Galisteo Basin Archaeological Protection Act of 1999 printed in the RECORD.

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

S. 1093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Galisteo Basin Archaeological Protection Act''.

SEC. 2. FINDINGS.

(a) The Congress finds the following:

(1) The Galisteo Basin and surrounding area of New Mexico is the location of many well preserved prehistoric and historic archaeological resources of Native American and Spanish colonial cultures;

(2) These resources include the largest ruins of Pueblo Indian settlements in the United States, spectacular examples of Native American rock art, and ruins of Spanish colonial settlements; and

(3) These resources are being threatened by natural causes, urban development, vandalism, and uncontrolled excavations.

(b) PURPOSE.—The purpose of this Act is to provide for the preservation, protection, and interpretation of the nationally significant archaeological resources in the Galisteo Basin in New Mexico.

SEC. 3. ESTABLISHMENT OF GALISTEO BASIN ARCHAEOLOGICAL PROTECTION SITES.

(a) IN GENERAL.—The archaeological sites listed in subsection (b), as generally depicted on a map entitled ''Galisteo Basin Archaeological Protection Sites,'' and dated May 1999, are hereby designated as ''Galisteo Basin Archaeological Protection Sites'' (in this Act referred to as the ''archaeological protection sites'').

(b) SITES DESCRIBED.—The archaeological sites referred to in subsection (a) consist of 26 sites in the Galisteo Basin, New Mexico, totaling approximately 4022 acres, as follows:

Name	*Acres*
Arroyo Hondo Pueblo	21
Burnt Corn Pueblo	110
Camino Real Site	1
Chamisa Locita Pueblo	40
Comanche Gap Petroglyphs	768
Espinoso Ridge Site	160
La Cienega Pueblo & Petroglyphs	126
La Cienega Pithouse Village	179
La Cieneguilla Petroglyphs	186
La Cieneguilla Pueblo	12
Lamy Pueblo	30
Lamy Junction Site	65
Las Huertas	20
Pa'ako Pueblo	29
Petroglyph Hill	90
Pueblo Blanco	533
Pueblo Colorado	120
Pueblo Galisteo/Las Madres	284
Pueblo Largo	60
Pueblo She	120
Rote Chert Quarry	1
San Cristobal Pueblo	390
San Lazaro Pueblo	416
San Marcos Pueblo	152
Tonque Pueblo	97
Upper Arroyo Hondo Pueblo	12
Total Acreage	4,022

(c) AVAILABILITY OF MAP.—The Secretary shall keep the map referred to in subsection (a) on file and available for public inspection in appropriate offices in New Mexico of the Bureau of Land Management and the National Park Service.

(d) BOUNDARY ADJUSTMENTS.—The Secretary may make minor boundary adjustments by publishing notice thereof in the Federal Register.

SEC. 4. ADDITIONAL SITES.

(a) IN GENERAL.—The Secretary of the Interior (in this Act referred to as the ''Secretary'') shall

(1) continue to search for additional Native American and Spanish colonial sites in the Galisteo Basin area of New Mexico; and

(2) submit to Congress, within three years after the date funds become available and thereafter as needed, his recommendations for additions to, deletions from, and modifications of the boundaries of the list of archaeological protection sites in section 4 of this Act.

(b) ADDITIONS ONLY BY STATUTE.—Additions to or deletions from the list in section 3(b) shall be made only by an Act of Congress.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the archaeological protection sites, which are located on Federal lands, in accordance with the provisions of this Act, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et. seq.), and other applicable laws in a manner that will protect, preserve, and maintain the archaeological resources and provide for research thereon.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three complete fiscal years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, a general management plan for the identification, research, protection, and public interpretation of the archaeological protection sites located on Federal land and for those sites for which the Secretary has entered into Cooperative Agreements regarding sites that are located on private or state lands.

(2) CONSULTATION.—The plan shall be developed by the Secretary in consultation with the Governor of New Mexico, the New Mexico State Land Commissioner, affected Native American pueblos, and other interested parties.

SEC. 6. COOPERATIVE AGREEMENTS.

The Secretary is authorized to enter into cooperative agreements with the owners of non-Federal land with regard to the inclusion of the archaeological protection sites located on their property. The purposes of such an agreement shall be to protect, preserve, maintain, and administer the archaeological resources and associated lands of such a site. Where appropriate, such agreement may also provide for public interpretation of an archaeological protection site.

SEC. 7. ACQUISITIONS.

(a) IN GENERAL.—The Secretary is authorized to acquire lands and interests therein within the boundaries of the archaeological protection sites, and access thereto, by donation, by purchase with donated or appropriated funds, or by exchange.

(b) CONSENT OF OWNER REQUIRED.—The Secretary may only acquire lands or interests therein within the consent of the owner thereof.

(c) STATE LANDS.—The Secretary may acquire lands or interests therein owned by the State of New Mexico or a political subdivision thereof only by donation or exchange.

SEC. 9. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the protection sites are hereby withdrawn—

(1) from all forms of entry, appropriation, or disposal under the public land laws and all amendments thereto;

(2) from location, entry, and patent under the mining law and all amendments thereto; and

(3) from disposition under all laws relating to mineral and geothermal leasing, and all amendments thereto.

SEC. 10. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.

By Mr. CONRAD (for himself and Mr. HATCH):

S. 1095. A bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities; to the Committee on Finance.

THE BIOMASS AND COAL FACILITIES EXTENSION ACT

• Mr. CONRAD. Mr. President, today I join again with my friend from Utah, Senator HATCH, to introduce the Biomass and Coal Facilities Extension Act. This legislation would extend by eight months the placed-in-service date under section 29 of the Internal Revenue Code.

We are offering the same bill we offered in the 105th Congress because the problem addressed by the bill remains uncorrected. The change we propose is

necessary in order to alleviate a hardship taxpayers are suffering as a result of their reliance on actions taken by Congress nearly three years ago.

A number of taxpayers made substantial commitments of resources to develop alternative fuel technology projects in good faith reliance on the incentives provided in the Small Business Protection Act of 1996. Under that law, Congress intended to ensure that alternative fuel technology projects involving coal and biomass would qualify for the credit provided under section 29 of the Internal Revenue Code as long as projects were subject to a binding contract by December 31, 1996 and placed in service by June 30, 1998.

That should have settled the matter. However, a proposal offered by the Administration in February 1997 contained a proposal to shorten the placed-in-service deadline by a full year for facilities producing gas from biomass and synthetic fuel from coal. The Administration was concerned about what it characterized as rapid growth in the section 29 credit. Congress considered that argument, but concluded that no change in the 1996 legislation was necessary.

In the tax legislative arena, even a mere proposal can have consequences. When the Joint Committee on Taxation published its analysis of the Administration's budget proposals in March 1997, it warned Congress about just such a consequence as it observed that ''[b]ecause the binding contract date has already passed * * * the proposal might place an unfair financial burden on those taxpayers who are bound to contracts entered into prior to the Administration's announcement.''

Mr. President, that is exactly what happened—many taxpayers who found themselves in that situation lost their sources of funding because financial institutions were obligated to take into account the possibility that the Administration's proposal could have become law. Because the tax credit plays a significant role in the financial examination lenders must make, its potential loss made securing the necessary financing impossible for taxpayers who were proceeding in good faith under binding contracts made in reliance on the provisions of the Small Business Protection Act of 1996.

The bill would extend the placed-in-service date for a period eight months from the date of the bill's enactment. This would restore some of the time that taxpayers lost as a result of the confusion which resulted from the events of 1997.

Let me emphasize that the bill would not authorize any ''new starts.'' The binding contract date provided in the 1996 Act would not be altered. The sole purpose of this bill is to allow taxpayers who began projects under the 1996 Act to proceed in an orderly manner to create the kinds of facilities that will help increase the country's useful energy resources.●

Mr. HATCH. Mr. President, I stand today with my colleague, Senator CONRAD, to introduce legislation aimed at helping companies to develop technologies for cleaner burning fuels. This is important to the people in my home state of Utah where air pollution is one of the top concerns of citizens.

I believe that cleaner burning fuels that will reduce emissions is a key element of the solution to this problem. The Biomass and Coal Facilities Extension Act would provide a tool for companies that are stepping into this void and developing clean burning fuels by extending the ''placed in service'' date under section 29 for facilities that produce alternative fuels.

Section 29 was originally created to encourage the development of alternative fuels to reduce our dependence on imports and to reduce the environmental impacts of certain fuels. With the enormous reserves of low rank coals and lignite in the United States and around the world, and with the potential for use of biomass and other alternatives, it is particularly important to the American economy and to our environment that new, more environmentally friendly fuels are brought to market both here and in developing nations.

Bringing new technologies to market is financially risky. In particular, finding investors to take a new technology from a laboratory table to the marketplace is difficult because working the bugs out of a first-of-a-kind, full-sized plant is a costly undertaking. Incentives to bring new, clean energy technologies to the market in the U.S. are a worthwhile use of the tax code.

In 1996, Congress provided sufficient incentives to make the development of alternative fuels a viable pursuit by extending the section 29 ''placed in service'' date for facilities designed to produce energy from biomass or processed coals to July 1, 1998, provided that those facilities were constructed pursuant to a binding contract entered into before January 1, 1997. Many contracts were signed and construction projects started.

Then the Administration released its budget in February 1997. It contained a proposal to eliminate the extension granted just one year before, cutting off the section 29 credit for plants not completed by July 1, 1997, which is an impossible deadline to meet for many of these projects.

Without the assurance of the section 29 tax credit, financing for these projects dried up. Taxpayers were stranded in contracts, some of which contained significant liquidated damages clauses. As a result of the Administration's proposal, taxpayers essentially lost a significant amount of the extension given them by Congress in 1996.

The bill before us would give companies with projects already in progress and contracts signed by January 1, 1997 some additional time to finish these projects. The bill does not extend the contract deadline, allow more projects to be initiated, or change the 2008 deadline for receiving the section 29 tax credit. This bill simply restores some of the time that taxpayers lost in their efforts to develop environmentally friendly fuels under section 29.

Bringing new alternative fuel technologies to the market is an important part of our commitment to a cleaner environment and a secure economy. Congress reflected that commitment in our efforts to mitigate some of the financial risk involved in developing this much needed technology in 1996. This bill maintains that commitment. I urge my colleagues to support this legislation.

By Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. KERREY, Mr. JOHNSON, and Mr. DASCHLE):

S. 1099. A bill to establish a mechanism for using the duties imposed on products of countries that fail to comply with WTO dispute resolution decision to provide relief to injured domestic producers; to the Committee on Finance.

TRADE INJURY COMPENSATION ACT

Mr. BAUCUS. Mr. President, on behalf of myself and Senators BINGAMAN, DORGAN, KERREY, JOHNSON, and DASCHLE. I rise to introduce the Trade Injury Compensation Act of 1999.

Under U.S. trade law, we may retaliate when a trading partner improperly closes its market to American goods or services. In certain circumstances, the World Trade Organization endorses that retaliation. The normal form of trade retaliation is to increase the tariff to one hundred percent on a designated list of imported goods.

The intention of retaliation is not protectionist. It is just the opposite—use the leverage of access to the huge United States market to open up a foreign market and expand trade. Retaliation is a tool designed to inflict enough economic pain on a trading partner that he returns to the negotiating table and removes the trade barriers that started the problem in the first place. Sometimes these negotiations restart quickly, sometimes even before the retaliation goes into effect. Other times, the negotiations start again only after the impact of retaliation sinks in.

In some cases, the new one hundred percent tariff raises the price of the imported good so prohibitively that it is priced completely out of the market. In other cases, the product is still sold in the United States, perhaps at a higher price, or perhaps at the original price with the importer absorbing the added tariff.

The United States is increasingly taking trade disputes to the WTO's Dispute Settlement Body. However, some of our trading partners have been, in effect, snubbing their nose at the WTO's decisions. The most egregious example of this is the European Union, whose approach to WTO dispute

settlement is, frankly, outrageous. First, in bananas, and now in beef, the EU is using legal and procedural technicalities to delay implementation of important and legitimate WTO panel decisions. Each time they do this, the EU seriously undermines the credibility of the WTO as a fair and even-handed place to get trade justice.

The Trade Injury Compensation Act establishes a mechanism for using the tariffs imposed when a country fails to comply with WTO dispute resolution decisions. Normally, the additional tariff revenues received from retaliation go to the Treasury. This bill establishes a trust fund so that the affected industry will receive those revenues as compensation for its injury.

In the case of agriculture, the money will be spent on promotion and development of products for the industry. In non-agriculture cases, the money will go to additional Trade Adjustment Assistance payments to the affected industry.

Mr. President, the WTO is a critically important institution that sets the foundation and framework to make world trade grow. We all recognize that it needs improvement, and I, along with many of my colleagues, are working on ways to fix it, starting with the WTO Ministerial in Seattle. But, while the United Staes is striving to support and improve the WTO system, the EU seems to be working overtime to undercut the WTO. We must stop this abuse of the WTO, and we must provide assistance to our industries that are damaged by these illegal actions of the EU or others in the future.

Within two weeks, the Administration will implement retaliatory measures against the European Union because of its WTO-illegal restrictions on beef. My bill would provide the American beef industry with much needed compensation while the retaliatory measures remain in place.

I encourage all my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trade Injury Compensation Act of 1999''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) United States goods and services compete in global markets and it is necessary for trade agreements to promote such competition.

(2) The current dispute resolution mechanism of the World Trade Organization is designed to resolve disputes in a manner that brings stability and predictability to world trade.

(3) When foreign countries refuse to comply with a panel or Appellate Body report of the World Trade Organization and violate any of the Uruguay Round Agreements, it has a deleterious effect on the United States economy.

(4) A WTO member can retaliate against a country that refuses to implement a panel or Appellate Body report by imposing additional duties of up to 100 percent on goods imported from the noncomplying country.

(5) In cases where additional duties are imposed on imported goods, the duties should be used to provide relief to the industry that is injured by the noncompliance.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term by section 102 (1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(1)).

(2) INJURED AGRICULTURAL COMMODITY PRODUCER.—The term ''injured agricultural commodity producer'' means a domestic producer of an agricultural commodity with respect to which a dispute resolution proceeding has been brought before the World Trade Organization, if the dispute resolution is resolved in favor of the agricultural commodity producer, and the foreign country against which the proceeding has been brought has failed to comply with the report of the panel or Appellate Body of the WTO.

(3) INJURED PRODUCER.—The term ''injured producer'' means a domestic producer of a product (other than an agricultural product) with respect to which a dispute resolution proceeding has been brought before the World Trade Organization, if the dispute resolution is resolved in favor of the producer, and the foreign country against which the proceeding has been brought has failed to comply with the report of the panel or Appellate Body of the WTO.

(4) RETALIATION LIST.—The term ''retaliation list'' means the list of products of a foreign country that has failed to comply with the report of the panel or Appellate Body of the WTO and with respect to which the United States Trade Representative is imposing duties above the level that would otherwise be imposed under the Harmonized Tariff Schedule of the United States.

(5) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(6) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(7) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

(8) WTO AND WTO MEMBER.—The terms ''WTO'' and ''WTO member'' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

SEC. 4. TRADE INJURY COMPENSATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Trade Injury Compensation Trust Fund'' (referred to in this Act as the ''Fund'') consisting of such amounts as may be appropriated to the Fund under subsection (b) and any amounts credited to the Fund under subsection (c)(2).

(b) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN DUTIES.—

(1) IN GENERAL.—There are hereby appropriated and transferred to the Fund an amount equal to the amount received in the Treasury as a result of the imposition of additional duties imposed on the products on a retaliation list.

(2) TRANSFERS BASED ON ESTIMATES.—The amounts required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) INVESTMENT OF TRUST FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(2) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) DISTRIBUTIONS FROM FUND.—Amounts in the Fund shall be available as provided in appropriations Acts, for making distributions in accordance with subsections (e) and (f).

(e) CRITERIA FOR DETERMINING INJURED PRODUCERS AND AMOUNT TO BE PAID.—Not later than 30 days after the implementation of a retaliation list, the Secretary of the Treasury, in consultation with the Secretaries of Agriculture and Commerce, shall promulgate such regulations as may be necessary to carry out the provisions of this Act. The regulations shall include the following:

(1) Procedures for identifying injured producers and injured producers of agricultural commodities.

(2) Standards for determining the eligibility of injured producers and injured producers of agricultural commodities to participate in the distribution of any money from the Fund.

(3) Procedures for determining the amount of the distribution each injured producer and injured producers of agricultural commodities should be paid.

(4) Procedures for establishing separate accounts for duties collected with respect to each retaliation list and for making distributions to the group of injured producers and injured producers of agricultural commodities with respect to each such retaliation list.

(f) DISTRIBUTION TO INJURED PRODUCERS.—

(1) DISTRIBUTION TO AGRICULTURAL PRODUCERS.—The Secretary of the Treasury shall transfer to the Secretary of Agriculture such sums as may be transferred or credited to the Fund as the result of items on a retaliation list because of injury to producers of agricultural commodities. The Secretary of Agriculture shall distribute to each injured producer of an agricultural commodity that the Secretary determines is eligible a portion of the amount so transferred. The distribution shall be made in accordance with the subsection (e) and shall be used by the producers for the promotion and development of products of the injured producers.

(2) DISTRIBUTION TO OTHER INJURED PRODUCERS.—The Secretary of the Treasury shall transfer to the Secretary of Commerce such sums as may be transferred or credited to the Fund as the result of items on a retaliation list because of injury to producers (other than producers of agricultural commodities). The Secretary of Commerce shall distribute to each injured producer (other than a producer described in paragraph (1)) that the Secretary determines is eligible a portion of the amount so transferred. The distribution shall be made in accordance with subsection (e) and in accordance with the procedures applicable to the provision of assistance under chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.).

(g) REPORT TO CONGRESS.—The Secretary of the Treasury shall, after consultation with the Secretaries of Agriculture and Commerce, submit a report to the Congress each year on—

(1) the financial condition and the results of the operations of the Fund during the preceding fiscal year; and

(2) the expected condition and operations of the Fund during the fiscal year following the fiscal year that is the subject of the report.

SEC. 5. PROHIBITION ON REDUCING SERVICES OR FUNDS.

No payment made to an injured producer or an injured agricultural commodity producer under this Act shall result in the reduction or denial of any service or assistance with respect to which the injured producer or injured agricultural commodity producer would otherwise be entitled.

By Mr. CHAFEE (for himself, Mr. CRAP, and Mr. DOMENICI):

S. 1100. A bill to amend the Endangered Species Act of 1973 to provide that the designation of critical habitat for endangered and threatened species be required as part of the development of recovery plans for those species; to the Committee on Environment and Public Works.

CRITICAL HABITAT LEGISLATION

Mr. CHAFEE. Mr. President, I am pleased to introduce a bill, together with my distinguished colleagues, Senators DOMENICI and CRAPO, to address one of the most problematic, controversial and misunderstood provisions of the Endangered Species Act of 1973. This is the provision relating to the designation of critical habitat for endangered or threatened species.

As I have often said, the key to protecting our nation's fish and wildlife is to protect the habitat on which those species depend. This is particularly true for endangered and threatened species, which often fall into such precarious condition precisely because of habitat loss and degradation. This makes habitat protection for those species all the more vital. It is thus terribly ironic that the provisions in the ESA relating to habitat are those that present the most problems. My bill goes a long way to fix those problems. It is virtually identical to the critical habitat provisions contained in S. 1180 from the last Congress, which was approved by the Environment and Public Works Committee by a vote of 15 to 3, with strong bipartisan support.

Landowners fear that critical habitat imposes severe restrictions on use of their own lands; the Secretary frequently does not designate critical habitat to avoid these controversies; and environmental groups often bring lawsuits over this failure to designate. Of almost 1,200 species listed by the Fish and Wildlife Service, only 113—nine percent—have critical habitat designated. Indeed, of the 256 species listed since April 1996, the Service has designated critical habitat for only two. As a result, numerous lawsuits have been brought against the Service in recent years. Currently, 15 active lawsuits are pending, with six already decided—all against the Secretary—and prospective challenges for another 40 species are on the horizon.

These statistics underscore the problems with the existing law with respect to critical habitat designations. The root of these problems lies in the fact that designation of critical habitat requires knowledge of the conservation needs of the species as well as an assessment of the economic impacts of the designation, neither of which is generally known, or can be determined, at the time of listing.

Designation of critical habitat is more appropriate in the context of developing a recovery plan for a listed species, because the recovery plan specifically addresses the conservation needs of the species and provides for an estimate of the costs for recovery actions. Indeed, numerous individuals and organizations, including the National Research Council, have suggested that the requirement to designate critical habitat be moved from the time of listing to the time of recovery plan development.

As for recovery plans, the Secretary is required to develop and implement recovery plans for listed species. However, there is no deadline for the Secretary to do so. Less than 70 percent of listed species are covered in a recovery plan, and 56 percent of those species without plans have been listed for longer than one year. These statistics underscore the need for a mandatory deadline for developing recovery plans.

The bill that I introduce today would move the requirement to designate critical habitat from the time of listing to the time of recovery plan development. The bill would also require that a recovery team be appointed, unless the Secretary states otherwise through notice and comment. The bill would also provide a deadline for development of recovery plans, no later than 36 months after listing. In the event that the designation is necessary to avoid the imminent extinction of the species, the bill allows the Secretary to designate critical habitat concurrently with listing. A new provision would be added to the citizen suit section that would require any lawsuit challenging the actual designation of critical habitat to be brought in conjunction with a suit challenging the recovery plan on which the designation is based. Other than these changes, the critical habitat provisions would remain virtually the same as in existing law.

Let me say that I do not have any desire to open the broader question of reauthorization of the ESA. I believe that this bill addresses a narrow fix in a way that answers the complaints of both environmental groups and the regulated community. I do not advocate the inclusion of other issues not related to critical habitat. There may be another time and vehicle for that, but this is not the time, and this bill should not be the vehicle.

In closing, I would like to express my sincere gratitude to the distinguished Senator from New Mexico for his cooperation on this issue, and for his decision to work on this bill together in lieu of offering a rider on the recent supplemental appropriations bill. I know this issue is of no great importance to the constituents in his home State, and I am pleased to work with him to find a resolution.

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

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

S. 1100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOVERY PLANS AND CRITICAL HABITAT DESIGNATIONS.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended—

(1) by inserting after section 4 the following:

''RECOVERY PLANS AND CRITICAL HABITAT DESIGNATIONS

''SEC. 4A.'';

(2) by moving subsection (f) of section 4 to appear at the end of section 4A (as added by paragraph (1)); and

(3) in section 4A (as amended by paragraph (2))—

(A) by striking ''(f)(1) RECOVERY PLANS.—The'' and inserting the following:

''(a) IN GENERAL.—The'';

(B) by redesignating paragraphs (2) through (5) as subsections (b) through (e), respectively;

(C) in subsection (b) (as so redesignated)—

(i) by striking ''(b) The Secretary'' and inserting the following:

''(b) RECOVERY TEAMS.—

''(1) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(2) APPOINTMENT OF A TEAM.—Not later than 60 days after the date of publication under section 4 of a final determination that a species is a threatened species or endangered species, the Secretary, in cooperation with any State affected by the determination, shall—

''(A) appoint a recovery team to develop a recovery plan for the species; or

''(B) after public notice and opportunity for comment, determine that a recovery team shall not be appointed.''; and

(D) by adding at the end the following:

''(f) SCHEDULE.—For each species determined to be an endangered species or a threatened species after the date of enactment of this subsection for which the Secretary is required to develop a recovery plan under subsection (a), the Secretary shall publish—

''(1) not later than 18 months after the date of the publication under section 4 of the final regulation containing the listing determination, a draft recovery plan; and

''(2) not later than 3 years after the date of publication under section 4 of the final regulation containing the listing determination, a final recovery plan.''.

SEC. 2. CRITICAL HABITAT DESIGNATIONS.

(a) IN GENERAL.—Section 4A of the Endangered Species Act of 1973 (as added by section 1) is amended by adding at the end the following:

''(g) CRITICAL HABITAT DESIGNATIONS.—

''(1) RECOMMENDATION OF THE RECOVERY TEAM.—

''(A) RECOVERY TEAM APPOINTED.—Not later than nine months after the date of publication under section 4 of a final regulation containing a listing determination for a species, the recovery team (if a recovery team has

been appointed for the species) shall provide the Secretary with a description of any habitat of the species that is recommended for designation as critical habitat pursuant to this subsection and any recommendations for special management considerations or protection that are specific to the habitat.

''(B) NO RECOVERY TEAM APPOINTED.—If a recovery team is not appointed by the Secretary, the Secretary shall perform all duties of the recovery team required under this section.

''(2) DESIGNATION BY THE SECRETARY.—The Secretary, to the maximum extent prudent and determinable, shall by regulation designate any habitat that is considered to be critical habitat of an endangered species or a threatened species that is indigenous to the United States or waters with respect to which the United States exercises sovereign rights or jurisdiction.

''(A) DESIGNATION.—

''(i) PROPOSAL.—Concurrently with publication of a draft recovery plan, the Secretary, after consultation and in cooperation with the recovery team, shall publish in the Federal Register a proposed regulation, based on the draft recovery plan for the species, that designates critical habitat for the species.

''(ii) PROMULGATION.—Concurrently with publication of a final recovery plan, the Secretary, after consultation and in cooperation with the recovery team, shall publish a final regulation, based on the final recovery plan for the species, that designates critical habitat for the species.

''(B) OTHER DESIGNATIONS.—If a recovery plan is not developed under this section for an endangered species or a threatened species, the Secretary shall publish a final critical habitat determination for the endangered species or threatened species not later than three years after making a determination that the species is an endangered species or a threatened species.

''(C) ADDITIONAL AUTHORITY.—The Secretary may publish a regulation designating critical habitat for an endangered species or a threatened species concurrently with the final regulation implementing the determination that the species is endangered or threatened if the Secretary determines that designation of such habitat at the time of listing is essential to avoid the imminent extinction of the species.

''(3) FACTORS TO BE CONSIDERED.—The designation of critical habitat shall be made on the basis of the best scientific and commercial data available and after taking into consideration the economic impact, impacts to military training and operations, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary shall describe the economic impacts and other relevant impacts that are to be considered under this subsection in the publication of any proposed regulation designating critical habitat.

''(4) EXCLUSIONS.—The Secretary may exclude any area from critical habitat for a species if the Secretary determines that the benefits of the exclusion outweigh the benefits of designating the area as part of the critical habitat, unless the Secretary determines that the failure to designate the area as critical habitat will result in the extinction of the species.

''(5) REVISIONS.—The Secretary may, from time-to-time and as appropriate, revise a designation. Each area designated as critical habitat before the date of enactment of this subsection shall continue to be considered so designated, until the designation is revised in accordance with this subsection.

''(6) PETITIONS.—

''(A) DETERMINATION THAT REVISION MAY BE WARRANTED.—To the maximum extent practicable, not later than 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to revise a critical habitat designation, the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the revision may be warranted. The Secretary shall promptly publish the finding in the Federal Register.

''(B) NOTICE OF PROPOSED ACTION.—Not later than one year after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the requested revision may be warranted, the Secretary shall determine how to proceed with the requested revision, and shall promptly publish notice of the intention in the Federal Register.

''(7) PROPOSED AND FINAL REGULATIONS.—Any regulation to designate critical habitat or implement a requested revision shall be proposed and promulgated in accordance with paragraphs (4), (5), and (6) of section 4(b) in the same manner as a regulation to implement a determination with respect to listing a species.''.

(b) CITIZEN SUITS.—Section 11(g) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)) is amended—

(1) in paragraph (1)(C), by inserting ''or section 4A'' after ''section 4''; and

(2) in paragraph (2), by adding at the end the following:

''(D) ACTIONS RELATING TO CRITICAL HABITAT DESIGNATION.—With respect to an action relating to an alleged violation of section 4A(g) concerning the area designated by the Secretary as critical habitat, no action may be commenced independently of an action relating to an alleged violation of subsection (a) or (f) of section 4A.''.

(c) PLANS FOR PREVIOUSLY LISTED SPECIES.—

(1) IN GENERAL.—In the case of species included in the list published under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)) before the date of enactment of this Act, and for which no final recovery plan was developed before the date of enactment of this Act, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall develop a final recovery plan in accordance with the requirements of section 4A of the Endangered Species Act of 1973, including the priorities of subsection (a)(1) of that section, for not less than one-half of the species not later than 36 months after the date of enactment of this Act and for all species not later than 60 months after such date.

(2) DESIGNATIONS OF CRITICAL HABITAT.—The Secretary of the Interior or the Secretary of Commerce, as appropriate, shall review and revise as necessary any designation of critical habitat for a species described in paragraph (1) based on the final recovery plan for the species and in accordance with section 4A(g) of the Endangered Species Act of 1973.

(d) CONFORMING AMENDMENTS.—

(1) Section 3(5)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1532(5)(A)) is amended—

(A) in clause (i), by striking '', at the time it is listed in accordance with the provisions of section 4 of this Act,''; and

(B) in clause (ii), by striking ''at the time it is listed in accordance with the provisions of section 4 of this Act''.

(2) Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) (as amended by section 1(2)) is amended—

(A) in subsection (a), by striking paragraph (3);

(B) in subsection (b)—

(i) by striking paragraph (2);

(ii) in paragraph (3), by striking subparagraph (D);

(iii) in paragraph (5), by striking '', designation, or revision referred to in subsection (a)(1) or (3),'' and inserting ''referred to in subsection (a)(1),'';

(iv) in paragraph (6)—

(I) by striking ''(6)(A)'' and all that follows through the end of subparagraph (A) and inserting the following:

''(6) FINAL REGULATIONS.—

''(A) IN GENERAL.—Within the one-year period beginning on the date on which general notice is published in accordance with paragraph (5)(A)(i) regarding a proposed regulation, the Secretary shall publish in the Federal Register—

''(i) a final regulation to implement the determination;

''(ii) notice that the one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which the withdrawal is based.'';

(II) in subparagraph (B)(i), by striking ''or revision'';

(III) in subparagraph (B)(iii), by striking ''or revision concerned, a finding that the revision should not be made,''; and

(IV) by striking subparagraph (C); and

(v) by redesignating paragraph (8) as paragraph (2) and moving that paragraph to appear after paragraph (1);

(C) in subsection (c)(1)—

(i) in the second sentence, by inserting ''designated'' before ''critical habitat''; and

(ii) in the third sentence, by striking ''determinations, designations, and revisions'' and inserting ''determinations'';

(D) by redesignating subsections (g) through (i) as subsections (f) through (h), respectively; and

(E) in subsection (g)(4) (as so redesignated), by striking ''subsection (f) of this section'' and inserting ''section 4A''.

(3) Section 4A of the Endangered Species Act of 1973 (as added by section 1) is amended—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking ''this subsection'' and inserting ''this section''; and

(II) by striking ''this section'' and inserting ''section 4'';

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(iii) in paragraph (2) (as so redesignated)—

(I) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively; and

(II) in subparagraph (B) (as so redesignated), by striking ''the provisions of this section'' and inserting ''section 4'';

(B) in subsection (c), by striking ''this section'' and inserting ''section 4''; and

(C) in subsection (e), by striking ''paragraph (4)'' and inserting ''subsection (d)''.

(4) Section 6(d)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1535(d)(1)) is amended in the first sentence by striking ''section 4(g)'' and inserting ''section 4(f)''.

(5) Section 10(f)(5) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(5)) is amended by striking the last sentence.

(6) Section 104(c)(4)(A)(ii)(I) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(4)(A)(ii)(I)) is amended by striking ''section 4(f)'' and inserting ''section 4A''.

(7) Section 115(b)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383b(b)(2)) is amended by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 4A of the Endangered Species Act of 1973''.

(8) Section 118(f)(11) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1387(f)(11)) is amended by striking ''section 4'' and inserting ''section 4A''.

(9) The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by inserting after the item relating to section 4 the following:

''Sec. 4A. Recovery plans and critical habitat designations.''.

Mr. DOMENICI. Mr. President, just a few weeks ago I rose to speak and share with my fellow Senators an extraordinary exchange that occurred between myself and Interior Secretary Babbitt regarding the failings of the Endangered Species Act in a situation on the Rio Grande River in New Mexico. I told you that the Secretary's remarks were significant because they acknowledged that this law, however well intentioned, is not working.

I felt Secretary Babbitt's testimony before the Senate Interior Appropriations Subcommittee could open the door to significant reform of the Endangered Species Act, permitting all parties to work together. I pledged to begin serious work on improving the Endangered Species Act, and I am immensely pleased today to be cosponsoring this bill with Senators CHAFEE and CRAPO to do just that.

I was in the Senate to vote in favor of the Endangered Species Act, but the courts are implementing it in a cart before the horse fashion never contemplated by the Congress. The focus of saving species should be on planning recovery, not using premature habitat designation as a hammer on the heads of humans sharing that habitat. We want to protect endangered species, but we don't want to unnecessarily hurt people. Tying critical habitat designation to recovery plan implementation is logical, defensible, and the right thing to do. This legislation goes directly to the heart of this issue.

The protection of endangered species is supposed to be accomplished by first figuring out the necessary habitat for survival, then designating that critical habitat. But the Endangered Species Act and the courts are rushing the process. According to Interior Secretary Bruce Babbitt, recent litigation will ''strait jacket'' the federal government into prematurely designating the critical habitat for, in one case, the Rio Grande silvery minnow.

People in D.C. tend to forget that the western United States is the arid, ''great American desert.'' Western rivers and streams are primarily supported by melting snow pack. They change annually from roaring torrents in April to bare trickles in June, to dried up river beds in August. The Rio Grande, despite its ''big river'' title, is no exception to this cyclical flow. As a child, I often walked across the dry riverbed in Albuquerque.

This will be a very dry year in the normally arid New Mexico. The historical hydrographic record shows that between 1899 and 1936, long before Albuquerque grew, or the Middle Rio Grande Conservancy District started to farm, the Rio Grande was dry twenty percent of the time in August as measured at the San Marcial Gauge.

Now, the U.S. Fish and Wildlife Service, prodded by various groups, are claiming a ''new'' water demand on the river for the silvery minnow. They should assert the interest in the water needed for the minnow, but the demand isn't new. The issue, however, is how should that interest be asserted and what the need really is. And, once known, how do we continue to address the human water needs, and at what cost?

I believe something is terribly wrong in the way the courts are handling this situation because you may have to close down a river to human users without knowing the habitat needs for an endangered species. The Secretary of Interior is required to base critical habitat designation on the best scientific data available, after taking into consideration the economic impact of that designation.

I asked Secretary Babbitt whether the Interior Department had sufficient data to determine the true water needs to sustain the silvery minnow in the Rio Grande, and to make an accurate economic and social assessment of what a critical habitat designation would mean to existing water rights owners. Babbitt testified that his department does not have sufficient information, but that it has no choice but to act because of federal court orders.

The U.S. Supreme Court has unanimously agreed that the best scientific and commercial data available must be used to designate a critical habitat. Designation of critical habitat is more appropriate in the context of a final recovery plan for an endangered species, because that plan must specifically address conservation needs and costs of recovery. This bill will move the requirement to designate habitat from the time of listing to the time of recovery plan development.

The quantity of water needed by the Rio Grande silvery minnow is unknown. The Fish and Wildlife Service has conceded that there has never been a thorough study of the economic consequences of providing water as a critical habitat for the minnow.

While we all want the silvery minnow and other endangered species to have their critical habitat, the Fish and Wildlife Service and the Bureau of Reclamation acknowledge that they do not know what the ''critical habitat'' is or should be. Were the consequences of designation insignificant, a guesstimate might be acceptable. However, as noted by the Bureau of Reclamation, a designation requiring year-round continuous flows on a river that has never produced such flows could have a ''profound effect on downstream water users.''

We must not try to cure the problem of endangered species with premature, uninformed, unscientific critical habitat designation, the validity of which has not been substantiated by adequate economic, scientific and social research. When the scientific facts on the possible side effects of a drug are unknown, the Food and Drug Administration does not authorize the sale of that drug. Likewise, the Endangered Species Act should not permit designation of critical habitat until we have scientifically determined that the habitat designation will be helpful to the species and does not impose unnecessary social and economic side effects.

It is abundantly clear that a complete environmental analysis of a critical habitat designation is an absolute necessity. Senator CHAFEE, Senator CRAPO, and I are now addressing this illogical and unworkable current situation with this bill. I thank them for their leadership on the Environment Committee. We will be working with the administration, and I encourage all my fellow Senators to participate in this limited, local and necessary endangered Species Act reform.

This bill will now tie designation of critical habitat to the development of recovery plans for endangered and threatened species, as it should be. Federal agencies should not have their hands tied by premature designation, forced by litigation. If we want to save species, as was and is the intent of the Endangered Species Act, then we have to plan how to recover them.

Recovery plans require objective and measurable criteria for saving species, specific descriptions of management actions, and cost estimates for those actions. This bill will create a mandatory deadline for developing final, comprehensive recovery plans. Critical habitat will now be designated in conjunction with those plans.

These changes will go towards achieving the original goal of the Endangered Species Act. I am very proud to be a part of this historic legislation, and I anticipate a bipartisan group, along with the administration, feels as I do. The time has come for commonsense reform to the Endangered Species Act.

By Mr. REED:

S. 1101. A bill to provide for tort liability of firearms dealers who transfer firearms in violation of Federal firearms law; to the Committee on the Judiciary.

GUN DEALER RESPONSIBILITY ACT OF 1999

Mr. REED. Mr. President, I rise today to introduce legislation to help turn the tide of gun violence by requiring greater responsibility from those in the business of selling weapons.

Currently, there are over 104,000 federally licensed firearms dealers in the United States. While most of these dealers are responsible small business people, recent tracing of crime-related guns by the Bureau of Alcohol, Tobacco and Firearms (ATF) has found substantial evidence that some dealers are selling guns to minors, convicted felons, and others who are prohibited by federal law from purchasing firearms. This direct diversion of weapons from retail to illegal markets is taking place both through off-the-book sales

by corrupt dealers and through so-called straw purchases, when an ineligible buyer has a friend or relative buy a firearm for him.

While federal law already prohibits a person from transferring a firearm when a person knows that the gun will be used to commit a crime, it is very difficult for victims of gun violence to seek legal redress from gun dealers who sell guns to those prohibited from buying firearms. There is very little case law and no federal law giving victims of gun violence the right to sue gun dealers who make illegal gun sales.

To remedy this situation, my legislation, the Gun Dealer Responsibility Act, would provide a statutory cause of action for victims of gun violence against dealers whose illegal sale of a gun directly contributes to the victim's injury.

I believe this legislation will make unscrupulous gun dealers think twice about selling weapons to minors, convicted felons, or any other ineligible buyer, either directly or through straw purchases.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gun Dealer Responsibility Act of 1999''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DEALER.—The term ''dealer'' has the meaning given such term in section 921(a)(11) of title 18, United States Code.

(2) FIREARM.—The term ''firearm'' has the meaning given such term in section 921(a)(3) of title 18, United States Code.

(3) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' means any officer, agent, or employee of the United States, or of a State or political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law.

SEC. 3. CAUSE OF ACTION; FEDERAL JURISDICTION.

Any person suffering bodily injury as a result of the discharge of a firearm (or, in the case of a person who is incapacitated or deceased, any person entitled to bring an action on behalf of that person or the estate of that person) may bring an action in any United States district court against any dealer who transferred the firearm to any person in violation of chapter 44 of title 18, United States Code, for damages and such other relief as the court deems appropriate. In any action under this section, the court shall allow a prevailing plaintiff a reasonable attorney's fee as part of the costs.

SEC. 4. LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b) of this section, the defendant in an action brought under section 3 shall be held liable in tort, without regard to fault or proof of defect, for all direct and consequential damages that arise from bodily injury or death proximately resulting from the illegal sale of a firearm if it is established by a preponderance of the evidence that the defendant transferred the firearm to any person in violation of chapter 44 of title 18, United States Code.

(b) DEFENSES.—

(1) INJURY WHILE COMMITTING A FELONY.—There shall be no liability under subsection (a) if it is established by a preponderance of the evidence that the plaintiff suffered the injury while committing a crime punishable by imprisonment for a term exceeding 1 year.

(2) INJURY BY LAW ENFORCEMENT OFFICER.—There shall be no liability under subsection (a) if it is established by a preponderance of the evidence that the injury was suffered as a result of the discharge, by a law enforcement officer in the performance of official duties, of a firearm issued by the United States (or any department or agency thereof) or any State (or department, agency, or political subdivision thereof).

SEC. 5. NO EFFECT ON OTHER CAUSES OF ACTION.

This Act shall not be construed to limit the scope of any other cause of action available to a person injured as a result of the discharge of a firearm.

SEC. 6. APPLICABILITY.

This Act applies to any—

(1) firearm transferred before, on, or after the date of enactment of this Act; and

(2) bodily injury or death occurring after such date of enactment.

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. COVERDELL, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 14, a bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

S. 247

At the request of Mr. ROBB, his name was added as a cosponsor of S. 247, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 254

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Delaware (Mr. BIDEN), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 296

At the request of Mr. FRIST, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 296, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 303

At the request of Mr. ROTH, his name was added as a cosponsor of S. 303, a bill to amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes.

S. 344

At the request of Mr. BOND, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 344, a bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 348

At the request of Ms. SNOWE, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 348, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 424

At the request of Mr. COVERDELL, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 424, a bill to preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 429

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 429, a bill to designate the legal public holiday of ''Washington's Birthday '' as ''Presidents' Day'' in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 593

At the request of Mr. COVERDELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 593, a bill to amend the Internal Revenue Code of 1986 to increase maximum taxable income for the 15 percent rate bracket, to provide a partial exclusion from gross income for dividends and interest received by individuals, to provide a long-term capital gains deduction for individuals, to increase the traditional IRA contribution limit, and for other purposes.

S. 632

At the request of Mr. DEWINE, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Maine (Ms.

SNOWE) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 712

At the request of Mr. LOTT, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 712, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for highway-rail grade crossing safety through the voluntary purchase of certain specially issued United States postage stamps.

S. 731

At the request of Mr. KENNEDY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 731, a bill to provide for substantial reductions in the price of prescription drugs for medicare beneficiaries.

S. 759

At the request of Mr. MURKOWSKI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 759, a bill to regulate the transmission of unsolicited commercial electronic mail on the Internet, and for other purposes.

S. 784

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 784, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 875

At the request of Mr. ALLARD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes.

S. 879

At the request of Mr. CONRAD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements

S. 918

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 918, a bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes.

S. 924

At the request of Mr. NICKLES, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 924, a bill entitled the ''Federal Royalty Certainty Act''.

S. 934

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 934, a bill to enhance rights and protections for victims of crime.

S. 935

At the request of Mr. LUGAR, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Iowa (Mr. HARKIN), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 935, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to authorize research to promote the conversion of biomass into biobased industrial products, and for other purposes.

S. 980

At the request of Mr. BAUCUS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 980, a bill to promote access to health care services in rural areas.

S. 1029

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1029, a bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 1073

At the request of Mr. ASHCROFT, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1073, a bill to amend the Trade Act of 1974 to ensure that United States industry is consulted with respect to all aspects of the WTO dispute settlement process.

S. 1077

At the request of Mr. SCHUMER, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 1077, a bill to dedicate the new Amtrak station in New York, New York, to Senator DANIEL PATRICK MOYNIHAN.

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1077, supra.

SENATE RESOLUTION 92

At the request of Mrs. BOXER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Resolution 92, a resolution expressing the sense of the Senate that funding for prostate cancer research should be increased substantially.

SENATE RESOLUTION 104—TO AUTHORIZE TESTIMONY, PRODUCTION OF DOCUMENTS, AND LEGAL REPRESENTATION

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 104

Whereas, in the case of *United States* v. *Nippon Miniature Bearing, Inc., et al.*, Court No. 96–12–02853, pending in the United States Court of International Trade, a subpoena for testimony and documents has been issued to Tim Osborn, a former employee of the Senate Committee on Small Business, concerning the performance of his duties on behalf of the Committee;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 228b(a) and 228c(a)(2), the Senate may direct its counsel to represent Members or employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Tim Osborn, and any other former Senate Member or employee from whom testimony may be required, are authorized to testify and produce documents in the case of *United States* v. *Nippon Miniature Bearing, Inc., et al.*, except matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Tim Osborn, and any other former Member or employee of the Senate from whom testimony may be required, in connection with the case of *United States* v. *Nippon Miniature Bearing, Inc., et al.*

AMENDMENTS SUBMITTED

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

DURBIN AMENDMENT NO. 367

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SHORT TITLE.

This Act may be cited as the ''Family Responsibility Act''.

SEC. ___. CHILDREN AND FIREARMS SAFETY.

(a) DEFINITION.—Section 921(a)(34)(A) of title 18, United States Code, is amended by inserting ''or removing'' after ''deactivating''.

(b) PROHIBITION.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) PROHIBITION AGAINST GIVING JUVENILES ACCESS TO CERTAIN FIREARMS.—

''(1) DEFINITION OF JUVENILE.—In this subsection, the term 'juvenile' means an individual who has not attained the age of 18 years.

''(2) PROHIBITION.—Except as provided in paragraph (3), it shall be unlawful for any person to keep a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or

otherwise substantially affects interstate or foreign commerce, within any premise that is under the custody or control of that person if that person knows, reasonably should know, or recklessly disregards the risk that a juvenile is capable of gaining access to the firearm without the permission of the parent or legal guardian of the juvenile.

''(3) EXCEPTIONS.—Paragraph (2) does not apply if—

''(A) the person uses a secure gun storage or safety device for the firearm;

''(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

''(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of one or more other persons;

''(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept; or

''(E) the juvenile obtains the firearm as a result of an unlawful entry by any person.''.

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) Whoever violates section 922(z), if a juvenile (as defined in section 922(z)) obtains access to the firearm and thereby causes death or bodily injury to the juvenile or to any other person, or exhibits the firearm either in a public place, or in violation of section 922(q)—

''(A) shall be fined not more than $10,000, imprisoned not more than 1 year, or both;

(d) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d) CONTENTS OF FORM.—The Secretary shall ensure that a copy of section 922(z) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.''.

(e) NO EFFECT ON STATE LAW.—Nothing in this section or the amendments made by this section shall be construed to preempt any provision of the law of any State, the purpose of which is to prevent juveniles from injuring themselves or others with firearms.

HARKIN AND KENNEDY AMENDMENT NO. 368

Mr. HARKIN (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 254, supra; as follows:

At the end, add the following:

SEC. ___. APPROPRIATE INTERVENTIONS AND SERVICES; CLARIFICATION OF FEDERAL LAW.

(a) APPROPRIATE INTERVENTIONS AND SERVICES.—School personnel shall ensure that immediate appropriate interventions and services, including mental health interventions and services, are provided to a child removed from school for any act of violence, including carrying or possessing a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency, in order to—

(1) to ensure that our Nation's schools and communities are safe; and

(2) maximize the likelihood that such child shall not engage in such behaviors, or such behaviors do not reoccur.

(b) CLARIFICATION OF FEDERAL LAW.—Nothing in Federal law shall be construed—

(1) to prohibit an agency from reporting a crime committed by a child, including a child with a disability, to appropriate authorities; or

(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to a crime committed by a child, including a child with a disability.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There are authorized to be appropriated to pay the costs of the interventions and services described in subsection (a) such sums as may be necessary for each of the fiscal years 2000 through 2004.

(2) DISTRIBUTION.—The Secretary of Education shall provide for the distribution of the funds made available under paragraph (1)—

(A) to States for a fiscal year in the same manner as the Secretary makes allotments to States under section 4011(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111(b)) for the fiscal year; and

(B) to local educational agencies for a fiscal year in the same manner as funds are distributed to local educational agencies under section 4113(d)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7113(d)(2)) for the fiscal year.

HELMS (AND OTHERS) AMENDMENT NO. 369

Mr. HATCH (for Mr. HELMS (for himself, Mr. NICKLES, Mr. THURMOND, and Mr. GRASSLEY) proposed an amendment to the bill S. 254, supra; as follows:

At the appropriate place, insert the following:

''SEC. . SAFE SCHOOLS.

''(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:

''(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.

''(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.

''(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definitions'' in the catchline, by replacing ''section'' in the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semi-colon, and by adding new subparagraphs (B), (C), and (D) as follows:

''(B) the term ''illegal drug'' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law; and

''(C) the term ''illegal drug paraphernalia'' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)' before the period.

''(D) the term ''felonious quantities of an illegal drug'' means any quantity of an illegal drug—

(i) possession of which quantity would, under federal, State, or local law, either constitute a felony or indicate an intent to distribute or

(ii) that is possessed with an intent to distribute.''.

''(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs or'' before ''weapons''.

''(5) REPEALER—Section 14601 is amended by striking subsection (f).

''(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.

''(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting ''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or''.

''(b) COMPLIANCE DATE; REPORTING:—

''(1) States shall have two years from the date of enactment of this act to comply with the requirements established in the amendments made by subsection (a).

''(2) Not later than three years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.

''(3) Not later than two years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining children with disabilities.''

HARKIN (AND OTHERS) AMENDMENT NO. 370

Mr. HATCH (for Mr. HARKIN (for himself, Mrs. LINCOLN, and Mr. WELLSTONE)) proposed an amendment to the bill S. 254, supra; as follows:

At the end, add the following:

SEC. ___. SCHOOL COUNSELING.

Section 10102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8002) is amended to read as follows:

''SEC. 10102. ELEMENTARY SCHOOL AND SECONDARY SCHOOL COUNSELING DEMONSTRATION.

''(a) COUNSELING DEMONSTRATION.—

''(1) IN GENERAL.—The Secretary may award grants under this section to local educational agencies to enable the local educational agencies to establish or expand elementary school counseling programs.

''(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

''(A) demonstrate the greatest need for new or additional counseling services among the children in the schools served by the applicant;

''(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

''(C) show the greatest potential for replication and dissemination.

''(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

''(4) DURATION.—A grant under this section shall be awarded for a period not to exceed three years.

''(5) MAXIMUM GRANT.—A grant under this section shall not exceed $400,000 for any fiscal year.

''(b) APPLICATIONS.—

''(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(2) CONTENTS.—Each application for a grant under this section shall—

''(A) describe the school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

''(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

''(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

''(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

''(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of school counselors, school psychologists, and school social workers;

''(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

''(G) describe how any diverse cultural populations, if applicable, would be served through the program;

''(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

''(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Grant funds under this section shall be used to initiate or expand school counseling programs that comply with the requirements in paragraph (2).

''(2) PROGRAM REQUIREMENTS.—Each program assisted under this section shall—

''(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

''(B) use a developmental, preventive approach to counseling;

''(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

''(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

''(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, or academic and career planning, or to improve social functioning;

''(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

''(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

''(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

''(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration;

''(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

''(K) ensure a team approach to school counseling by maintaining a ratio in the elementary schools of the local educational agency that does not exceed 1 school counselor to 250 students, 1 school social worker to 800 students, and 1 school psychologist to 1,000 students; and

''(L) ensure that school counselors, school psychologists, or school social workers paid from funds made available under this section spend at least 85 percent of their total worktime at the school in activities directly related to the counseling process and not more than 15 percent of such time on administrative tasks that are associated with the counseling program.

''(3) REPORT.—The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 14701, but in no case later than January 30, 2003.

''(4) DISSEMINATION.—The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

''(5) LIMIT ON ADMINISTRATION.—Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

''(d) DEFINITIONS.—For purposes of this section—

''(1) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

''(A) possesses State licensure or certification granted by an independent professional regulatory authority;

''(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

''(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

''(2) the term 'school psychologist' means an individual who—

''(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

''(B) possesses State licensure or certification in the State in which the individual works; or

''(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board;

''(3) the term 'school social worker' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

''(4) the term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $150,000,000 for fiscal year 2000 and such sums as may be necessary for each of the 4 succeeding fiscal years.

BIDEN (AND OTHERS) AMENDMENT NO. 371

Mr. HATCH (for Mr. BIDEN (for himself, Mr. SCHUMER, Mr. KOHL, Mrs. BOXER, Mr. DASCHLE, Mr. KERREY, Mr. AKAKA, Mr. BAYH, Mr. BREAUX, Mr. CLELAND, Mr. DODD, Mr. DORGAN, Mr. HARKIN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. REID, Mr. REED, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. TORRICELLI, Mr. WELLSTONE, Mr. JOHNSON, Mr. BINGAMAN, and Mr. HOLLINGS) proposed an amendment to the bill S. 254, supra; as follows:

At the end of the bill, insert the following:

TITLE V—21ST CENTURY COMMUNITY POLICING INITIATIVE

SEC. 501. 21ST CENTURY COMMUNITY POLICING INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies, and'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (B) and inserting after ''Nation,'' ''or pay overtime to existing career law enforcement officers;'';

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among inservice State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2) by striking all that follows SUPPORT SYSTEMS.—'' and inserting ''Grants pursuant to paragraph (1)(A) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year; paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year, and grants pursuant to paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7) by inserting ''school officials, religiously-affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol and the illegal possession, use, and distribution of drugs; '';

(4) in paragraph (10) by striking ''and'' at the end;

(5) in paragraph (11) by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds appropriated under subsection (a) to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes,'';

(2) in paragraph (2) by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by inserting ''regional community policing institutes'' after ''operation of''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

''(f) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocams, databases and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(g) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

''(1) hire additional prosecutors who will be assigned to community prosecution programs, including (but not limited to) programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.''.

(h) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).''.

(i) HIRING COSTS.—Section 1704(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–3(c)) is amended by striking ''$75,000'' and inserting ''$125,000''.

(j) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended by inserting after ''criminal laws'' the following: ''including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(B) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(C) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2000;

''(ii) $1,150,000,000 for fiscal year 2001;

''(iii) $1,150,000,000 for fiscal year 2002;

''(iv) $1,150,000,000 for fiscal year 2003;

''(v) $1,150,000,000 for fiscal year 2004; and

''(vi) $1,150,000,000 for fiscal year 2005.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''85 percent'' and inserting ''$600,000,000''; and

(C) by striking ''1701(b),'' and all that follows through ''of part Q'' and inserting the following: ''1701(b) and (c), $350,000,000 to grants for the purposes specified in section 1701(f), and $200,000,000 to grants for the purposes specified in section 1701(g).''.

SATELLITE HOME VIEWERS IMPROVEMENT ACT

McCAIN AMENDMENT NO. 372

Mr. HATCH (for Mr. McCAIN) proposed an amendment to the bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; as follows:

On page 1, between lines 2 and 3, insert the following:

TITLE I—SATELLITE HOME VIEWERS IMPROVEMENTS ACT

On page 1, line 3, strike ''SECTION 1.'' and insert ''SEC. 101.''.

On page 2, line 1, strike ''SEC. 2.'' and insert ''SEC. 102.''.

On page 1, line 4, strike ''Act'' and insert ''title''.

On page 10, line 1, strike ''SEC. 3.'' and insert ''SEC. 103.''.

On page 10, line 7, strike ''SEC. 4.'' and insert ''SEC. 104.''.

On page 11, line 18, strike ''SEC. 5.'' and insert ''SEC. 105.''.

On page 12, line 11, strike ''SEC. 6.'' and insert ''SEC. 106.''.

On page 13, line 17, strike ''SEC. 7.'' and insert ''SEC. 107.''.

On page 14, line 6, strike ''SEC. 8.' and insert ''SEC. 108.''

On page 14, line 7, strike ''Act'' each place it appears and insert ''title''.

On page 14, line 9, strike ''section 4'' and insert ''section 104''.

On page 14, after line 9, add the following:

TITLE II—SATELLITE TELEVISION ACT OF 1996

SEC. 201. SHORT TITLE.

This title may be cited as the ''Satellite Television Act of 1999''.

SEC. 202. FINDINGS.

The Congress makes the following findings:

(1) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting competition in cable services and making available to the public a diversity of views and information through cable television and other video media.

(2) In the Telecommunications Act of 1996, Congress stated its policy of securing lower prices and higher quality service for American telecommunications consumers and encouraging the rapid deployment of new telecommunications technologies.

(3) In most places throughout America, cable television system operators still do not face effective competition form other providers of multichannel video service.

(4) Absent effective competition, the market power exercised by cable television operators enables them to raise the price of cable service to consumers, and to control the price and availability of cable programming services to other multichannnel video service providers. Current Federal Communications Commission rules have been inadequate in constraining cable price increases.

(5) Direct-to-home satellite service has over 8 million subscribers and constitutes the most significant competitive alternative to cable television service.

(6) Direct-to-home satellite service currently suffers from a number of statutory, regulatory, and technical barriers that keep it from being an effective competitor to cable television in the provision of multichannel video services.

(7) The most prominent of these barriers is the inability to provide subscribers with local television broadcast signals by satellite.

(8) Permitting providers of direct-to-home satellite service to retransmit local television signals to their subscribers would greatly enhance the ability of direct-to-home satellite service providers to compete more effectively in the provision of multichannel video services.

(9) Due to capacity limitations and in the interest of providing service in as many markets as possible, providers of direct-to-home satellite service, unlike cable television systems, cannot at this time carry all local television broadcast signals in all the local television markets they seek to serve.

(10) It would be in the public interest for providers of direct-to-home satellite service to fully comply with the mandatory signal carriage rules at the earliest possible date. In the interim, requiring full compliance with the mandatory signal carriage rules would substantially limit the ability of direct-to-home satellite service providers to compete in the provision of multichannel video services and would not serve the public interest.

(11) Maintaining the viability of free, local, over-the-air television service is a matter of preeminent public interest.

(12) All subscribers to multichannel video services should be able to receive the signal of at least one station affiliated with each of the major broadcast television networks.

(13) Millions of subscribers to direct-to-home satellite service currently receive the signals of network-affiliated stations not located in these subscribers' local television markets. Where conventional rooftop antennas cannot provide satisfactory reception of local stations, distant network signals may be these subscribers' only source of network television service.

(14) The widespread carriage of distant network stations in local network affiliates' markets could harm the local stations' ability to serve their local community.

(15) Abrupt termination of satellite carriers' provision of distant network signals could have a negative impact on the ability of direct-to-home satellite service to compete effectively in the provision of multichannel video services.

(16) The public interest would be served by permitting direct-to-home satellite service providers to continue existing carriage of a distant network affiliate station's signal where—

(A) there is no local network affiliate;

(B) the local network affiliate cannot be adequately received off-air; or

(C) continued carriage would not harm the local network station.

SEC. 203. PURPOSE.

The purpose of this title is to promote competition in the provision of multichannel video services while protecting the availability of free, local, over-the-air television, particularly for the 22 percent of American television households that do not subscribe to any multichannel video programming service.

SEC. 204. MUST-CARRY FOR SATELLITE CARRIERS RETRANSMITTING TELEVISION BROADCAST SIGNALS.

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following:

''SEC. 337. CARRIAGE OF LOCAL TELEVISION STATIONS BY SATELLITE CARRIERS.

''(a) APPLICATION OF MANDATORY CARRIAGE TO SATELLITE CARRIERS.—The mandatory carriage provisions of section 614 and 615 of this Act will apply in a local market no later than January 1, 2002, to satellite carriers retransmitting any television broadcast station in that local market pursuant to the compulsory license provided by section 122 of title 17, United States Code.

''(b) GOOD SIGNAL REQUIRED.—

''(1) COSTS.—A television broadcast station eligible for carriage under subsection (a) may be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier. The selection of a local receive facility by a satellite carrier shall not be made in a manner that frustrates the purposes of this Act. The Commission shall implement the requirements of this section without imposing any undue economic burden on any party.

''(2) RULEMAKING REQUIRED.—The Commission shall adopt rules implementing paragraph (1) within 180 days after the date of enactment of the Satellite Television Act of 1999.

''(c) CABLE TELEVISION SYSTEM DIGITAL SIGNAL CARRIAGE NOT COVERED.—Nothing in this section applies to the carriage of the digital signals of television broadcast stations by cable television systems.

''(d) DEFINITIONS.—In this section:

''(1) TELEVISION BROADCAST STATION.—The term 'television broadcast station' means a full power local television broadcast station, but does not include a low-power or translator television broadcast station.

''(2) NETWORK STATION.—The term 'network station' means a television broadcast station that is owned or operated by, or affiliated with, a broadcasting network.

''(3) BROADCASTING NETWORK.—The term 'broadcasting network' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

''(4) DISTANT TELEVISION STATION.—The term 'distant television station' means any television broadcast station that is not licensed and operating on a channel regularly assigned to the local television market in which a subscriber to a direct-to-home satellite service is located.

''(5) LOCAL MARKET.—The term 'local market' means the designated market area in which a station is located. For a noncommercial educational television broadcast station, the local market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

''(6) SATELLITE CARRIER.—The term 'satellite carrier' has the meaning given it by section 119(d) of title 17, United States Code.

''SEC. 338. CARRIAGE OF DISTANT TELEVISION STATIONS BY SATELLITE CARRIERS.

''(a) PROVISIONS RELATING TO NEW SUBSCRIBERS.—

''(1) IN GENERAL.—Except as provided in subsection (d), direct-to-home satellite service providers shall be permitted to provide the signals of 1 affiliate of each television network to any household that initially subscribed to direct-to-home satellite service on or after July 10, 1998.

''(2) ELIGIBILITY DETERMINATION.—The determination of a new subscriber's eligibility to receive the signals of one or more distant network stations as a component of the service provided pursuant to paragraph (a) shall be made by ascertaining whether the subscriber resides within the predicted Grade B service area of a local network station. The Individual Location Longley-Rice methodology described by the Commission in Docket 98–201 shall be used to make this determination. A direct-to-home satellite service provider may provide the signal of a distant network station to any subscriber determined by this method to be unserved by a local station affiliated with that network.

''(3) RULEMAKING REQUIRED.—

''(A) Within 90 days after the date of enactment of the Satellite Television Act of 1999, the Commission shall adopt procedures that shall be used by any direct-to-home satellite service subscriber requesting a waiver to receive one or more distant network signals. The waiver procedures adopted by the Commission shall—

''(i) impose no unnecessary burden on the subscriber seeking the waiver;

''(ii) allocate responsibilities fairly between direct-to-home satellite service providers and local stations;

''(iii) prescribe mandatory time limits within which direct-to-home satellite service providers and local stations shall carry out the obligations imposed upon them; and

''(iv) prescribe that all costs of conducting any measurement or testing shall be borne by the direct-to-home satellite service provider, if the local station's signal meets the prescribed minimum standards, or by the local station, if its signal fails to meet the prescribed minimum standards.

''(4) PENALTY FOR VIOLATION.—Any direct-to-home satellite service provider that knowingly and willfully provides the signals of 1 or more distant television stations to subscribers in violation of this section shall be liable for forfeiture in the amount of $50,000 per day per violation.

''(b) PROVISION RELATING TO EXISTING SUBSCRIBERS.—

''(1) MORATORIUM ON TERMINATION.—Until December 31, 1999, any direct-to-home satellite service may continue to provide the signals of distant television stations to any subscriber located within predicted Grade A and Grade B contours of a local network station who received those distant network signals before July 11, 1998.

''(2) CONTINUED CARRIAGE.—Direct-to-home satellite service providers may continue to provide the signals of distant television stations to subscribers located between the outside limits of the predicted Grade A contour and the predicted Grade B contour of the corresponding local network stations after December 31, 1999, subject to any limitations adopted by the Commission under paragraph (3).

''(3) RULEMAKING REQUIRED.—

''(A) Within 180 days after the date of enactment of the Satellite Television Act of 1999, the Commission shall conclude a single rulemaking, compliant with subchapter II of chapter 5 of title 5, United States Code, to examine the extent to which any existing program exclusivity rules should be imposed on distant network stations provided to subscribers under paragraph (2).

''(B) The Commission shall not impose any program exclusivity rules on direct-to-home satellite service providers pursuant to subparagraph (A) unless it finds that it would be both technically and economically feasible and otherwise in the public interest to do so.

''(c) WAIVERS NOT PRECLUDED.—Notwithstanding any other provision in this section, nothing shall preclude any network stations from authorizing the continued provision of distant network signals in unaltered form to any direct-to-home satellite service subscriber currently receiving them.

''(d) CERTAIN SIGNALS.—Providers of direct-to-home satellite service may continue to carry the signals of distant network stations without regard to subsections (a) and (b) in any situation in which—

''(1) a subscriber is unserved by the local station affiliated with that network;

''(2) a waiver is otherwise granted by the local station under subsection (c); or

''(3) if the carriage would otherwise be consistent with rules adopted by the Commission in CS Docket 98–201.

''(e) Report Required.—Within 180 days after the date of enactment of the Satellite Television Act of 1999, the Commission shall report to Congress on methods of facilitating the delivery of local signals in local markets, especially smaller markets.''.

SEC. 205. RETRANSMISSION CONSENT.

''(a) AMENDMENT OF SECTION 325(b).—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended striking the subsection designation and paragraphs (1) and (2) and inserting the following:

''(b)(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

''(A) with the express authority of the station; or

''(B) pursuant to section 614 or section 615, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under that section.

''(2) The provisions of this subsection shall not apply to—

''(A) retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to subscribers if—

''(i) that station was a superstation on May 1, 1991;

''(ii) as of July 1, 1998, such station's signal was transmitted under the compulsory license of section 119 of title 17, United States Code, by satellite carries directly to at least 250,000 subscribers; and

''(iii) the satellite carrier complies with any program exclusivity rules that may be adopted by the Federal Communications Commission pursuant to section 338.

''(B) retransmission of the distant signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the subscriber resides in an unserved household; or

''(C) retransmission by a cable operator or other multichannel video programming distributor (other than by a satellite carrier direct to its subscribers) of the signal of a television broadcast station outside the station's local market, if that signal was obtained from a satellite carrier and—

''(i) the originating station was a superstation on May 1, 1991; and

''(ii) the originating station was a network station on December 31, 1997, and its signal was retransmitted by a satellite carrier directly to subscribers.

''(3) Any term used in this subsection that is defined in section 337(d) of this Act has the meaning given to it by that section.''.

''(b) EFFECTIVE DATE.—The amendments made by subsection(a) take effect on January 1, 1999.

SEC. 206. DESIGNATED MARKET AREAS.

Nothing in this title, or in the amendment made by this title, prevents the Federal Communications Commission from revising the listing of designated market areas or reassigning those area if the revision or reassignment is done in the same manner and to the same extent as the Commission's cable television mandatory carriage rules provide.

SEC. 207. SEVERABILITY.

If any provision of this title of section 325(b) or 337 of the Communications Act of 1934 (47 U.S.C. 325(b) or 337, respectively), or the application of that provision to any person or circumstance, is held by a court of competent Jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other provisions and circumstance, shall not be affected.

SEC. 208. SECONDARY TRANSMISSIONS.

''(a) AMENDENT OF SECTION 119(A)(2)(B) of TITLE 17, UNITED STATES CODE.—Section 119(a)(2)(B) of title 17, United States Code, is amended to read as follows:

''(B) SECONDARY TRANSMISSION TO UNSERVED HOUSEHOLDS.—Except as provided in paragraph(5)(E) of this subsection, the license provided or in subparagraph(a) shall be limited to secondary transmissions to persons who reside in unserved households.''.

''(b) AMENDMENT OF SECTION 119(A)(5) of Title 17.—Section 119(a)(5) of title 17, United States Code, is amended by adding at the end thereof the following:

''(E) EXCEPTION.—The secondary transmission by a satellite carrier of a primary transmission made by a network station to subscribers who do not reside in unserved households shall not be an act of infringement if

''(i) that station was a superstation on May 1, 1991; and

''(ii) that station was lawfully retransmitted by satellite carriers directly to at lest 250,000 subscribers as of July 1, 1998.''.

SEC. 209. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN COMMUNICATIONS ACT OF 1934.—Any term used in this title that is defined in section 337(d) of the Communications Act of 1934, as added by section 204 of this title, has the meaning given to it by that section.

(2) DESIGNATED MARKET AREA.—The term ''designated market area'' means a designated market area, as determined by Nielsen Media Research and published in the DMA Market and Demographic Report.

HATCH (AND LEAHY) AMENDMENT NO. 373

Mr. HATCH (for himself and Mr. LEAHY) proposed an amendment to amendment No. 372 proposed by Mr. MCCAIN to the bill, S. 247, supra; as follows:

On page 17, strike line 4 through page 18, line 4 and insert the following:

SEC. 208 DEFINITIONS.

HATCH (AND LEAHY) AMENDMENTS NOS. 374–375

Mr. HATCH (for himself and Mr. LEAHY) proposed two amendments to the bill, S. 247, supra; as follows:

AMENDMENT NO. 374

On page 3, line 9, strike ''that station'' and insert ''the network that owns or is affiliated with the network station''.

On page 3, lines 16 and 17, strike ''the station'' and insert ''the network''.

On page 4, line 3, strike ''the station'' and insert ''the network''.

On page 12, beginning with line 19, strike all through line 5 on page 13 and insert the following:

(3) by adding at the end the following: ''In the case of the Public Broadcasting Service satellite feed, the compulsory license shall be effective until January 1, 2002.''.

On page 13, strike lines 6 through 8 and insert the following:

(b) DEFINITIONS.—Section 119(d) of title 17, United States Code, is amended—

(1) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation'—

''(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

''(B) includes the Public Broadcasting Service satellite feed.''; and

(2) by adding at the end the following:

On page 13, line 25, strike ''and''.

On page 14, line 5, strike the period and insert a semicolon and ''and''.

On page 14, insert between lines 5 and 6 the following:

(3) by adding at the end the following:

''(11) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.''.

SEC. 8. TELEVISION BROADCAST STATION STANDING.

Section 501 of title 17, United States Code, is amended by adding at the end the following:

''(f) With respect to any secondary transmission that is made by a satellite carrier of a primary transmission embodying the performance or display of a work and is actionable as an act of infringement under section 122, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local market of that station.''.

On page 14, line 6, strike ''**sec. 8.**'' and insert ''**sec. 9.**''.

AMENDMENT NO. 375

On page 12, line 4, insert after ''network'' the following: ''or is not otherwise eligible to receive directly from a satellite carrier a signal of that television network (other than a signal provided under section 122) in accordance with section 338 of the Communications Act of 1934.''.

On page 14, insert between lines 5 and 6 the following:

SEC. 8. MORATORIUM ON COPYRIGHT LIABILITY.

Until December 31, 1999, no subscriber, as defined under section 119(d)(8) of title 17, United States Code, located within the predicted Grade B contour of a local network television broadcast station shall have satellite service of a distant network signal affiliated with the same network terminated, if that subscriber received satellite service of such network signal before July 11, 1998, as a result of section 119 of title 17, United States Code.

On page 14, line 6, strike ''**sec. 8.**'' and insert ''**sec. 9.**''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 20, 1999, at 9:30 a.m. on Internet Filtering.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 20, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on damage to the national security from Chinese espionage at DOE nuclear weapons laboratories.

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

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Thursday, May 20, 1999 at 10 a.m. for a business meeting to consider pending Committee business.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Thursday, May 20, 1999 at 2:30 p.m. for a hearing on Oversight of National Security Methods and Processes Relating to the Wen-Ho Lee Espionage Investigation.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''ESEA: From Tales to Tape'' during the session of the Senate on Thursday, May 20, 1999, at 10:00 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Thursday, May 20, 1999, at 2:30 p.m. to receive testimony on education issues.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on pending legislation.

The hearing will be held on Thursday, May 20, 1999, at 2:15 p.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. LOTT, Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing on the Environmental Protection Agency's proposed sulfur standard for gasoline as contained in the proposed Tier Two standards for automobiles Thursday, May 20, 9:30 a.m., Hearing Room (SD–406).

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

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION, AND REGULATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 20, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 348, a bill to authorize and facilitate a program to enhance training research and development, energy conservation and efficiency and consumer education in the oilheat consumers and the public, and for other purposes.

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

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION, AND REGULATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 20, for purposes of conducting a joint subcommittee hearing with the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform, which is scheduled to begin at 2:30 p.m. The purpose of this oversight hearing is to receive testimony and conduct oversight on the Administration's FY2000 budget request for climate change programs and compliance with various statutory provisions in FY1999 appropriations acts requiring detailed accounting of climate change spending and performance measures for each requested increase in funding.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science and Transportation be authorized to meet on Thursday, May 20, 1999, at 2:30 pm on Commercial Space.

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

ADDITIONAL STATEMENTS

TRIBUTE TO ADMIRAL BUD NANCE

• Mr. MURKOWSKI. Mr. President, I rise to give tribute to Admiral Bud Nance. His recent death is a great loss to this institution and to this country. His list of accomplishments is long, his list of friends even longer. I want to express my sympathy to his wife and family. I also want to extend that same sympathy to my friend from North Carolina, Senator HELMS, who has lost a great friend and advisor.

I first met Bud in 1991 when he came out of a well-deserved military retirement and took over as Staff Director of the Senate Foreign Relations Committee. I was a member of the Committee at that time. His career as a Navy Commander brought a steady hand and a cool head to the Committe. I knew that when I had new staff member starting in the Senate I could send him or her to Bud and he would put the staff member on the right track with his fatherly guidance. His maturity and mentoring role will be almost impossible to replace. I also knew that Bud would provide me with clear-headed advice. He was plain spoken and honest, and I truly admired him for that. Even after I left the Committee, I often turned to Bud for assistance or guidance on a particular issue, and he always gave me an honest answer. That counts for a lot up here.

Mr. President, the Admiral's many accomplishments have been noted previously by my colleagues. Although I knew of his military background prior to joining the Senate, Bud was too modest to let the rest of us in on just what he had gone through in his previous career as a Navy officer. He saw active duty in World War II, Korea and Vietnam. It has been reported that during World War II he endured 162 Japanese air and kamikaze attacks. One of the papers reminded me of one of Bud's great lines when the Committee was considering whether U.S. Ambassadors should receive additional benefits, including hardship pay. ''I fought at Iwo Jima,'' he said, ''That's hardship.'' His life experiences helped him keep our work here in perspective.

Mr. President, I noted the obituary from the Charlotte Observer was entitled, ''Bud Nance, Monroe Native Was an Officer and a Gentleman.'' This was certainly a fitting description of the man, and he will be remembered fondly by all who knew him.●

TRIBUTE TO JEFF GLUECK

●Mrs. FEINSTEIN. Mr. President, I want to pay special tribute to an outstanding citizen and participant of the distinguished White House Fellowship Program—Jeffrey Glueck from Newport Beach, CA.

Mr. Glueck, a management consultant with Monitor Co. in Cambridge, Massachusetts, graduated from Harvard University with honors, receiving his BA in social studies. He went on to earn an MA in international relations from Oxford University on a Marshall Scholarship, where he and a partner won the annual Oxford Debating Championship. Mr. Glueck has advised the Peruvian and Bolivian governments on economic competitiveness and from 1995–98, directed a national competitiveness project for the Venezuelan government and private sector. He was also a pro bono advisor to the Center of Middle East Competitive Strategy, an economic development and regional cooperation project for the signatory governments of the Middle East peace process. Mr. Glueck has maintained his long-standing commitment to public service with his involvement in many community-based organizations. He tutored at a housing project as a student in Boston, was editor-in-chief of the Harvard Political Review, was a founding participant of the Harvard Communications Project—an inter-ethnic discussion group—and started a recycling program at the Oxford University dorms.

Since 1965, the White House Fellowship Program has offered outstanding citizens across the United States the opportunity to participate in a once-in-a-lifetime experience. Fellows work closely with influential leaders in government and see U.S. policy in action. The nearly 500 alumni of the program have gone on to become leaders in all fields of endeavor, fulfilling the Fellowship's mission to encourage active citizenship and service to the nation. This program is extremely competitive, choosing individuals that have demonstrated excellence in community service, leadership, and professional and academic achievement. It is the nation's most prestigious fellowship for public service and leadership development.

Mr. Glueck had been assigned to the Export-Import Bank of the U.S. during his White House Fellowship. In this capacity, he works on ways to reconcile free trade with environmental protection around the world. He has helped coordinate a campaign for environmental standards of all OECD governments that would withhold public financing for projects in developing countries that damage the environment. In addition to these responsibilities, Mr. Glueck works to counter unfair trade practices by foreign governments in emerging governments and to promote sales by U.S. companies with environmentally-beneficial products to places in Asia and Latin America that can benefit from American know-how.

Mr. President, I wish to congratulate Jeffrey Glueck for his accomplishments, and especially for being a distinguished recipient of the White House Fellowship. It is an honor to represent Mr. Glueck in the U.S. Senate.●

TRIBUTE TO DR. GEORGE VERNON IRONS, SR.

● Mr. SESSIONS. Mr. President, I rise today to recognize one of Alabama's great native sons, Dr. George Vernon Irons, Sr., and to acknowledge the eulogy by Dr. James D. Moebes, given at his funeral service on July 21, 1998.

A native of Demopolis, Dr. Irons was Distinguished Professor of History and Political Science, Samford University, 43 years, Distinguished Professor Emeritus, 22 years—a Samford record. Dr. Irons taught not only history but how to make history—teaching 17 students who become university presidents—more than any educator.

Dr. Irons was also one of Alabama's true athletic greats—the only distance man—the only University of Alabama track man—ever inducted into the Alabama Sports Hall of Fame. Mr. President, only three men have been inducted into the Alabama Sports Hall of Fame on the first ballot: Ralph Shug Jordan, Paul Bear Bryant and Dr. George Irons. He was its oldest member at age 95.

Mr. President, Dr. Irons was truly an institution in himself. He first came to Howard College (now Samford University) in Birmingham in 1933. When Dr. Irons reported to Howard College, the school was in serious financial trouble owing a half million dollars. Dr. Irons gave a wealth of leadership, dedication and promise, sorely needed by Howard.

The rest of history. Today Samford University is the largest privately endowed Baptist school in the world; largest Baptist pharmacy school in the world. The only Baptist university in America with an inspiring domed school of divinity on its campus.

Born in Demopolis, Dr. Irons taught at Duke University for two years before joining Samford. Dr. Irons was a founding member of the Alabama Historical Association in 1947 and attended the 50th anniversary of the organization last year in Birmingham. He was also a member of the Southern Historical Association, Alabama Baptist Historical Association, Birmingham-Jefferson Historical Society and John H. Forney Historical Society. Dr. Irons historical writings were published by those organizations.

He was past president of the Alabama Writer's Conclave and received a distinguished service award from that organization in 1977. He also served as Vice President of the Alabama Academy of Science.

Dr. Irons was awarded the George Washington Honor Medal from Freedom's at Valley Forge, Pennsylvania, in 1962 and the George Washington Honor Award in 1963. He was Director of Samford's Freedom Foundation Program which won a record seventeen consecutive awards. The Samford yearbook, Entre Nous, was dedicated by the Samford student body to Dr. Irons, and unprecedented four times during his teaching career—in 1941, 1960, 1969, and 1974. He served as a member of the Jefferson County Judicial Commission from 1961 to 1965, selecting circuit judges for the largest judicial circuit in Alabama.

Dr. Irons was selected to Who's Who in America, Who's Who in the South and Southwest, Who's Who in American Education and Directory of American Scholars.

Dr. Irons is a true Alabama sports legend. In the early 1920's, the prowess of the Alabama Crimson Tide football had ebbed. However, Crimson Tide track and distance star, George Irons, kept the athletic flame burning at the Capstone as its ''Knight of the Cinderpath.'' The late Senator John Sparkman, a classmate of Irons, said, ''George Irons was all we had to cheer about—if it hadn't been for Irons, athletics would have been pretty boring back then.''

His athletic feats have been heralded by legendary Coach Paul ''Bear'' Bryant as ''truly outstanding athletic achievements,'' Coach Wallace Wade (three time Rose Bowl winner) as the ''greatest distance runner of his day,'' and Coach Hank Crisp as ''self-made distance star for the Alabama Crimson Tide.''

In 1923, he was described by those who knew him best—his fellow classmates at the University of Alabama, including the late U.S. Senator John Sparkman:

''George Irons: The South's greatest distance runner and a scholarly Christian gentleman. He is one of the true greats of Alabama athletic history, an honor man in scholarship and a record breaking athlete—that is a real man—our Knight of the Cinderpath.''

[The Corolla, 1923.]

At his interment ceremonies Dr. Irons received full military honors. A 21 gun salute was fired and taps bugled in honor of his valiant service in World War II, rising to the rank of Colonel, with 33 years active and reserve duty.

It's no surprise his life had such brilliant radiance. No surprise his devoted valiant service was so broad in scope. Devoted service to:

Family. His wife, Velma Wright Irons, a distinguished educator in her own right—sons, Dr. George Vernon Irons, Jr., Charlotte, North Carolina, a practicing cardiologist and William Lee Irons, a prominent Birmingham attorney. Both have left notable marks on their professions of medicine and law. Parenthetically, Dr. George V. Irons, Sr., and his son, William L. Irons, are the only father-son listing selected to the 1998 Who's Who in America from the entire State of Alabama—yet another record for this remarkable man.

Alma Mater. The University of Alabama—where he established his name in crimson flame as ''one of the true greats in Alabama's famed athletic history.'' A Phi Beta Kappa honors student, Irons was the University of Alabama's—the State of Alabama—nominee for the Rhodes Scholarship to England in 1924. Since the University's founding in 1831, only seven athletes have been selected to become a member of Phi Beta Kappa.

College. Dr. Irons was a key player in seeing Howard College grow from a financially distressed school, to the largest privately endowed Baptist university in the world—an internationally acclaimed university.

Dr. Irons was elected by the Samford University Faculty to serve as Grand Marshall of all academic, graduation and commencement exercises. Leading the academic processionals for fifteen years, carrying the silver scepter, symbol of Samford University's authority—Dr. Irons wore brilliant blue academic gowns and silks with dignity and distinction. In 1976, the Samford University Faculty wrote in the University's records by Resolution:

''In the long history of Samford University, Dr. Irons must be ranked at the very top in terms of his widespread beneficent influence, the love that former students evidence from him, and his impeccable character and qualities of modesty, humility, kindness and selfless service to the University.

[Samford University Resolution (1976)]

Country. Dr. Irons distinguished himself in World War II, rising to the rank of Colonel, defending his Nation for a third of the 20th Century in war and peace.

God. Dr. Irons gave tireless service to his Church as deacon, Sunday School teacher and Chairman of the Board of Deacons, and was elected as lifetime Deacon, Southside Baptist Church. His life reflects his depth of devotion in word, thought and deed—an icon of virtue—a legendary role model for generations of Samford students spanning over half a century.

Mr. President, America salutes Dr. George Vernon Irons, Sr., as record breaking champion athlete for his alma mater, the University of Alabama, as Colonel, World War II, who defended his Nation for a third of the 20th century in war and peace, as Distinguished Professor, 43 years, Distinguished Professor Emeritus, 22 years, as Grand Marshall, Samford University, elected by the Faculty to preside over all commencement and academic exercises, as one of its most admired leaders in its proud history. America salutes Dr. Irons for his character, devotion to cause, exemplary standards of honor, duty and integrity. America proudly salutes Dr. George Vernon Irons, Sr., one of Alabama's greatest native sons, whose life of devoted service is an inspiration to all Americans.●

TRIBUTE TO CLARA SHIN

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a true champion of public service: Clara Shin of Orange, CA. Ms. Shin is a former AmeriCorps program officer and is currently a distinguished White House Fellow.

One of the greatest gifts that Clara Shin has been endowed with is an appreciation and a passion for public service. Her background is filled with notable accomplishments that have provided her with a sense of community and an unfailing commitment to helping others.

Ms. Shin received her bachelor's degrees in physiobiopolitics and government from Smith College and a Juris Doctor from Stanford Law School. As a law student, she worked at the U.S. Agency for International Development, serving as a legal intern to the Regional Legal Advisor for Southern Africa. She later joined AmeriCorps as its youngest program officer and was responsible for developing the first national grant applications for local programs seeking funding. She then managed a $25 million grant portfolio for the program and coordinated a service network spanning the Southwest. Ms. Shin also co-designed the $100 million community service component of a Housing and Urban Development initiative to revitalize severely distressed public housing developments. She founded KOSOMOSE Women's Journal, a magazine for Asian American women, and helped start the Tahoe-Baikal Institute, a bi-national environmental institute in California and Siberia that trains environmentalists in land and water issues.

As one of 17 White House Fellows, Ms. Shin has achieved the nation's most prestigious fellowship for leadership development and public service. Her assignment to the White House Office of the Chief of Staff allows her to work hand-in-hand with leaders in government on immigration, race, and science and technology issues, where she coordinates working group meetings, tracks and manages issues, and meets with advocacy groups. For more than thirty years, White House Fellows have carried out the program's mission to encourage active citizenship and service to the nation. Ms. Shin is an individual who exemplifies this notion. Her efforts to serve those around her are an inspiration to us all.

Mr. President, it is with great honor that I pay tribute to Clara Shin for her accomplishment and dedication to public service. Her enthusiasm for social and environmental causes is both uplifting and encouraging. I ask my colleagues to join me in wishing Clara Shin many more years of success.●

A TIME TO RESPOND: AMERICAN LAMB INDUSTRY THREATENED BY IMPORT SURGES

● Mr. BAUCUS. Mr. President, I rise today to speak to the surging wave of cheap, imported lamb meat that threatens to drown the United States lamb industry, an industry that has been part of our nation's economy since independence.

This surge of imports, primarily from the nations of Australia and New Zealand, can be seen in the numbers collected by our federal inspectors.

In 1993, just 56 million pounds of lamb meat entered this country and its markets.

By 1997, that figure had risen to 84.4 million pounds—a shocking increase of nearly 50 percent.

Those figures have been converted to carcass-weight equivalents, and are higher than those collected by the U.S. Commerce Department. But that department's information shows no indication that the surge is slowing. In 1998, a record 70.2 million pounds—by volume—of lamb meat entered the domestic market.

Not only has the level of imports increased, but the lamb meat flooding the domestic market is directly competitive with products produced by this nation's lamb industry.

In place of lamb carcasses, shipments of fresh, chilled meat—cut and processed and ready for the grocery store shelves—are displacing domestically produced meat across the country.

At this point, importers control one-third of the United States lamb consumption, a market share that makes it difficult, if not impossible, for our producers to control their own destinies.

The importers do not participate in voluntary price reporting. In fact, they have actively fought a joint lamb promotion program through the U.S. Department of Agriculture.

Despite ample notice of the effect their skyrocketing levels of imports have had on the domestic industry, and despite ample notice that the industry intended to file a case against them, the importers refused to pull back voluntarily, or even discuss the situation.

The lamb industry's case now rests with the President. I call on this Administration to follow through with the strong and effective relief this industry needs to regain its footing and confidence. With confidence will come investment, and with investment, will come a more competitive industry.●

ROSE FISHER BLASINGAME, NATIVE AMERICAN LOUISIANA ARTIST

● Ms. LANDRIEU. Mr. President, I rise today to recognize a special artist from my state whose art was recently exhibited in our nation's capital. She is Rose Fisher Blasingame, a member of the Jena Band of Choctaw who are located in LaSalle Parish in Jena, Louisiana. Rose Fisher Blasingame was born and raised in Central Louisiana, and is married to Micah Basingame and has four children. Her artwork is basketry, an art she is attempting to revive since its loss from their community after the time of her great-great Aunt Mary Lewis who practiced the craft until she died in the early 1930's. From hearing stories from her family and elders, and seeing some of her aunt's work, she decided to try to learn this art-craft and bring back this lost tradition. She should be very proud that she has accomplished this goal. She also makes blow guns, arrow quivers, and tans deer hides. She shares the task of making china berry necklaces with her elders who she also joins in the tradition of passing down stories about creation, medicinal plants and home remedies. Her new goal, which she shares with her elders, is to attempt to bring back the Choctaw language.

Her baskets have been based on authentic Choctaw artifacts in the Smithsonian. They are splendid works of art which have many complex weaves of light and dark involving a number of incredible shapes and textures. One of her pieces which I saw was composed of an inside weave which was the mirror image of the exterior weave done in reversal contrast of light and dark.

She is a beneficiary of a grant from the Louisiana Arts Endowment Program. By recognizing her artwork, I also wish to honor all Choctaw tribes and culture. The Choctaw call themselves pasfalaya, which means ''long hair.'' They are of the Muskhogean language group. The Choctaw were natives of Mississippi and Alabama, making them one of Louisiana's immigrant tribes. After Spain took control of Louisiana in 1763, the Spanish government, seeking a buffer between themselves and the English, invited the tribes from east of the Mississippi River into Louisiana. Small groups of Choctaw, including the Jena band, took them up on this offer, and there were several Choctaw settlements throughout north and central Louisiana.

Louisiana boasts of many Choctaw place names. Early explorers used Choctaw guides to lead them to the new territories west of the Mississippi. The names given to the rivers, streams and other landmarks have remained as they were named hundreds of years ago. Some of these names include Atchafalaya (long river), Bogue Chitto (big creek), Catahoula (beloved lake), Manchac (rear entrance), and Pontchatoula (hanging hair or Spanish moss). It is also the Choctaw who taught the French and Spanish settlers the use of file' seasoning which is so widely used even today in the gumbo recipes of our unique Louisiana cuisine.

Clearly, Rose Fisher Blasingame knows that she holds the rare coin of her culture which should be cherished and treasured. Imagine the remarkable effort she has undertaken along with her tribe to re-establish their language. In this ambitious effort, Rose has sent her daughter Anna Barber to attend the Choctaw school in Mississippi in that branch of their tribe. I understand there are about 12 Choctaws speakers left among the Jena Choctaw, and the tribe is planning a computer language program which will teach adults as well as children, but aimed specifically at the kids. As always, their hope for the future will be carried by their children.

Mr. President, I thank you for this moment to recognize the work of this remarkable artist and woman, and the Choctaw tribe and culture of Louisiana.●

TRIBUTE TO JOHN TIEN

● Mrs. FEINSTEIN. Mr. President, I rise to salute the work and dedication of Major John Tien, a distinguished White House Fellow from Long Beach, CA.

Major Tien was chosen as one of the selected few to participate in the distinguished 1998–99 White House Fellowship Program. Since 1965, the program has offered outstanding individuals, like Major Tien, the opportunity to apply their considerable talents to public service. Past U.S. Army White House Fellow alumni, including former Chairman of the Joint Chiefs of Staff General Colin L. Powell, have emerged as great military leaders, and I have no doubt that Major Tien will be successful in his future endeavors.

As a White House Fellow, Major Tien has been assigned to the Office of the U.S. Trade Representative. He conducts research on consumer, labor, and environmental groups in an effort to educate the American public about the benefits of international trade. Other responsibilities include coordinating partnerships with important business groups, including the National Association of Manufacturers, the Business Round Table, and the President's Export Council, to develop trade education ideas and advance a free trade agenda. He is a member of the lead team for planning the Third Ministerial Conference of the World Trade Organization in Seattle, Washington. He is also a member of the steel import crisis response team, where he is responsible for drafting reports for the Congressional Steel Caucus. Major Tien is the special assistant to the Deputy U.S. Trade Representative on all WTO matters.

Major Tien was an assistant professor in the Department of Social Sciences at the U.S. Military Academy at West Point. He received his bachelor's degree in Civil Engineering from West Point, where he was the top-ranked military cadet in his class. He later attended Oxford University as a Rhodes Scholar. As a veteran of Operation Desert Storm, he was among the first soldiers to cross the Saudi Arabia-Iraq border. He has commanded an M1A1 main battle tank company and a headquarters company, and has served as the chief logistics officer for a thousand-soldier brigade. Additionally, Major Tien has successfully balanced several extracurricular activities with his military commitments. For example, he has served as a volunteer tutor for inner-city elementary and high school youth, as a co-organizer of the New York, Orange County Special Olympics and as a youth league soccer and baseball coach.

Mr. President, the importance of the public service should be recognized, and Major Tien stands as an especially admirable role model in this regard. For his efforts, and in recognition of the well-deserved honor of serving as a White House Fellow, I am privileged to commend and pay tribute to Major John Tien.●

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that a fellow in my office, Bruce Artim, be granted the privilege of the floor for this session of Congress.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar: No. 64.

I further ask unanimous consent that the nomination be confirmed; that the motion to reconsider be laid upon the table; that any statements relating to the nomination appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Gary L. Visscher, of Maryland, to be a Member of the Occupational Safety and

Health Review Commission for a term expiring April 27, 2001.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

SATELLITE HOME VIEWERS IMPROVEMENT ACT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 24, S. 247.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 247) to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Satellite Home Viewers Improvements Act''.

SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 121 the following new section:

''§ 122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets

''(a) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS BY SATELLITE CARRIERS.—A secondary transmission of a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(1) the secondary transmission is made by a satellite carrier to the public;

''(2) the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission; and

''(3) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(A) each subscriber receiving the secondary transmission; or

''(B) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(b) REPORTING REQUIREMENTS.—

''(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to that station a list identifying (by name and street address, including county and zip code) all subscribers to which the satellite carrier currently makes secondary transmissions of that primary transmission.

''(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the station a list identifying (by name and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection.

''(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

''(4) REQUIREMENTS OF STATIONS.—The submission requirements of this subsection shall apply to a satellite carrier only if the station to whom the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

''(c) NO ROYALTY FEE REQUIRED.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall have no royalty obligation for such secondary transmissions.

''(d) NONCOMPLIANCE WITH REPORTING REQUIREMENTS.—Notwithstanding subsection (a), the willful or repeated secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission made by that television broadcast station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided under sections 502 through 506 and 509, if the satellite carrier has not complied with the reporting requirements of subsection (b).

''(e) WILLFUL ALTERATIONS.—Notwithstanding subsection (a), the secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission made by that television broadcast station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

''(f) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR TELEVISION BROADCAST STATIONS.—

''(1) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a television broadcast station and embodying a performance or display of a work to a subscriber who does not reside in that station's local market, and is not subject to statutory licensing under section 119, is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509, except that—

''(A) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber; and

''(B) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

''(2) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of secondarily transmitting to the public a primary transmission made by a television broadcast station and embodying a performance or display of a work to subscribers who do not reside in that station's local market, and are not subject to statutory licensing under section 119, then in addition to the remedies under paragraph (1)—

''(A) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the satellite carrier of the primary transmissions of that television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network), and the court may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out; and

''(B) if the pattern or practice has been carried out on a local or regional basis with respect to more than one television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network), the court shall order a permanent injunction barring the secondary transmission in that locality or region by the satellite carrier of the primary transmissions of any television broadcast station, and the court may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out.

''(g) BURDEN OF PROOF.—In any action brought under subsection (d), (e), or (f), the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a television broadcast station is made only to subscribers located within that station's local market.

''(h) GEOGRAPHIC LIMITATIONS ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply to secondary transmissions to locations in the United States, and any commonwealth, territory, or possession of the United States.

''(i) EXCLUSIVITY WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 or any other law (other than this section and section 119) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carriers of programming contained in a primary transmission made by a television broadcast station may be made without obtaining the consent of the copyright owner.

''(j) DEFINITIONS.—In this section—

''(1) The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

''(2) The term 'local market' for a television broadcast station has the meaning given that term under rules, regulations, and authorizations of the Federal Communications Commission relating to carriage of television broadcast signals by satellite carriers.

''(3) The terms 'network station', 'satellite carrier' and 'secondary transmission' have the meaning given such terms under section 119(d).

''(4) The term 'subscriber' means an entity that receives a secondary transmission service by means of a secondary transmission from a satellite and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(5) The term 'television broadcast station' means an over-the-air, commercial or noncommercial television broadcast station licensed by the Federal Communications Commission under subpart E of part 73 of title 47, Code of Federal Regulations.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 121 the following:

''122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local market.''.

SEC. 3. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2004''.

SEC. 4. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS.

Section 119(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(4) REDUCTION.—

[''(A) SUPERSTATION.—The rate of the royalty fee payable in each case under subsection (b)(1)(B)(i) as adjusted by a royalty fee established under paragraph (2) or (3) of this subsection shall be reduced by 30 percent.

[''(B) NETWORK.—The rate of the royalty fee payable under subsection (b)(1)(B)(ii) as adjusted by a royalty fee established under paragraph (2) or (3) of this subsection shall be reduced by 45 percent.**]**

''(A) SUPERSTATION.—The rate of the royalty fee in effect on January 1, 1998 payble in each case under subsection (b)(1)(B)(i) shall be reduced by 30 percent.

''(B) NETWORK.—The rate of the royalty fee in effect on January 1, 1998 payable under susection (b)(1)(B)(ii) shall be reduced by 45 percent.

''(5) PUBLIC BROADCASTING SERVICE AS AGENT.—For purposes of section 802, with respect to royalty fees paid by satellite carriers for retransmitting the Public Broadcasting Service satellite feed, the Public Broadcasting Service shall be the agent for all public television copyright claimants and all Public Broadcasting Service member stations.''.

[SEC. 5. DEFINITIONS.

[Section 119(d) of title 17, United States Code, is amended—

[(1) by striking paragraph (10) and inserting the following:**]**

SEC. 5. DEFINITIONS.

Section 119(d) of title 17, United States Code, is amended by striking paragraph (10) and inserting the following:

''(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network.''.**[**; and

[(2) by adding at the end the following:

[''(12) LOCAL NETWORK STATION.—The term 'local network station' means a network station that is secondarily transmitted to subscribers who reside within the local market in which the network station is located.''.**]**

SEC. 6. PUBLIC BROADCASTING SERVICE SATELLITE FEED.

(a) SECONDARY TRANSMISSIONS.—Section 119(a)(1) of title 17, United States Code, is amended—

(1) by striking the paragraph heading and inserting ''(1) SUPERSTATIONS AND PBS SATELLITE FEED.—'';

(2) by inserting ''or by the Public Broadcasting Service satellite feed'' after ''superstation''; and

(3) by adding at the end the following: ''In the case of the Public Broadcasting Service satellite feed, subsequent to January 1, 2001, or the date on which local retransmissions of broadcast signals are offered to the public, whichever is earlier, the statutory license created by this section shall be conditioned on the Public Broadcasting Service certifying to the Copyright Office on an annual basis that its membership supports the secondary transmission of the Public Broadcasting Service satellite feed, and providing notice to the satellite carrier of such certification.''.

(b) DEFINITION.—Section 119(d) of title 17, United States Code, is amended by adding at the end the following:

''(12) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term 'Public Broadcasting Service satellite feed' means the national satellite feed distributed by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.''.

SEC. 7. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

Section 119(a) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ''is permissible under the rules, regulations, and authorizations of the Federal Communications Commission,'' after ''satellite carrier to the public for private home viewing,''; and

(2) in paragraph (2), by inserting ''is permissible under the rules, regulations, and authorizations of the Federal Communications Commission,'' after ''satellite carrier to the public for private home viewing,''.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1999, except the amendments made by section 4 shall take effect on July 1, 1999.

Mr. HATCH. Mr. President, I ask unanimous consent that the committee amendments be agreed to.

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

The committee amendments were agreed to.

Mr. HATCH. Mr. President, today the Senate considers legislation that will help provide for greater consumer choice and competition in television services, S. 247, ''The Satellite Home Viewers Improvements Act of 1999.'' The bill before us is a model of bipartisanship and cross-Committee cooperation. The cosponsors of this bill include, first and foremost, the distinguished Ranking Member of the Judiciary Committee, Senator Leahy, with whom I have worked closely on this legislation; the majority leader, Senator LOTT, and the minority leader, Senator DASCHLE; the chairman and ranking member of the Judiciary Committee's Antitrust Subcommittee, Senators DEWINE and KOHL; and the distinguished chairman of the Senate Commerce Committee, Senator MCCAIN. We have all worked together with many others of our colleagues to bring this important legislation along on behalf of our constituents.

The options consumers have for viewing television entertainment have vastly increased since that fateful day in September 1927 when television inventor and Utah native Philo T. Farnsworth, together with his wife and colleagues, viewed the first television transmission in the Farnsworth's home workshop: a single black line rotated from vertical to horizontal. Both the forms of entertainment and the technologies for delivering that entertainment have proliferated over the 70 years since that day. In the 1940s and 50s, televisions began arriving in an increasing number of homes to pick up entertainment being broadcast into a growing number of cities and towns.

In the late 1960s and early 1970s, cable television began offering communities more television choices by initially providing community antenna systems for receiving broadcast television signals, and later by offering new created-for-cable entertainment. The development of cable television made dramatic strides with the enactment of the cable compulsory license in 1976, providing an efficient way of clearing copyright rights for the retransmission of broadcast signals over cable systems.

In the 1980s, television viewers began to be able to receive television entertainment with their own home satellite equipment, and the enactment of the Satellite Home Viewer Act in 1988 helped develop a system of providing options for television service to Americans who lived in areas too remote to receive television signals over the air or via cable.

Much has changed since the original Satellite Home Viewer Act was adopted in 1988. The Satellite Home Viewer Act was originally intended to ensure that households that could not get television in any other way, traditionally provided through broadcast or cable, would be able to get television signals via satellite. The market and the satellite industry has changed substantially since 1988. Many of the difficulties and controversies associated with the satellite license have been at least partly a product of the satellite business attempting to move from a predominately need-based rural niche service to a full service video delivery competitor in all markets, urban and rural.

Now, many market advocates both in and out of Congress are looking to satellite carriers to compete directly with cable companies for viewership, because we believe that an increasingly competitive market is better for consumers both in terms of cost and the diversity of programming available. The bill we consider today will move us toward that kind of robust competition.

In short, this bill is focused on changes that we can make this year to move the satellite television industry to the next level, making it a full competitor in the multi-channel video delivery market. It has been said time and again that a major, and perhaps

the biggest, impediment to satellite's ability to be a strong competitor to cable is its current inability to provide local broadcast signals to its subscribers. (See, e.g., Business Week (22 Dec. 1997) p. 84.) In fact, marketing research by one firm found that 86 percent of those consumers who consider subscribing to satellite but ultimately do not do so, decide against satellite service because the local television signals are not available. (U.S. Satellite Broadcasting, ''Research Summary for Thomson Electronics,'' Aug. 1997, p. 6.) This problem has been partly technological and partly legal.

As we speak, the technological hurdles to satellite retransmission of local broadcast signals are being lowered substantially. Emerging technology is not enabling the satellite industry to begin to offer television viewers their own local programming of news, weather, sports, and entertainment, with digital quality picture and sound. This will mean that viewers in the remoter areas of my large home state of Utah will be able to watch television programming originating in Salt Lake City, rather than New York or California. In fact, one satellite carrier is already providing such a service in Utah.

Today, with this bill, we hope to remove the legal impediments to use of this emerging technology to make local retransmission of broadcast signals a reality for all subscribers. The most important result will be that the constituents of all my colleagues will finally have a choice for full service multi-channel video programming: They will be able to choose cable or one of a number of satellite carriers. This should foster an environment of proliferating choice and lowered prices, all to the benefit of consumers, our constituents.

To that end, the ''Satellite Home Viewer Improvements Act'' makes the following changes in the copyright law governing satellite television transmissions:

It creates a new copyright license which allows satellite carriers to retransmit a local television station to households and businesses throughout that station's local market, just as cable does, and sets a zero copyright rate for providing this service.

It extends the satellite compulsory licenses for both local and distant signals, which are now set to expire at the end of the year, until 2004.

It cuts the copyright rates paid for distant signals by 30 or 45 percent, depending on the type of signal.

It allows consumers to switch from cable to satellite service for network signals without waiting 90-day period now required in the law.

It allows for a national Public Broadcasting Service satellite feed.

Many of my colleagues in this Chamber will recognize this legislation as substantively identical to a bill reported unanimously by the Judiciary Committee last year. It passed the Judiciary Committee this year again with unanimous support. I am pleased with the degree of cooperation and consensus we have been able to forge with respect to this legislation, and I am pleased that we have been able to bring this bill before the Senate for swift consideration and approval.

Let me explain how we will proceed. As I have indicated earlier, the bill we have before us is the copyright portion of a comprehensive reform package crafted in conjunction with our colleagues on the Commerce Committee. As the Judiciary Committee has moved forward with consideration of the copyright legislation embodied in S. 247, the Commerce Committee proceeded simultaneously to consider separate legislation introduced by Chairman MCCAIN, S. 303, to address related communications amendments, including important ares such as the must-carry and retransmission consent requirements for satellite carriers upon which the copyright licenses will be conditioned, and the FCC's distant television signal eligibility process. It is our joint intention to combine our respective work product as two titles of the same bill in a way that will clearly delineate the work product of each committee, but combine them in the seamless whole necessary to make the licenses work for consumers and the affected industries. To do that, Chairman MCCAIN will today offer the text of his committee's companion legislation as an amendment to the Judiciary Committee's underlying copyright bill. Upon adoption of this amendment, we will offer a manager's package of technical and conforming amendments to more fully meld the bills into a comprehensive, pro-consumer package that we can offer to the House for their consideration in a conference.

I am glad we are taking up this legislation today. We need to act quickly on this legislation. The Satellite Home Viewer Act sunsets at the end of this year, placing at risk the service of many of the 11 million satellite subscribers nationwide. Many of our constituents are confused about the status of satellite service in February and April to as many as 2.5 million subscribers nationally who have been adjudged ineligible for distant signal service under current law. The granting of the local license, together with some resolution of the eligibility rules for distant signals and a more consumer-friendly process, can help bring clarity to these consumers, and greater competition in price and service for all subscription television viewers.

I again thank the majority leader for his interest in and leadership with respect to these issues, and the chairman of the Commerce Committee for his collegiality and cooperation in this process. I also thank my colleagues on the Judiciary Committee who have worked on this legislation. This bill is a product of a bipartisan effort with Senators LEAHY, DEWINE, and KOHL, and I have been pleased to work closely with each of them every step of the way. Finally, I thank the Register of Copyrights, Ms. Marybeth Peters, and Bill Roberts of her staff in particular, for their assistance and expertise throughout this process. The Senate process has been a more informed one, and the product of our efforts more sound as a result of their advice and recommendations.

In closing, I look forward to our consideration of this important legislation today, and to continued collaboration with my colleagues to help hasten more vigorous competition in the television delivery market and the ever-widening consumer choice that will follow it.

Mr. LEAHY. Mr. President, I am very pleased that the Senate is able to pass the Hatch-Leahy Satellite Home Viewers Improvements Act. This bill will provide viewers with more choices and will greatly increase competition regarding network and other video programming.

For some time, I have been concerned about the lack of competition with cable TV and escalating cable rates. This bill will allow satellite TV providers to compete directly with cable and will give consumers a choice. It also avoids needless cutoffs of satellite TV service and protects local TV affiliates.

The Judiciary Committee had a full committee hearing on these satellite issues on November 12, 1997, and Chairman HATCH and I agreed to work together on this bill. On March 5, 1998, the Hatch-Leahy bill, S. 1720, was introduced and was reported out of the Judiciary Committee unanimously on October 1, 1998. It permits local TV signals, as opposed to distant out-of-State networks signals, to be offered to viewers via satellite; increase competition between cable and satellite TV providers; and provide more PBS programming by also offering a national feed as well as local programming; and reduce rates charged to consumers.

We have been racing against the clock because court orders have required the cutoffs of distant CBS and Fox television signals to over a million households in the U.S.

Under a preliminary injunction, satellite service to thousands of households in Vermont and other states was to be terminated on October 8, 1998, for CBS and Fox distant network signals for households signed up after March 11, 1997, the date the action was filed.

This bill will allow satellite TV to operate just like cable TV with local channels, movies, local weather, sports, CNN, news, superstations, and the like. It allows for local TV stations to be received over satellite, permanently, and could reduce satellite rates.

It ends the cable subscriber 90-day waiting period for those wanting to switch from cable to satellite—which has been a needless barrier to competition.

The bill extends distant network service to allow for a phase-in to local-

into-local TV service and creates a national PBS feed, and also will offer the local PBS.

It also restores all lost distant stations, if the satellite provider is willing to restore service, and delays cutoffs of all other distant signals until December 31 of this year and only for a much smaller number of dish owners.

Ultimately, in 2002, the bill will impose ''must carry'' rules on satellite providers just like the ''must carry'' rules for cable TV which permits a phase-in of local-to-local service.

The chairman of the Antitrust Subcommittee, Senator DEWINE, and the ranking member, Senator KOHL, also worked hard on this issue.

It is absurd that home dish owners—whether they live in Vermont, Utah or California—have to watch network stations imported from distant states.

This committee has worked together to protect the local broadcast system and to provide the satellite industry with a way to compete with cable.

Cable TV now offers a full range of local programming as well as programming regarding sports, politics, national weather, education, and a range of movies.

Yet, cable rates keep increasing—I want satellite TV to directly compete with cable TV. The only way they can do that is to be able to offer local TV stations.

We heard testimony in 1997 and 1998 that the major reason consumers do not sign up for satellite service is that they cannot get local programming. I want satellite carriers to be able to offer the full range of local programming.

We should be encouraging this so-called ''local-into-local'' service. Local broadcast stations contribute to our sense of community.

We should be encouraging competition through local-into-local service. Instead, the current policy fosters confusion-into-more-confusion service and lots of litigation.

By striking a burdensome and flawed limitation on satellite providers, we will be prescribing fairness for dish owners and injecting some much-needed competition into the television market.

I look forward to working with my colleagues at conference.

AMENDMENT NO. 372

(Purpose: To amend the Communications Act of 1934 to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes)

Mr. HATCH. Mr. President, Senator MCCAIN has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. MCCAIN, proposes an amendment numbered 372.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.)

AMENDMENT NO. 373 TO AMENDMENT NO. 372

(Purpose: To strike certain provisions amending title 17, United States Code)

Mr. HATCH. Mr. President, I have an amendment at the desk to the MCCAIN amendment, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. LEAHY, proposes an amendment numbered 373 to amendment No. 372.

The amendment follows:

On page 17, strike line 4 through page 18, line 4 and insert the following:

SEC. 208. DEFINITIONS.

Mr. HATCH. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 373) was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that amendment No. 372, as amended, be agreed to.

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

The amendment (No. 372), as amended, was agreed to.

AMENDMENT NOS. 374 AND 375

Mr. HATCH. Mr. President, there are two technical amendments at the desk, submitted by myself and Senator LEAHY, and I ask unanimous consent that they be agreed to.

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

The amendments (Nos. 374 and 375) were agreed to, as follows:

AMENDMENT NO. 374

(Purpose: To provide a manager's amendment to make certain technical and conforming amendments, and for other purposes)

On page 3, line 9, strike ''that station'' and insert ''the network that owns or is affiliated with the network station''.

On page 3, lines 16 and 17, strike ''the station'' and insert ''the network''.

On page 4, line 3, strike ''the station'' and insert ''the network''.

On page 12, beginning with line 19, strike all through line 5 on page 13 and insert the following:

(3) by adding at the end the following: ''In the case of the Public Broadcasting Service satellite feed, the compulsory license shall be effective until January 1, 2002.''.

On page 13, strike lines 6 through 8 and insert the following:

(b) DEFINITIONS.—Section 119(d) of title 17, United States Code, is amended—

(1) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation'—

''(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

''(B) includes the Public Broadcasting Service satellite feed.''; and

(2) by adding at the end the following:

On page 13, line 25, strike ''and''.

On page 14, line 5, strike the period and insert a semicolon and ''and''.

On page 14, insert between lines 5 and 6 the following:

(3) by adding at the end the following:

''(11) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.''.

SEC. 8. TELEVISION BROADCAST STATION STANDING.

Section 501 of title 17, United States Code, is amended by adding at the end the following:

''(f) With respect to any secondary transmission that is made by a satellite carrier of a primary transmission embodying the performance or display of a work and is actionable as an act of infringement under section 122, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local market of that station.''.

On page 14, line 6, strike ''**SEC. 8.**'' and insert ''**SEC. 9.**''.

AMENDMENT NO. 375

(Purpose: To modify the definition of unserved household, provide for a moratorium on copyright liability, and for other purposes)

On page 12, line 4, insert after ''network'' the following: ''or is not otherwise eligible to receive directly from a satellite carrier a signal of that television network (other than a signal provided under section 122) in accordance with section 338 of the Communications Act of 1934.''.

On page 14, insert between lines 5 and 6 the following:

SEC. 8. MORATORIUM ON COPYRIGHT LIABILITY.

Until December 31, 1999, no subscriber, as defined under section 119(d)(8) of title 17, United States Code, located within the predicted Grade B contour of a local network television broadcast station shall have satellite service of a distant network signal affiliated with the same network terminated, if that subscriber received satellite service of such network signal before July 11, 1998, as a result of section 119 of title 17, United States Code.

On page 14, line 6, strike ''**SEC. 8.**'' and insert ''**SEC. 9.**''.

Mr. BRYAN. Mr. President, I want to engage my good friend from Arizona, our chairman of the Commerce Committee, in a colloquy concerning an issue I raised in committee on signal reception standards.

Mr. MCCAIN. I will be happy to accommodate the Senator from Nevada.

Mr. BRYAN. Mr. President, consumers who live in small and rural markets deserve access to network television service via satellite and the competition with cable it provides just as much as their fellow citizens living in urban markets. The local-into-local

service that will be made possible by the legislation we are considering today will provide this much-needed service to consumers, thereby enhancing competition to cable in many urban markets. Unfortunately, because local-into-local will not be available in small and rural markets in the immediate future, consumers who live there must depend on satellite delivery of network signals from distant markets. Recent court-imposed limitations on the delivery of distant network signals, however, will affect households that cannot receive viewable local network signals over-the-air.

To correct this imbalance, we should grant the Federal Communications Commission the authority to set a modern television signal reception standard. If the new signal reception standard is set at a level that will provide consumers with a viewable picture, then the new standard will produce a more realistic and accurate separation between ''served'' and ''unserved'' households for purposes of SHVA. In addition, such a standard would provide consumers who do not qualify to receive distant network signals with a reasonable expectation that, if they go to the trouble and expense of installing a ''conventional'' rooftop antenna, they will be able to receive a television picture they can actually watch.

To make application of the new standard more consumer friendly, I also urge that we give the FCC the authority to establish the most accurate point-to-point predictive model. Such a model would enable a consumer to know whether or not he or she will be able to receive a signal of the strength established by the rulemaking quickly, accurately, and without expensive testing.

Mr. MCCAIN. I think my colleague for his work on this very sensitive but important subject. The senator is absolutely correct. With the passage of this bill, the issue of setting an appropriate signal reception standard and predictive model is more important than ever. Consumers are frustrated today by the current situation with distant network signals because they are being told by local broadcasters they must receive their local signals over-the-air, though in many cases traditional antennas do not provide an adequate picture. If the law tells consumers they must get a local signal but they aren't able to get a decent picture, what alternative does a consumer have? Unfortunately, we are dealing here with an antiquated law that needs updating for the twenty first century.

Mr. BRYAN. If this law isn't revised we can expect more consumer confusion and frustration. The ''Grade B'' standard that is used as the signal reception standard today measures the amount of signal intensity that a consumer must receive at his or her rooftop antenna to produce what is considered an ''acceptable'' television picture. Unfortunately, this was a determination made in 1952. Consumer expectations of what constitutes an ''acceptable'' picture have increased substantially in the past 50 years. What constituted an acceptable picture to a focus group in 1951 watching black and white television would almost certainly not be a picture that modern consumers would want to watch on state-of-the-art color sets.

In addition, interference has increased substantially since the early 1950's. Background noise produced by aircraft, automobile and truck traffic, power lines, and the like, and electronic interference produced by computers, cell phones, and other electronic equipment interfere with signal propagation. Because of this increased interference, consumers need higher signal intensity in order to receive a viewable television picture.

Mr. MCCAIN. I concur with your concerns over this situation. If we are going to enforce the law and enforce a standard, we need to make sure that consumers can rely on the standard. Today, that is clearly not the case. In addition, since the purpose of the bill before us today is to give satellite television the tools it needs to become more viable competitors to cable, we have to evaluate each of the ways in which cable and satellite are compared. For example, the viewing standard that you discussed is based on three ''grades'' of television picture—''fine,'' ''good,'' and ''acceptable,'' in descending order of quality. Currently, cable viewing standards are based on a ''good'' picture. Satellite's standard is ''acceptable,'' which is a grade below ''good.'' Why wouldn't we want the reception standards between these two competing industries to be equivalent? If we are to provide true competition between cable and satellite, an increase of the standard and a corresponding increase in signal intensity model is necessary.

Mr. BRYAN. Even though the language mandating a new signal standard and predictive model was not adopted in committee, I think the chairman would agree that such language needs to be incorporated into a final measure. Many of my colleagues have been stunned to learn of the crazy circumstance that is facing many of our rural constituents as they attempt to get a network signal that they can actually watch. We shouldn's be making it more difficult for them to get this valuable service.

Mr. MCCAIN. I can assure my colleague from Nevada, we will attempt to address this in conference and rectify a very troubling inconsistency in the law.

Mr. HOLLINGS. Mr. President, I rise to support S. 247, the Satellite Home Viewers Improvement Act. This legislation represents a first step towards providing a viable competitor to cable in the multichannel video programming marketplace. Significantly, S. 247 permits direct-to-home satellite providers to transmit local broadcast signals into local markets, and eliminates the 90 day waiting period for existing cable subscribers who wish to switch to satellite service. These critical changes in the law will substantially help satellite providers compete with their cable counterparts.

I also support, for the most part, the inclusion in S. 247 of the floor amendment offered by the Senator from Arizona, Mr. MCCAIN, Amendment No. 372. This amendment is identical to the text of the committee reported amendment to S. 303, the Satellite Television Act of 1999, which was reported favorably by the Senate Commerce, Science and Transportation Committee, Senate Report No. 106–51. With one reservation, which I will explain shortly, I am pleased that the work product of the Commerce Committee will be included in the Satellite Home Viewers Improvement Act, S. 247, as passed by the Senate.

As reported by our committee, S. 303 complements S. 247 by removing additional statutory impediments that thwart the ability of direct-to-home satellite service providers to compete with cable television. S. 303 authorizes direct-to-home satellite service providers to offer their subscribers local television station broadcasts, but requires those providers to comply with the must-carry and retransmission consent rules that apply to cable television operators. In addition, S. 303 requires the Federal Communications Commission to use the Individual Location Longely-Rice Methodology to better determine who should be receiving distant network signals and who should not. Finally, the legislation requires the FCC to implement a waiver process to give consumers with unsatisfactory local television reception a timely process in which to have their concerns addressed.

While I support moving S. 247, as amended, out of the Senate, I must note one concern with the legislation. I oppose provisions in S. 303 that sanction the illegal behavior of direct broadcast satellite service providers. Those provisions permanently grandfathered the transmission of distant network signals to subscribers residing outside of their local station's Grade A contour, but within the Grade B contour, regardless of whether those subscribers are actually able to receive the signals of their local stations. My opposition to this approach is explained in greater detail in the minority views filed with the Committee Report. In brief, I will say that the provisions I opposed put the legislation squarely in the position of sanctioning illegal behavior. As a law and order man, that is not an approach I am willing to support.

Otherwise, I am extremely pleased that the Senate has been able to act so quickly on this important issue. By passing legislation so early in the 106th Congress, we have gone a long way toward ensuring greater competition in the video programming marketplace.

Mr. KOHL. Mr. President, I rise in support of this legislation because it will increase competition between satellite and cable. Senators MCCAIN, HATCH, LEAHY, HOLLINGS, DEWINE and others deserve credit for moving this measure so quickly this term, especially when we came so close last year.

Mr. President, when the Judiciary and Commerce bills are combined as one, it creates a good, comprehensive measure. Satellite companies will finally be allowed to legally broadcast local stations to local viewers—so-called ''local into local.'' The strange anomaly that restricted satellite from providing local signals will be a thing of the past. And to be balanced, satellite companies will also be subject to ''must-carry'' obligations, just like cable. This bill will also reduce the royalty fees for those local signals to a level closer to that paid by cable companies. All of this moves us towards parity between satellite and cable, and it is a huge step forward for consumers. Let me tell you why.

Increased competition will discipline the cable marketplace which, in turn, will create lower prices, increased choice, and wider availability of television programming for all Americans, no matter how remote. And we do this in the best way possible, by promoting competition, not increasing regulation. Moreover, it won't be at the expense of our local television stations, which provide a valuable community benefit in the form of local news, weather, sports and various forms of public service.

One of the hardest questions to address, of course, is which viewers should be entitled to receive ''distant network'' signals, especially in rural states like mine. Authorizing ''local into local'' is a crucial first step and, eventually, when technology advances and more satellites are launched, we will see ''local into local'' almost everywhere. So, this bill goes a long way to ensure that every viewer will receive one signal of each of the major television networks—this is a marked improvement over the current situation.

Mr. President, I urge my colleagues to support this bipartisan measure which will permit satellite companies to compete on a more level playing field with cable. We have our work cut out for us at conference because the House version is quite different from ours. But there is no excuse for not enacting this pro-competition, pro-consumer legislation this year. Let's get to conference and get this bill done.

Mr. HATCH. Mr. President, I ask unanimous consent that the bill, as amended, be read a third time, and that the Senate proceed to Calendar No. 93, H.R. 1554. I further ask unanimous consent that all after the enacting clause be stricken and the text of S. 247, as amended, be inserted in lieu thereof; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD. I finally ask unanimous consent that S. 247 then be placed back on the Calendar.

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

The bill (H.R. 1554), as amended, was read the third time and passed.

AUTHORIZATION OF LEGAL REPRESENTATION

Mr. HATCH. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 104 submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 104) to authorize testimony, production of documents, and legal representation in United States v. Nippon Miniature Bearing, Inc., et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a subpoena for testimony and document production in an action brought by the United States Customs Service in the Court of International Trade against Nippon Miniature Bearing, Inc., and its parent and subsidiary, alleging false representations to Customs about the composition of imported bearings. The defendants have subpoenaed Tim Osborn, a former employee of the Senate Committee on Small Business, seeking to depose him regarding his communications with the Customs Service and others about this investigation. Mr. Osborn's activities were on behalf of the Small Business Committee, in preparing for and conducting a September 1988 oversight hearing of the Customs Service concerning its enforcement of laws affecting the bearing industry. The information that the defendants seek therefore is privileged from compelled discovery from the Congress under the Constitution's Speech or Debate Clause.

This resolution would authorize the Senate Legal Counsel to provide representation in order to move to quash the subpoena and otherwise protect the Senate's privileges in this matter. The resolution would authorize Mr. Osborn and any other former Member or employee of the Senate to testify and produce documents in this case only to the extent consistent with these privileges.

Mr. HATCH. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 104) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 104

Whereas, in the case of United States v. Nippon Miniature Bearing, Inc., et al., Court No. 96–12–02853, pending in the United States Court of International Trade, a subpoena for testimony and documents has been issued to Tim Osborn, a former employee of the Senate Committee on Small Business, concerning the performance of is duties on behalf of the Committee;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C.§§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members or employees of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Tim Osborn, and any other former Senate Member or employee from whom testimony may be required, are authorized to testify and produce documents in the case of United States v. Nippon Miniature Bearing, Inc., et al., except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent Tim Osborn, and any other former Member or employee of the Senate from whom testimony may be required, in connection with the case of United States v. Nippon Miniature Bearing, Inc., et al.

EXECUTIVE SESSION

TREATY

Mr. HATCH. I ask unanimous consent that the Senate proceed to executive session to consider the following treaty on today's Executive Calendar: No. 2. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; that all committee provisos, reservations, understandings, declarations be considered agreed to; that any statements be printed in the CONGRESSIONAL RECORD as if read; I further ask consent that when the resolution of ratification is voted upon the motion to reconsider be laid upon the table; the President be notified of the Senate's action and that following the disposition of the treaty, the Senate return to legislative session.

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

The treaty will be considered to have passed through its various parliamentary stages up to and including the presentation of the resolution of ratification.

The resolution of ratification is as follows:

AMENDED MINES PROTOCOL

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A RESERVATION, UNDERSTANDING, AND CONDITIONS.

The Senate advises and consents to the ratification of the Amended Mines Protocol (as defined in section 5 of this resolution), subject to the reservation in section 2, the understandings in section 3, and the conditions in section 4.

SEC. 2. RESERVATION.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the reservation, which shall be included in the United States instrument of ratification and shall be binding upon the President, that the United States reserves the right to use other devices (as defined in Article 2(5) of the Amended Mines Protocol) to destroy any stock of food or drink that is judged likely to be used by an enemy military force, if due precautions are taken for the safety of the civilian population.

SEC. 3. UNDERSTANDINGS.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following understandings, which shall be included in the United States instrument of ratification and shall be binding upon the President:

(1) UNITED STATES COMPLIANCE.—The United States understands that—

(A) any decision by any military commander, military personnel, or any other person responsible for planning, authorizing, or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken; and

(B) Article 14 of the Amended Mines Protocol (insofar as it relates to penal sanctions) shall apply only in a situation in which an individual—

(i) knew, or should have known, that his action was prohibited under the Amended Mines Protocol;

(ii) intended to kill or cause serious injury to a civilian; and

(iii) knew or should have known, that the person he intended to kill or cause serious injury was a civilian.

(2) EFFECTIVE EXCLUSION.—The United States understands that, for the purposes of Article 5(6)(b) of the Amended Mines Protocol, the maintenance of observation over avenues of approach where mines subject to that Article are deployed constitutes one acceptable form of monitoring to ensure the effective exclusion of civilians.

(3) HISTORIC MONUMENTS.—The United States understands that Article 7(1)(i) of the Amended Mines Protocol refers only to a limited class of objects that, because of their clearly recognizable characteristics and because of their widely recognized importance, constitute a part of the cultural or spiritual heritage of peoples.

(4) LEGITIMATE MILITARY OBJECTIVES.—The United States understands that an area of land itself can be a legitimate military objective for the purpose of the use of landmines, if its neutralization or denial, in the circumstances applicable at the time, offers a military advantage.

(5) PEACE TREATIES.—The United States understands that the allocation of responsibilities for landmines in Article 5(2)(b) of the Amended Mines Protocol does not preclude agreement, in connection with peace treaties or similar arrangements, to allocate responsibilities under that Article in a manner that respects the essential spirit and purpose of the Article.

(6) BOOBY-TRAPS AND OTHER DEVICES.—For the purposes of the Amended Mines Protocol, the United States understands that—

(A) the prohibition contained in Article 7(2) of the Amended Mines Protocol does not preclude the expedient adaptation or adaptation in advance of other objects for use as booby-traps or other devices;

(B) a trip-wired hand grenade shall be considered a ''booby-trap'' under Article 2(4) of the Amended Mines Protocol and shall not be considered a ''mine'' or an ''anti-personnel mine'' under Article 2(1) or Article 2(3), respectively; and

(C) none of the provisions of the Amended Mines Protocol, including Article 2(5), applies to hand grenades other than trip-wired hand grenades.

(7) NON-LETHAL CAPABILITIES.—The United States understands that nothing in the Amended Mines Protocol may be construed as restricting or affecting in any way non-lethal weapon technology that is designed to temporarily disable, stun, signal the presence of a person, or operate in any other fashion, but not to cause permanent incapacity.

(8) INTERNATIONAL TRIBUNAL JURISDICTION.—The United States understands that the provisions of Article 14 of the Amended Mines Protocol relating to penal sanctions refer to measures by the authorities of States Parties to the Protocol and do not authorize the trial of any person before an international criminal tribunal. The United States shall not recognize the jurisdiction of any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons.

(9) TECHNICAL COOPERATION AND ASSISTANCE. The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological information for any reason; and

(B) the Amended Mines Protocol may not be used as a pretext for the transfer of weapons technology or the provision of assistance to the military mining or military countermining capabilities of a State Party to the Protocol.

SEC. 4. CONDITIONS.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following conditions, which shall be binding upon the President:

(1) PURSUIT DETERRENT MUNITION.—

(A) UNDERSTANDING.—The Senate understands that nothing in the Amended Mines Protocol restricts the possession or use of the Pursuit Deterrent Munition, which is in compliance with the provisions in the Technical Annex.

(B) CERTIFICATION.—Prior to deposit of the United States instrument of ratification, the President shall certify to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives that the Pursuit Deterrent Munition shall continue to remain available for use by the United States Armed Forces at least until January 1, 2003, unless an effective alternative to the munition becomes available.

(C) EFFECTIVE ALTERNATIVE DEFINED.—For purposes of subparagraph (B), the term ''effective alternative'' does not mean a tactic or operational concept in and of itself.

(2) HUMANITARIAN DEMINING ASSISTANCE.—The Senate makes the following findings:

(A) UNITED STATES EFFORTS.—The United States contributes more than any other country to the worldwide humanitarian demining efforts, having expended more than $153,000,000 on such efforts since 1993.

(B) DEVELOPMENT OF DETECTION AND CLEARING TECHNOLOGY.—The Department of Defense has undertaken a program to develop improved mine detection and clearing technology and has shared this improved technology with the international community.

(C) EXPANSION OF UNITED STATES HUMANITARIAN DEMINING PROGRAMS.—The Department of Defense and the Department of State have expanded their humanitarian demining programs to train and assist the personnel of other countries in developing effective demining programs.

(3) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ASSESSMENT FOR COST OF IMPLEMENTATION.—Notwithstanding any provision of the Amended Mines Protocol, and subject to the requirements of subparagraphs (B) and (C), the portion of the United States annual assessed contribution for activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol may not exceed $1,000,000.

(B) RECALCULATION OF LIMITATION.—

(i) IN GENERAL.—On January 1, 2000, and at 3-year intervals thereafter, the Administrator of General Services shall prescribe an amount that shall apply in lieu of the amount specified in subparagraph (A) and that shall be determined by adjusting the last amount applicable under that subparagraph to reflect the percentage increase by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the calendar year three years previously.

(ii) CONSUMER PRICE INDEX DEFINED.—In this subparagraph, the term ''Consumer Price Index'' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions for activities associated with any conference held pursuant to Article 13 of the Amended Mines protocol which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the appropriate committees of Congress that the failure to make such contributions would seriously affect the national interest of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President under subclause (I).

(ii) STATEMENT OF REASONS.—Any certification made under clause (i) shall be accompanied by a detailed statement setting forth the specific reasons therefor and the specific activities associated with any conference held pursuant to Article 13 of the Amended Mines Protocol to which the additional contributions would be applied.

(4) UNITED STATES AUTHORITY FOR TECHNICAL COOPERATION AND ASSISTANCE.—Notwithstanding any provision of the Amended Mines Protocol, no funds may be drawn from the Treasury of the United States for any payment or assistance (including the transfer of in-kind items) under Article 11 or Article 13(3)(d) of the Amended Mines Protocol without statutory authorization and appropriation by United States law.

(5) FUTURE NEGOTIATION OF WITHDRAWAL CLAUSE.—It is the sense of the Senate that, in negotiations on any treaty containing an arms control provision, United States negotiators should not agree to any provision that would have the effect of prohibiting the United States from withdrawing from the arms control provisions of that treaty in a timely fashion in the event that the supreme national interests of the United States have been jeopardized.

(6) LAND MINE ALTERNATIVES.—Prior to the deposit of the United States instrument of

ratification, the President shall certify to Congress that—

(A) the President, in pursuing alternatives to United States anti-personnel mines or mixed anti-tank systems, will not limit the types of alternatives to be considered on the basis of any criteria other than those specified in subparagraph (B); and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(ii) would be affordable.

(7) CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that, with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(8) TACTICS AND OPERATIONAL CONCEPTS.—It is the sense of the Senate that development, adaptation, or modification of an existing or new tactic or operational concept, in and of itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(9) FUNDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the use of mines that do not meet or exceed the specifications on detectability, self-destruction, and self-deactivation contained in the Technical Annex to the Amended Mines Protocol; and

(B) United States mines that do meet such specifications have not contributed to this problem.

(10) APPROVAL OF MODIFICATIONS.—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(11) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval an international agreement that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty-making power as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and condition (8) of the resolution of ratification of the CFE Flank Document, approved by the Senate on May 14, 1997.

(13) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Amended Mines Protocol requires or authorizes the enactment of legislation, or the taking of any other action, by the United States that is prohibited by the Constitution of the United States, as interpreted by the United States.

SEC. 5. DEFINITIONS.

As used in this resolution:

(1) AMENDED MINES PROTOCOL OR PROTOCOL.—The terms ''Amended Mines Protocol'' and ''Protocol'' mean the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, as adopted at Geneva on May 3, 1996 (contained in Senate Treaty Document 105–1).

(2) CFE FLANK DOCUMENT.—The term ''CFE Flank Document'' means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, done at Vienna on May 31, 1996 (Treaty Document 105–95).

(3) CONVENTION ON CONVENTIONAL WEAPONS.—The term ''Convention on Conventional Weapons'' means the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on October 10, 1980 (Senate Treaty Document 103–25).

(4) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the Amended Mines Protocol.

Mr. BIDEN. Mr. President, I am very pleased to speak today in support giving the Senate's advice and consent to ratification of the Amended Mines Protocol to the Convention on Conventional Weapons. This amended protocol was adopted on May 3, 1996, and submitted to the Senate for its advice and consent to ratification on January 7, 1997. The Foreign Relations Committee approved this resolution of ratification on March 23 of this year, with no dissents.

While this is not as big an issue as NATO enlargement or the Comprehensive Nuclear Test-Ban Treaty, ratification of the Amended Mines Protocol will be a real achievement. Its enactment is a further demonstration that the Senate and its Foreign Relations Committee can, in fact, reach agreement upon treaties that deal with difficult issues.

My colleagues are well aware of the humanitarian crisis that has developed in the world as a result of the millions of unexploded land mines left from the last generation of wars in the world. The United States is a leader in humanitarian de-mining efforts, and we have all supported those efforts. But a few examples may help explain to the public why the issue of land mines is of such deep concern.

In April 1996, Newsweek magazine wrote about one victim of land mines as follows:

He served three years on Bosnia's front lines and survived. But within days of being demobilized, Petr Jesdimir became a casualty of the peace.

He was working with a private road crew on the outskirts of Sarajevo last month when an anti-personnel mine buried at the roadside blew up under his left foot. As he stumbled down the road to get help, another mine shattered his right leg.

Today he lies in a Sarajevo orthopedic clinic where battle-tested doctors have made their own transition—from treating soldiers hit by grenades to amputating the arms and legs of mine victims, mostly children. Jesdimir, 50, realizes that until he dies he'll probably be a drain on the nation he fought to preserve.

''I know I have to live with this now,'' he sobbed last week, holding up the trembling stump of a leg. ''Now I understand war.''

A year later, The Washington Post recounted the story of another Bosnian victim:

The June weather was perfect as 14-year-old Tibomir Ostojic returned home from a dip in a nearby river. ''Cherries,'' he thought. ''Wouldn't it be nice to have some cherries?''

So he climbed a cherry tree not far from his apartment in the Sarajevo neighborhood of Dobrinja. As he was climbing down—and a split-second before his foot hit the ground—he realized the grass he was about to step on clearly had been avoided by others, and he knew instantly he was in trouble.

The first explosion threw him into the air and onto a second land mine. By then he had his hands over his head for protection. The second blast blew them off.

Land mines were also the major cause of casualties for NATO forces in Bosnia. Yet Bosnia is hardly the only land where this occurs.

A Washington Times article of June 10, 1997, reported: ''The land mines are strewn so widely in the jungles along the cease-fire zones between Ecuador and Peru that when peacekeepers kick a soccer ball out of their compound, it stays there.'' Last year, in the wake of Hurricane Mitch, still more innocent people fell victim to land mines left over from the civil war in Nicaragua.

The catalogue of countries ravaged by land mines—long after the end of the wars in which those mines were laid—goes on and on: Afghanistan, Angola, Cambodia, Mozambique, Vietnam. It was the need to put an end to these seemingly endless post-war tragedies that motivated both the Administration and the Foreign Relations Committee to recommend ratification of the Amended Mines Protocol.

The new Protocol is not a complete ban on anti-personnel land mines. Many of us regret that the United States is not in a position to sign and ratify the Ottawa Convention that institutes such a ban. The Amended Mines Protocol is supported, however, by several mine-producing or mine-using powers that would not sign the Ottawa Convention.

It is a sad fact of life that countries with fortified borders are not yet willing to do without land mines. By adhering to this Protocol, they will save many innocent lives while we work to make a world-wide ban feasible for all countries.

The new Protocol bans mines that are designed to be exploded by the presence of a mine detector, and it requires anti-personnel mines to be detectable. These provisions will greatly aid mine-clearing efforts in future wars.

The Protocol severely limits the use of land mines unless they are both self-destructing within 30 days and self-deactivating within 120 days (in case the self-destruct mechanism should fail). Adherence to these provisions should end the senseless post-war slaughter inflicted by so many mines today.

The Protocol establishes an obligation to clean up minefields after wars

have ended. You might think that this was an obvious duty, but countries have often failed to clean up their lethal mess.

Finally, the new Protocol applies to civil wars, as well as international ones. This is a desperately needed provision, as so many of the worst land mine disasters have been the result of civil wars. The Amended Mines Protocol is the first protocol of the Convention on Conventional Weapons to be applied to civil wars, and this is an important achievement that is in keeping with U.S. policy and practices.

These provisions will go a long way, if adopted and fully implemented by the major mine users and producers, to curtail Future humanitarian crises due to land mines. The amended Protocol specifically meets concerns that the Senate articulated in 1995, when we gave our advice and consent to ratification of the original Mines Protocol and the underlying Convention on Conventional Weapons. For all these reasons, the Amended Mines Protocol deserves our wholehearted support.

Bringing the Amended Mines Protocol to the Senate floor has required us to reconcile sharply differing and strongly held views regarding the utility and morality of using anti-personnel mines that meet the standards of the Amended Mines Protocol. We owe a debt of gratitude to our colleagues who agreed to accept resolution provisions and report language that safeguarded each other's positions on the broader land mine issues.

One colleague who put the lives of innocent civilians ahead of his personal policy preferences is our esteemed Chairman, Senator HELMS of North Carolina. Senator HELMS has stated that anti-personnel mines are essential to the U.S. Armed Forces and that a ban on such weapons would needlessly place U.S. forces at risk.

The Amended Mines Protocol does not pre-judge, however, the question of U.S. adherence to the Ottawa Convention. Both supporters and opponents of that treaty can support the Protocol's limits on the use of anti-personnel land mines by those countries that retain them.

Adherence to the amended Protocol will not require any adjustment of U.S. military weaponry or tactics, moreover. Rather, it will make other countries meet standards that we already have achieved. U.S. military leaders want this Protocol to succeed, because it will save the lives of U.S. service men and women.

In the interests of securing ratification of the Amended Mines Protocol, Senator HELMS agreed to several major changes in the resolution of ratification, both last year and again this year, to remove from that resolution any language that would jeopardize this effort by pre-judging the broader land mine questions in his favor. He also issued a Committee report this year that omitted extensive material on land mines and the Ottawa Convention, thus minimizing any unintended affront to colleagues who favor a complete ban on anti-personnel mines.

Another colleague who has put other people's lives ahead of his own views is Senator LEAHY of Vermont. Senator LEAHY has said many times in this chamber that the United States should adhere to the Ottawa Convention as soon as possible. He has sponsored successful legislation to fund the search for land mine alternatives, and he has an understandable interest in ensuring the effectiveness of that search.

Senator LEAHY is in an interesting position, however: he actually helped to bring about the Amended Mines Protocol. Although he favors a world-wide ban on anti-personnel mines, Senator LEAHY has stated that he also considers the Amended Mines Protocol an improvement over the existing Protocol.

Senator LEAHY agreed not to seek to amend this resolution of ratification, even though he opposes some of its provisions. For example, the resolution will preserve the Pursuit Deterrent Munition until January 1, 2003, even though the U.S. military found that this weapon was too heavy to be of great use to U.S. personnel.

It was not easy to bring Chairman HELMS and Senator LEAHY to agreement on a resolution of ratification for the Amended Mines Protocol. Senator CHUCK HAGEL of Nebraska and I, as well as Executive branch officials from several agencies, had to work at this beginning in 1997.

Chairman HELMS and Senator LEAHY agreed early on, however, that ratification of this Protocol was worth doing, if it could be done without prejudicing their stands on the larger issues. I am very pleased that we achieved such a resolution. I am also proud to be associated with two fine colleagues who kept their eye on the ball and arrived at an agreement.

I want to recognize some of the staff members who have labored so hard to bring about successful U.S. ratification of the Amended Mines Protocol. Marshall Billingslea and Edward Levine of the Foreign Relations Committee staff have kept at this for over a year and a half, framing the issues and enabling Chairman HELMS and me to reconcile our own differences as well as those between the Chairman and Senator LEAHY.

Senator HAGEL'S staff also played a major role in reconciling those differences, especially in the early stages. Tim Rieser of the Senate Appropriations Committee staff ably served Senator LEAHY in crafting language that would not subvert the cause of eventual land mine abolition.

Two State Department lawyers deserve special recognition for their roles. The Principal Deputy Legal Adviser, Michael J. Matheson, was instrumental in the negotiation of the Amended Mines Protocol and in explaining to the Senate its legal intricacies.

Steve Solomon, an attorney in the office of the Assistant Legal Adviser for Political-Military Affairs, was tireless and expert in explaining why U.S. ratification is in our national interest. Time and again, Mr. Solomon kept us on track toward reasonable solutions. Without the assistance of those fine civil servants, we would not be ratifying this Protocol today.

In closing, Mr. President, I want to emphasize that U.S. ratification of the Amended Mines Protocol is an action of which all Senator can feel proud. It will save innocent lives. It will reaffirm U.S. leadership in codifying the laws of war. Irrespective of whether we eventually renounce all anti-personnel mines, and without prejudicing that debate, the Amended Mines Protocol will serve our national interest and the interests of humanity.

Mr. LEAHY. Mr. President, in 1981 the Convention on Conventional Weapons (CCW) came into force. The United States was instrumental in drafting that Convention, including Protocol II which imposed modest limits on the use of landmines. The United States signed the CCW, but another 15 years elapsed before President Clinton forwarded it to the Senate for its advice and consent. The U.S. finally ratified it in 1995.

Protocol II, commonly known as the Mines Protocol, was, during those years, the only international agreement which explicitly dealt with the use of landmines, and it was routinely ignored—not by the United States military, but by many other countries. And throughout that period the United States and other mine producers sold and gave away tens of millions of mines to other governments and rebel groups who used them against civilian populations. Our mines can be found today, and we are paying millions of dollars annually to help remove them and assist the victims, in some thirty countries.

By the early 1990's, it was widely recognized that the Mines Protocol had utterly failed to protect civilians from landmines. In fact, during the previous decade, the number of civilian casualties from mines skyrocketed.

There were many reasons for the failure of the Mines Protocol, but certainly among them was that it was riddled with loopholes, and that its rules were difficult to verify and impossible to enforce.

In 1992, convinced that far stronger leadership was needed to solve the mine problem, I sponsored legislation to halt United States exports of anti-personnel mines. I did so because I felt it was wrong for the United States to contribute to the carnage caused by mines, and I believed that little would change unless the United States, by setting an example, encouraged others to act. And that is what happened. In a matter of two or three years, close to fifty governments stopped exporting mines. Today, there is a de facto global export ban in effect. Even governments

that produce mines and have refused to renounce their use, including Russia and China, have publicly said that they no longer export.

At the same time that I was sponsoring legislation in Congress, I was also aware that ten years had elapsed since the Mines Protocol had come into force and that any party could request the United Nations to sponsor a CCW review conference. I saw this as an opportunity to strengthen the Protocol and to consider banning anti-personnel mines altogether. Since the U.S. was not a party, I and others urged the French Government to request the conference. By the time the review conference opened in late 1995, the United States had ratified the CCW and was able to participate fully in the negotiations.

The negotiations were difficult. Despite efforts by myself, some governments, and non-governmental organizations to promote a total ban, the idea was hardly discussed. Instead, the basic premise of the original Protocol remained unchanged—that mines are legitimate weapons of war. To its credit, the Clinton Administration made some constructive proposals dealing with, for example, the detectability of mines, and the Amended Protocol reflects some of those proposals. It requires all anti-personnel mines to contain enough iron to be detectable, and to either contain self-destruct/self-deactivation devices or be placed in marked and monitored minefields. It applies to internal conflicts, and also contains limits on certain transfers of anti-personnel mines.

These are notable improvements, but the negotiators again failed to include effective verification or enforcement provisions. They also refused to include a U.S. proposal to apply the prohibition on non-detectable mines to anti-vehicle mines.

Despite these significant flaws, I supported the Amended Protocol and encouraged the Administration to forward it to the Senate for its advice and consent. Indeed, I suspect that had I not sponsored the first law anywhere to halt exports of anti-personnel mines, or urged the French Government to request a review conference, there would not be an Amended Protocol.

Last year, after the Foreign Relations Committee reported what I and others regarded as a fatally flawed Resolution of Ratification, I refused to consent to its adoption by unanimous consent. At that time I made clear that the issue was not the Amended Protocol itself, but a Resolution and Committee Report that contained language that was extraneous, inaccurate, and provocative.

Today we are again asked to give our consent, and this time I have, with some reluctance, agreed. I say with some reluctance, because if this Resolution and the accompanying Committee Report dealt only with the Amended Protocol there would be no disagreement. In fact, we could have adopted it six months ago. But while the Resolution and Report are far preferable to the versions we were presented last year, they also contain language that has nothing whatsoever to do with the Amended Protocol. That is because, Mr. President, a few members of the Foreign Relations Committee have tried to use this Resolution as a vehicle to attack the Ottawa Convention, governments and individuals like myself who support that Convention, and current United States policy.

After reaching a stalemate last year, Senator BIDEN and I worked with Senator HELMS to resolve our differences. While there is still language in the Resolution which is extraneous and I disagree with, and in the report which is extraneous, factually inaccurate and objectionable, it has been pared down substantially. For that I thank Senator BIDEN and Senator HELMS and their staffs. They worked diligently to reach a result which, while not perfect, each of us can live with.

One of the reasons that I am consenting to this resolution is that the objectionable report language reflects the views of only some members of the Committee. In fact, much of it deals with issues which were never considered or debated by the Committee as a whole. Rather, it is based on the testimony of a handful of like-minded witnesses at a hearing that was attended by Senator HELMS and only one other Member of the Committee, who was a cosponsor of my legislation to ban United States use of anti-personnel mines except in Korea.

In other words, to the extent that the Helms Report purports to lay down markers for future landmine policy, it is neither binding nor representative of the views of the Committee as a whole, and even less so of the United States Senate.

While there is no need to address every objectionable phrase in the Report, two issues require a response.

First, the Report states that it is the view of many members of the Committee that the United States should not agree to any prohibition on the use, production, stockpiling or transfer of short-duration anti-personnel mines. Yet the Committee never debated this issue and the views of its members, with the exception of Senator HELMS, were never publicly expressed. Furthermore, and most important, some 135 countries have signed the Ottawa Convention which bans the production, use, transfer and stockpiling of anti-personnel mines, and 77 have ratified. They include every member of NATO except the United States and Turkey, and every Western Hemisphere country except the United States and Cuba. They also include many countries that have produced, used and exported mines in the past.

To suggest that the United States should remain outside the Convention that is widely and increasingly seen as establishing a new international norm outlawing anti-personnel mines, is inconsistent with United States policy and the interests of the United States. The Administration, including the Pentagon, has stated repeatedly and unequivocally that it will sign the Ottawa Convention when it has suitable alternatives to these weapons, and that it is aggressively searching for such alternatives.

Moreover, 67 members of the Senate voted for my amendment to halt U.S. use of anti-personnel mines, for one year. And 60 Senators, both Republicans and Democrats, including every Senator who fought in combat, cosponsored legislation introduced by myself and Senator Hagel to ban U.S. use of anti-personnel mines except in Korea.

Second, the Report notes that the Administration hopes to negotiate a ban on exports of anti-personnel mines in the U.N. Conference on Disarmament. I believe such a strategy is fraught with problems. It is relevant here only insofar as the Helms Report states that many members of the Committee believes that in future negotiations on an export ban the Administration should differentiate between short and long-duration mines.

Perhaps those members are unaware that five years ago the United States and Britain proposed such an ''export control regime.'' It was rejected out of hand not only by many of our NATO allies, but by developing countries who already had stockpiled millions of long-duration mines and saw the U.S./UK proposal as an attempt to market their higher tech, higher priced mines. Any attempt by the United States to resurrect that failed approach would only further damage U.S. credibility on the mine issue.

I would also refer members to the Minority views in the Report, which ably address this issue. Finally, it is notable that Senator Helms voted twice for my amendment to halt exports of anti-personnel mines, as did the then Majority Leader Robert Dole. Those amendments passed overwhelmingly, and did not differentiate between short and long-duration mines.

Mr. President, the Amended Mines Protocol is a step forward. If adhered to it will help reduce the maiming and killing of civilians, and United States soldiers, by landmines. If its prohibition on non-detectable mines is applied to anti-vehicle mines, as the United States has proposed, that would be a significant advance.

But like its predecessor, the Amended Protocol has too many loopholes and can be easily violated. It is a far cry from what is needed to achieve the goal declared by President Clinton and adopted by the U.N. General Assembly of ridding the world of anti-personnel mines. I believe that can only occur—as was done with poison gas and as the Ottawa Convention would do—by stigmatizing these indiscriminate weapons. That will take far stronger United States leadership than we have seen thus far.

Mr. HATCH. I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, MAY 24, 1999

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Monday, May 24. I further ask that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day. I further ask consent that there then be a period of morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator DURBIN or his designee from 11 a.m. to 12 noon, with Senator CONRAD in control of 20 minutes of that time; Senator BENNETT in control of time between 12 noon and 12:30 p.m.; and Senator Bob SMITH in control of the time between 12:30 p.m. and 1 p.m.

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

Mr. HATCH. I finally ask that at 1 p.m. the Senate immediately begin consideration of calendar No. 114, S. 1059, the Department of Defense authorization bill.

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

PROGRAM

Mr. HATCH. For the information of all Senators, the Senate will convene at 11 a.m. on Monday and be in a period of morning business until 1 p.m. Following morning business, the Senate will begin consideration of the Department of Defense authorization bill. Amendments to that legislation are expected to be offered during Monday's session of the Senate. If votes are ordered with respect to S. 1059, those votes would be stacked to occur at 5:30 p.m., Monday evening. As always, Senators will be notified as votes are ordered.

ADJOURNMENT UNTIL MONDAY, MAY 24, 1999, AT 11 A.M.

Mr. HATCH. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:39 p.m., adjourned until Monday, May 24, 1999, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 20, 1999:

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

ROBERT CLARKE BROWN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM EXPIRING NOVEMBER 22, 2005. (REAPPOINTMENT)

DEPARTMENT OF ENERGY

JAMES B. LEWIS, OF NEW MEXICO, TO BE DIRECTOR OF THE OFFICE OF MINORITY ECONOMIC IMPACT, DEPARTMENT OF ENERGY, VICE CORLIS SMITH MOODY, RESIGNED.

DEPARTMENT OF THE TREASURY

LEWIS ANDREW SACHS, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE GARY GENSLER.

DEPARTMENT OF DEFENSE

THE FOLLOWING NAMED UNITED STATES ARMY OFFICER FOR REAPPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 152:

To be general

GEN. HENRY H. SHELTON, 0000.

CONFIRMATION

Executive nomination confirmed by the Senate May 20, 1999:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

GARY L. VISSCHER, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2001.