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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].

PRAYER

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

Almighty God, we accept the psalmist's admonition to serve You with gladness. We think about what that would mean to serve You with gladness today in our responsibilities here in the Senate. We remember that the word ''glad'' means experiencing pleasure, joy, and delight. You are the source of that quality of lasting gladness. You, Yourself, are the answer to our prayers. Whatever You give us is nothing in comparison to companionship with You. Help us to bring that gladness to our work. We are invigorated by the assurance that You will be with us today in the magnificent moments and in the mundane minutiae. You will transform any vestige of grimness into gladness with the privilege of serving You. Duties will be a delight because we are working for You and the future of our beloved Nation. Grant the Senators fresh gusto for the adventure of leadership. With them, we report to You, dear God, and commit ourselves to serve You with gladness. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will proceed to potentially two rollcall votes on amendments offered last night to the Commerce-State-Justice appropriations bill.

Under a previous order, following the votes, Senator SESSIONS will be recognized to offer an amendment relative to juvenile justice. After the Sessions amendment is disposed of, the Senate will continue with amendments to the bill in an effort to complete action on this important legislation by late afternoon.

The Senate may also turn to any other appropriations bill or other legislative or Executive Calendar item cleared for action. Therefore, Senators should expect rollcall votes into the evening during Wednesday's session.

I thank my colleagues for their cooperation and attention.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, the Senate will now resume consideration of S. 2260, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bumpers modified amendment No. 3243, to amend the Federal Rules of Criminal Procedure, relating to counsel for witnesses in grand jury proceedings.

Graham/DeWine amendment No. 3244, to modify the definition of the term ''public aircraft''.

AMENDMENT NO. 3243, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes of debate prior to the vote in relation to the Bumpers amendment numbered 3243.

The Senator from Arkansas.

Mr. BUMPERS. I yield myself 3 minutes.

Mr. President, this amendment, for the edification of people who didn't hear any of the debate last night, is to make a very minor change in the grand jury system. Now, bear in mind, the grand jury system is about as outdated, as big an anachronism as there is in this country.

For openers, all this amendment does is to say that an innocent person who is called before the grand jury—not as a target, not as a defendant, but an absolutely innocent witness, an absolutely innocent witness who is terrified because he or she is appearing before the grand jury for the first time in his or her life, and they know that if they misspeak, if their memory doesn't satisfy the prosecutor, they face the possibility of being charged with perjury.

Right now when that innocent person goes to testify before the grand jury, let's make it easy, let's assume, as I did last evening, that it is a Senator's wife; that might be understandable around here. The Senator's wife goes in after having paid some lawyer $5,000 or $10,000 just as a retainer to make sure she doesn't get charged with something for which she is innocent. She goes in and sits in the chair and they start asking her all kinds of personal questions that are totally irrelevant to why she is there: Have you been faithful to your spouse? Do you have a child charged with smoking pot? I understand your daughter is gay.

Those things are not stretches of my imagination. But her lawyer is seated outside the door, because under the Federal rules he cannot come into the same room in which his client, the witness, is testifying. Think of that. Think about how we bash China and their criminal justice system and their violation of human rights. That Senator's wife might be called back again tomorrow and the next day and the next day and the next day. You have seen it happen.

All we are saying is, don't make her crawl down off of the witness stand to

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

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go outside and talk to her lawyer about how she should answer these questions. If she does that three times, do you know what the grand jury does? They start nudging each other. ''She must be hiding something; she is sure going out to talk to her lawyer a lot.''

That is a woefully inadequate system for a great nation like this. All I am saying, let the lawyer come into the room.

The Justice Department opposes this amendment. Now, doesn't that shock you? Of course they oppose it. They are in the business of putting notches on their belt. They want to be able to say this grand jury has never refused to return an indictment that I asked for. A New York judge said, ''Of course, they return those indictments. A grand jury will indict a ham sandwich if the prosecutor asks them to.''

All I am saying, let's follow what 27 States have already done. They have abolished the grand jury system.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I ask that the time run equally against both sides.

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

Mr. BUMPERS. I am sorry, I didn't understand the distinguished floor manager's request.

Mr. GREGG. I asked that the time that is now running be allocated equally against both sides.

Mr. BUMPERS. I object to that. I reserved the remainder of my time.

The PRESIDING OFFICER. That will happen whether or not there is a unanimous consent. If neither side yields time, the clock will run and will be charged equally against both sides.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am glad the opponents to this amendment don't have anything to say this morning, and I am happy to use up the rest of my time. Perhaps we can get a unanimous consent agreement that they will yield back the balance of their time and we will vote.

All I want to say is we are talking about a criminal justice system of the greatest nation on Earth, which is terrible. We are not talking about the mob, we are not talking about the mafioso, we are talking witnesses.

Here is a classic case of a fulfillment of what everybody in this Senate has said at one time or another, and that is criminals have a better deal than do ordinary citizens. A criminal gets an attorney hired for him if he doesn't have one. A criminal is advised to remain silent. The Senator's wife can't remain silent. She has been subpoenaed to come down and testify.

All I am saying, don't make her go outside the room. The attorney in the courtroom, he is not going to file motions. He is not going to make objections. But I tell you what it will do. It will have a salutary effect on the conduct of the attorney prosecuting the case.

He won't be asking redundant, personal questions that have nothing to do with the case. This is not a game of ''gotcha,'' a game of seeing how many scalps you can put on your belt, how many notches you can put on your gun barrel. This is American justice we are talking about. We haven't addressed the grand jury system in 10 years. It is 500 years old, and it is 10 times worse now than it was 500 years ago.

The PRESIDING OFFICER. All time on the Senator's side has expired.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe that under the unanimous consent request we are functioning under, we were to vote at 9:40. I yield back our time and suggest that we move to a vote.

Mr. BUMPERS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes, they have been.

All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Arkansas, Mr. BUMPERS. 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 41, nays 59, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—41

Akaka	Ford	Levin
Baucus	Glenn	Mack
Bingaman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Breaux	Hollings	Murray
Bryan	Hutchison	Reed
Bumpers	Inouye	Robb
Cleland	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Specter
Dodd	Kerry	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	

NAYS—59

Abraham	Faircloth	McCain
Allard	Feinstein	McConnell
Ashcroft	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bond	Grams	Reid
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Byrd	Hagel	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Kempthorne	Stevens
Craig	Kohl	Thomas
D'Amato	Kyl	Thompson
DeWine	Lieberman	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	

The amendment (No. 3243) as modified, was rejected.

AMENDMENT NO. 3244

The PRESIDING OFFICER (Mr. BROWNBACK). There are now 2 minutes equally divided on the Graham amendment.

Who yields time on the Graham amendment?

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, this is an amendment which has been requested by the National Sheriffs' Association.

The PRESIDING OFFICER. If the Senator will suspend while we get order in the Chamber.

There is a short debate before the vote.

The Senator from Florida.

Mr. GRAHAM. Mr. President, this amendment has been requested by the National Sheriffs' Association, the Western States Sheriffs' Association, sheriffs' associations from the largest States. It relates to a very narrow issue of the use of surplus aircraft, primarily helicopters, which have been made available to a local law enforcement agency. Today, there are serious restraints on the ability of a local jurisdiction which has an aircraft to make it available to an adjacent jurisdiction for things like search and rescue, overflights for drug control purposes, and a variety of other issues. This has been a major issue, an irritant to local law enforcement.

It serves, in my opinion, no legitimate national purpose to impose these restraints on the use of donated surplus property aircraft to local law enforcement. I urge adoption of this amendment which will comply with the requests of American law enforcement.

The PRESIDING OFFICER. There is 1 minute in opposition. Who seeks recognition?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

The Senator will suspend while we get order in the Chamber.

Mr. MCCAIN. Mr. President, this amendment poses significant safety concerns as to what the legitimate role of the FAA should be. I might point out, I don't know of any hearing that has been held on this issue. There is legitimate concerns from the FAA as well as other organizations such as the Helicopter Association International and others.

I oppose this amendment on the grounds there has not been sufficient scrutiny of the safety implications of this kind of action.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 3244 of the Senator from Florida, Mr. GRAHAM. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—56

Akaka	Feingold	Leahy
Allard	Feinstein	Levin
Ashcroft	Ford	Lieberman
Baucus	Glenn	Lugar
Biden	Graham	Mack
Bingaman	Grams	Mikulski
Boxer	Grassley	Moseley-Braun
Breaux	Harkin	Moynihan
Brownback	Hatch	Nickles
Bryan	Hollings	Reed
Bumpers	Inhofe	Reid
Byrd	Inouye	Robb
Cleland	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Snowe
DeWine	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

NAYS—44

Abraham	Frist	Murray
Bennett	Gorton	Roberts
Bond	Gramm	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Chafee	Helms	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Jeffords	Specter
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
Domenici	McCain	Thurmond
Enzi	McConnell	Warner
Faircloth	Murkowski	

The amendment (No. 3244) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama, Mr. SESSIONS, is recognized.

Mr. BIDEN. Mr. President, will the Senator from Alabama be willing, on an unrelated matter, on the vote we just had, to yield me 2 minutes to make a brief comment before he begins?

Mr. SESSIONS. I will be glad to.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

EXPLANATION OF VOTE—AMENDMENT NO. 3243

Mr. BIDEN. Mr. President, on the Bumpers amendment, I voted against the position of Senator BUMPERS, not because I disagree with the substance of it. For the last 25 years and for the years I was chairman and ranking member of the Judiciary Committee, I have adhered to the notion that the Judicial Conference, a system that we set up in the Congress years ago, is the appropriate vehicle to make recommendations for changes in the Federal rules. The reason I voted against the Bumpers amendment is not because I don't think prosecutors are out of hand, not because I don't think there is abuse of the grand jury system, which, by the way, for hundreds of years has relied upon the proposition that good judgment, sound judgment would be exercised by prosecutors and not be abused. Obviously, it is being abused.

My hope is, regardless of what the outcome of this is legislatively, I am going to propose at a future time that the Senate ask the Judicial Conference to consider changes in the Federal rules relative to the conduct of grand juries and make recommendations to the Senate. That is the way we have done it since the Judicial Conference has been set up. That is the more appropriate way to deal with the Federal rules.

I conclude by complimenting Senator BUMPERS for pointing out an abuse of the system and the need for change. I think the appropriate way to do it is through the Federal rules.

Mr. LEAHY. Will the Senator yield on that?

Mr. BIDEN. The Senator from Alabama has control of the time, I say to my friend from Vermont. I yield the floor and thank the Senator from Alabama.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see the distinguished Senator from Utah, the prime sponsor of the Juvenile Justice Act and chairman of the Judiciary Committee, is here. I will be glad to yield to him any time he wants on the amendment, and then I will talk on the amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 3245

(Purpose: To increase funding for Juvenile Accountability Incentive Block Grants)

Mr. HATCH. Mr. President, I am very pleased that the amendment is going to be offered on our behalf by the distinguished Senator from Alabama, Senator SESSIONS.

I rise in support of the amendment of the Senator from Alabama to balance the approach between prevention and law enforcement. At the outset, let me commend the Senator from New Hampshire, Senator GREGG, for his outstanding commitment to reducing juvenile crime. His work, I think, has made an outstanding contribution to our efforts.

All of us have been shocked over the past several months as our Nation has witnessed a series of atrocious crimes committed by juveniles. These incidents bring home to all of us the reality of juvenile crime. The reality is that we can no longer sit silently by as children kill children, as teenagers commit truly heinous offenses, as our juvenile drug abuse rate continues to climb.

FBI data confirms the national problem of rampant juvenile violent crime. In 1996, juveniles accounted for nearly one-fifth—19 percent—of all criminal arrests in the United States. Persons under 18 committed 15 percent of all murders, 17 percent of all rapes, and 32.1 percent of all robberies. These disturbing figures show the need to fix a broken juvenile justice system that is failing too many of our young people and ultimately failing to protect the public.

Last year, Congress began the process of addressing this serious national problem. The fiscal year 1998 appropriations bill provided $250 million for a block grant that promotes a commonsense approach to intervene at the earliest signs of trouble.

A juvenile's first brush with the law is the most important, because it sends a strong signal of what he or she can get away with. Governments cannot afford to wait until a youngster is 16 or 17 years old, and has committed a half a dozen or more violent crimes, before getting serious.

The block grant funded last year has also promoted making a juvenile's criminal record accessible to police, courts, prosecutors, and schools so that we can know and ascertain who are the serious repeat offenders. Right now, these records simply are not available in NCIC, the national system that tracks adult criminal records.

We all recognize the value of programs that intervene in the lives of juveniles to prevent crime before it starts. The Federal Government already spends about $4.1 billion a year on programs aimed at delinquent and at-risk youth. We are doing some great things through public-private partnerships, through youth groups like the Boys and Girls Clubs, and we are going to continue to do this.

I commend Senator GREGG for doubling our effort for this program to $40 million in the bill before us.

I do not believe, however, that these programs alone can address the sickness that led to some of these recent tragedies. What we need is to ensure that the prevention programs that we have are backed up by a juvenile justice system that takes crime seriously, and imposes real sanctions for juvenile crime.

Congress has given extensive support to delinquency prevention programs, especially since the Republicans took control of Congress. Congress spent over $200 million on the Office of Juvenile and Delinquency Prevention, OJDP, programs in fiscal year 1998. Compared with fiscal year 1991 funding of $75 million, Congress has increased prevention funding by over two and a half times. The Senate can be proud of its support of prevention programs. We increased prevention funding from $107 million in 1994, up to $144 million in fiscal year 1995. Since then we have steadily increased funding up to its FY 1998 level of over $201 million.

In fact, there is no shortage in prevention funding. According to a November 1997, General Accounting Office, GAO, report entitled ''At-Risk and Delinquent Youth: Multiple Programs Lack Coordinated Approach,'' the Federal Government currently spends over $4 billion annually in prevention money for juveniles in 127 different Federal programs. In contrast, the Federal Government spends little money on law enforcement and detention for juvenile offenders.

The bill before us provides an appropriation for the Juvenile Accountability Incentive Block Grants of $100 million for fiscal year 1999. This funding level is far too low to meet the needs of our State and local law enforcement. For fiscal year 1998, the grant was set for $250 million. The Senator from Alabama's amendment will help restore funding to critical areas of the juvenile justice system, by reallocating $50 million from what I believe to be an excessive increase in appropriations for the incentive grants for prevention programs under Title V of the JJDPA. This program, funded at $20 million in FY 1998, has been increased over fourfold, to $95 million in the bill before us.

Senator SESSIONS' amendment will shift a part of that increase back to the block grant, so that the Senate will be funding this important program at the same level as it proposed in FY 1998. I must say that, in my view, even this amount will still be inadequate, because the need is so great. First, these incentive block grants fund the construction of permanent juvenile corrections facilities. Such facilities are needed to protect law abiding citizens from violent and repeat offenders. Space in secure detention facilities for serious and violent juvenile offenders is in critically short supply in many of our States.

Second, this amendment will provide to aid State and local governments for the integration of serious juvenile criminal records into the national criminal history database, making these delinquency adjudication records available to law enforcement and courts as adult criminal records are now. Right now, these records simply are not available in NCIC, the national system that tracks adult criminal records. As any judge, police officer, or prosecutor will tell you, information is the lifeblood of the criminal justice system. With respect to juvenile criminal records, the system is anemic. Let me provide my colleagues with an example from just one State of what integrating these records into the adult records system can accomplish. Integrating juvenile offender's fingerprints into the records system in Virginia resulted in a significant improvement in identifying crime suspects. In fact, prints of juveniles make up only one percent of Virginia's automated fingerprint identification system, but this one percent accounts for 18 percent of latent crime scene fingerprint identifications.

Third, this amendment helps States provide drug testing for appropriate categories of juvenile offenders. This testing will help authorities to know what crimes are drug driven, to better target treatment, services, and punishment as appropriate.

For too long, the Federal Government has neglected to give adequate support to juvenile law enforcement programs. This amendment will help place much needed resources to the law enforcement side of the juvenile justice system. Our current juvenile justice system intervenes too late in the lives of juvenile offenders. All too often, juveniles break the law several times before they are held accountable. Unfortunately, this delay in justice fails to teach youthful offenders the seriousness of their crimes. This chain of events often lead to the tragic juvenile crime newspaper headlines we read in the newspapers nearly every day. We can do better, and the restoration of funds to the juvenile accountability incentive block grant is an important first step. For these reasons, I strongly urge the support of my colleagues for this amendment.

I believe the Senator from Alabama has a good amendment here that would go a long way toward solving some of these problems we have in juvenile crime. I do believe that we will bring up the juvenile justice bill shortly after we return in September. At that time, we can debate all of these issues in full specific form.

I thank the majority leader for, I think, being willing to do that. I thank my colleague for being willing to bring this amendment up, which I think pushes us down that road toward better juvenile justice than we have had in the past. He has done a terrific job in this area. He has been singular in his dedication and drive and forthrightness in this area. I think we ought to all listen to him and do our best to back him in the things that he is trying to do, as a former prosecutor, as a former U.S. attorney, as somebody who really knows this area very well.

With that, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Thank you, Mr. President.

I call up amendment No. 3245 and ask unanimous consent that Senator HATCH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mr. HATCH, proposes an amendment numbered 3245.

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

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

The amendment is as follows:

On page 30, line 7, strike "$100,000,000" and insert "$150,000,000".

On page 36, line 20, strike "$95,000,0000" and insert "$45,000,000".

Mr. SESSIONS. Mr. President, I would like to say how much I have appreciated the opportunity to work with Chairman HATCH. He is an outstanding leader, a terrific lawyer, an outstanding constitutional scholar, and a champion for bringing order and discipline to ending crime in America. There is no one here who has contributed more over the years to that effort than Senator HATCH. And his advice and friendship, as we have gone forward, has been very, very helpful to me.

Mr. President, let me just say this. I am going to go right to the heart of this matter. I came here to work on juvenile crime after serving as a Federal prosecutor for 15 years and attorney general of Alabama for 2 years. I care about juvenile crime. I have studied it. I have talked to juvenile crime experts—prosecutors, probation officers, judges—who have worked with it on a regular basis.

I have concluded that we have a juvenile justice system that is overwhelmed by the flood of more and more cases, more and more serious cases. According to a New York Times article, in Chicago they spend 5 minutes per case. That shows you what is happening in America, around the country.

You talk to police officers in every town and they are frustrated by what is happening in juvenile justice. They tell me, "Jeff, we can't do anything to them, and they know it. They are laughing at us." I have heard that all over. It is not the fault of the judges. But it is really the fault of all of us who have allowed the adult criminal justice system—and rightly so—to be strengthened significantly.

We have gone to three times as many adult people in jail, for example, as we had just 18 years ago. And now we have had very little increase in the number of youngsters who have been detained under any kind of detention program than we had before. And we have had the most serious increase in the most violent type criminal activity by that younger group.

So what do we do about it? They say we need a balance between prevention and law enforcement. And I agree with that. What we want to do—and my amendment does—is seek to have balance.

Look at this chart. We have $4.3 billion dedicated to prevention programs in this budget already. That is what this Government is spending. This is from a study done by the General Accounting Office that was just completed in May of this year. We found that there is no money dedicated solely for juvenile law enforcement—unless perhaps we count the money that was funded in the block grant that I am supporting today from last year. Otherwise, there is none. I think we need to think seriously about what we are doing.

Under this bill, this appropriations bill, the amount of money that was to be expended for the block grant program to increase and support juvenile justice in our local communities to help our States do that—we have gone from $250 million in last year's budgetary authority, cut to $100 million this year.

In addition to that, in the program that the President has supported, we have gone from $20 million to $95 million. I want to share with you what that program spends the money on. This is the prevention program that

has gone from $20 million to $95 million in this year's budget.

It says it is to provide juvenile justice system programs for children, youth, and families, these things: Recreational services. Now, that is No. 1 listed on the plan—recreational services. I am for recreation, but I am not sure in a juvenile crime bill, in an effort to fight crime, we ought to be promoting recreation.

Tutoring and remedial education. I am going to show you here in a minute a list of 129 programs that are filled with those kinds of activities. What we do not have is any help for our juvenile judges and probation officers and drug treatment personnel in the court systems.

Here is the third one: Assistance. This is what it says: ''Assistance in the development of work awareness skills.'' That is on what we are spending $50 million. I don't know what that means.

Child and adolescent health and mental health services. We have a host of those already funded by this Government.

Alcohol and prevention programs. We have that pending legislation right now to a tremendous degree, and we already have programs spending moneys on that.

Leadership and development activities. Now, I don't know what that means.

Finally, teaching that people are and should be held accountable for their actions. I agree with that. But how do you teach people to be accountable for their actions if you arrest a youngster in a household burglary and he is taken to the police station and released that very night and sent home and nothing happens to him? Is that the way you teach it? I say that is what they are hearing. That is what people are hearing and that is what you will find if you talk to your law enforcement officer.

What are we already funding in this governmental program? We are spending $4 billion in 129 programs for at-risk delinquent youth, according to the General Accounting Office. Here, under Department of Treasury, gang resistance education and training projects, $8 million; juvenile justice delinquency prevention and mentoring, $4 million; juvenile justice prevention allocation of the States, $70 million.

Under Department of Labor, employment and training research and development projects; job training for the homeless demonstration program; and so on and so on, program after program after program, designed with good intentions to deal with kids who are at risk.

Now, let's go back to square one. Let me tell you what I think ought to be done. Who are the most at-risk children? Those are the ones who are going to court now. According to a Newsweek article, 70 percent of the young people who murder someone have taken a gun to school previously. That is a stunning number. What that says does not surprise me in the sense that most of the young people in America who are committing serious crimes—the armed robberies, the assault with intent to murder, the murders, the rapes—have been in trouble with the judge and the courts before. They have been there before. If the courts are spending only 5 minutes to deal with them, no wonder they are coming back time and time and time again.

As Senator HATCH said, our goal must be to make that first brush with the law the last. How can we do that? That is what we are saying. What should this Senate do? I am telling you, based on my experience and the hearings we have had for the last 2 years, what we need to do is strengthen the juvenile justice system. That is what we need to do.

Now, that does not mean you put people in jail every time they get caught. It means when you arrest them, the first thing you should do is drug test them. Is this criminality being driven by drugs? If it is, then we ought to have them in a treatment program. They ought to be drug tested and monitored to make sure they get off drugs. That is the first thing you do. If this is the third, fourth, or fifth offense and they have committed a serious crime, they ought to be detained. We cannot continue to allow repeat offenders to run at large, even though they are 16 or 17 years of age.

There was a murder in Montgomery, AL. Three youngsters killed a night watchman. I called the police department to ask about the prior record of those offenders. This is what they told me: 7, 7, and 15 prior arrests. That is what they had, each one of them. One 7, one 7, and another 15 prior arrests. They were still on the street. The revolving door was still operating and they murdered somebody. We would have done them a favor had they been detained, sent to an alternative school, sent to a boot camp. Perhaps we could have intervened in that lifestyle and stopped that murder from occurring. As it is, they were certified as an adult, will now be convicted as an adult, and sent off to an adult jail for a very long sentence. Who benefited from that?

The reason is that juvenile court system in Alabama, and all over America, is overwhelmed. Our bill provides an incentive grant to the States for the purposes of strengthening that. It will give those juvenile judges the authority they need to crack down on juvenile crime and to change that life direction that is heading in the wrong direction, to the right direction.

Let me tell you what this money can be used for. It will be used for programs to enhance prosecution and confinement of juvenile criminals as part of the graduated sanctions proposal. Everyone, on both sides of the aisle, agrees that we need graduated sanctions. When you are caught for one offense and you do another one, you go up a punishment level. The sanction is a punishment increase. That sends an important message that crime does not pay.

It would fund programs that require juvenile delinquents to pay restitution to victims of juvenile crime. It would fund programs that require juvenile offenders to complete school or vocational training. That is what our proposal would do. It would require juvenile criminals to pay child support. If they have a child, they ought to be supporting that child. There would be programs to curb truancy. We need to get these kids back in school promptly. As soon as we can identify truants, they need to be apprehended and sent back to school before they get so far behind that they are hopelessly behind their contemporaries.

Programs need to be designed to collect, record, and disseminate information on their criminal history. It would provide drug testing, programs for antidrug youth programs and the like. It would have a serious habitual offender program. It would have programs targeted toward youth gangs, and the construction and remodeling of short-term facilities for juvenile offenders. You have to have someplace to put them or you are just releasing them the very day they are caught. That is what is happening. They are being released the day they are caught. We need more juvenile facilities so there can be some detention. This would allow the States to apply for a grant, for matching money, to have detention facilities, alternative schools and boot camps and whatever they think is necessary to strengthen their court system.

As a policymaker, recognize we have a limited amount of money. How do we apply that money most effectively? Who do we use it on? We use it on, I suggest, those people who are already coming into contact with the criminal justice system. Routinely, they are being arrested in America today for the second, third, fourth, fifth, sixth, tenth time, and nothing serious has happened. The reason is we have not given enough attention and support to those juvenile judges, those prosecutors, those probation officers, who are out every day trying to change lives. If we can strengthen that group, that is what we should do.

Now, I am not opposed to general programs, after-school programs. I am not opposed to alternative schools. In fact, I would support those. Our proposal and our need today, the most critical need, is to identify those young offenders who are heading to a life of serious criminality, who have the potential to kill somebody, maybe your son or daughter, maybe my son or daughter. We see in the headlines every day young people committing those kinds of crimes.

The answer to it is to find out who is capable of that at the earliest possible stage and do something about it. Most of those are going to be coming through the juvenile court system. In that juvenile court system, most good

ones—and I have visited them around the country; they have mental health treatment, drug treatment, counseling, incarceration, alternative schools, evaluations to determine whether or not they have learning disabilities and those kinds of problems—try to get those children on the right road.

That is where we need to spend our money if we want to reduce serious juvenile crime. Spending it on every child in America in after-school programs may be a good decision for America to pursue but we have not had hearings on it and analyzed it. But it is an education function, primarily. This bill—our effort, our block grant—is designed to assist the juvenile justice system in performing their function of identifying and confronting those young offenders when they first brush up against the law, and to make sure that first brush is their last brush.

If we do that, we will be investing our money wisely. I submit that the program that is in this bill that I just shared with you is vague, unspecific, and does not deal primarily with the kids that we need to deter from crime; and taking the money from that program and shifting it to this block grant and increasing it will focus our resources on the kids that need it the most.

I yield my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I admire and applaud the interest of my friend from Alabama in the criminal justice system. He is a former prosecutor and is dedicated to law enforcement. I stand not to disagree with his concern; I disagree with his solution. There is on old expression where I come from—I think the Senator is ''in the right church, but he is in the wrong pew.''

I will explain what I mean by that. My friend has not misrepresented any facts, but it is a matter of presentation here. I want to make sure that I deal with 3 major issues. I want to lay out to my colleagues what I am going to do. First of all, I want to applaud the chairman and ranking member of the Appropriations Subcommittee here. I think they did one heck of a job on this legislation. I start off by rising to defend—not that they need any defense—what the appropriations bill does in this area. So I am going to first make sure we all understand, and our colleagues' staffs who are listening understand, what the amendment of my friend from Alabama actually does, in specific terms. Then I want to speak to the issue he has raised, which is that there are already a sufficient number of programs dealing with prevention. He cites the GAO study. I want to go into some detail, quite frankly, for the first time. These figures keep being offered and this assertion keeps being stated. I think, although it accurately says what the GAO report says, it does not accurately reflect what is actually being done relative to prevention. Lastly, I am going to conclude by laying out what I believe to be the larger prescription to putting into context what I think we should be doing to deal with the problem the Senator from Alabama and I—and I suspect every Senator—agrees that we have to attend to now.

I respectfully suggest that, at the outset, about 5 years ago when the crime bill passed—the comprehensive crime bill—it was called the Biden crime bill. That is when it didn't look like it was going to work, so the President liked it that way. Well, it started to work, and then it was the Clinton crime bill. So it started out as the Biden crime bill. The point is that it's working, so it is the Clinton crime bill. And it is now the bipartisan crime bill, which everybody supported.

That was the first time in the 25 years I have been here that, on a large scale, we learned to walk and chew gum at the same time when we dealt with crime. We had a very heavy dose of enforcement, a very heavy dose of prevention, and a very heavy dose of medicine relating to incarceration after the conviction. And I think that is the way we have to approach the issue of juvenile justice. It is the last unattended-to criminal justice issue of consequence that we have not come up with a comprehensive plan on.

The Senator from Alabama and I have been cooperating, debating, disagreeing, and working with one another in the Judiciary Committee for the last year and a half, with differing points of view on how to deal with a comprehensive juvenile justice approach. He indicates this is not that comprehensive approach. He is doing what is within his rights and what he is limited to be able to do on this appropriations bill, and that is deal specifically with what is in the bill.

So the committee reported a bill that now includes $95 million for title V grants under the juvenile justice office. The way the committee broke it down, wisely, was $20 million for prevention efforts, aimed at tribal youth—that is in the Indian nations; $25 million for the enforcement of under-age drinking laws and efforts, championed particularly by Senator BYRD of West Virginia; $50 million for the remainder, which supports a variety of community-based locally developed crime prevention programs, targeted to school violence, drug abuse, and truancy, which I think is the first thing the Senator from Alabama and the Senator from Delaware agree on. If you look at all the data, the single most significant, predictable precursor of youth violence is truancy. If you give me a list of all the truants and a list of all the other attributes relating to activities and conduct of students in American schools, I will bet you I will be able to pick any school district, any school, and identify for you 85 to 95 percent of the troubled youth, violent youth, just by being able to identify truancy. So we all know that, like the Senator from South Carolina who has spent a great deal of time dealing in this area, as has the Senator from New Hampshire. We all know that. They made a very wise allocation.

What would my friend from Alabama do with his amendment? He would cut the $95 million for prevention by $50 million. Then he would take that $50 million for so-called youth block grants. I am not opposed to youth block grants. In the Biden juvenile justice bill, which is the alternative on our side of the aisle to S. 10 by my friend from Alabama and others, what we do—we believe we have to have enforcement as well. The Senator from Alabama takes $50 million out, which is basically the $50 million dealing with after-school, community-based programs and puts it into enforcement efforts. Last year, $45 million was appropriated for this, and the Senator from Alabama, Senator SESSIONS, is cutting the program back to last year's level—that is, $45 million—for all of the nonenforcement provisions relating to prevention.

Now, I note parenthetically that the Democratic youth violence bill has $100 million for after-school prevention, $400 million for youth violence block grants, which is enforcement, and $250 million relating to existing programs, about one-half enforcement and one-half prevention, and $150 million for juvenile prosecutors in courts. So I want to put this into context. I don't speak for either of the managers of the bill, but my guess is that this is not a case where they attempted to write an entire juvenile justice bill. They were dealing with provisions within that. So I don't disagree with the proposition of my friend from Alabama that we have to do more on the enforcement side as well.

The bill I have written, in concert with my Democratic colleagues—and many Republicans as well support it—relates to both prevention and enforcement. When I say enforcement, I mean prosecution and the courts, and we have already taken care of provisions and have more provisions relating to juvenile justice detention and the facilities relating to that.

So let's get this straight as this debate is underway here. I am not suggesting, in taking on what I am about to do regarding the specifics of the present specific amendment of my friend from Alabama, that we don't need more for enforcement. Again, I go back to my opening statement. I said it is nice when we have learned—and it works—to walk and chew gum at the same time. That is what we did on the master crime bill, the major crime bill. I don't know of anybody saying that crime bill is a bad bill now. What we did there is we committed, over a 5-year period, billions of dollars—$30 billion. It did not break down a third, a third, and a third, but it was not far off that. I am overstating it in the interest of time. Roughly 30 percent was for prisons, 30 percent was for cops, and 30

percent for related programs that keep people from going into prison. That makes sense.

Now, we should do that on a wholesale basis for juvenile justice with a different focus. Let me specifically respond and again make the point—and I realize I am being somewhat pedantic here. But this is not about whether you are for enforcement or for prevention. We should do both, and we do both. It is about whether or not the skewed alteration of the allocation of prevention and enforcement proposed by the Senator from Alabama is the right way to go. Obviously, I think it is the wrong way to go. Let me explain why. First, in explaining why, let me respond to the specific underlying, and on its face compelling rationale my friend from Alabama offers with his blue charts.

Let me explain what I mean by that.

The Senator makes the statement that has been made many, many times—not just by him but by others—that we don't need to go anymore into the prevention side. In large part, the basic premise rests upon the notion that we don't need to provide them with safe havens, et cetera, because we already have out there 131 programs for at-risk youth with an annual appropriations of $4 billion.

The Senator from Illinois actually knows about this subject. But if I am the Senator from Illinois and I come on the floor and listen to the debate, and I say, ''Look, the Senator from Illinois is one of these guys who is always talking about cutting wastes from programs that we don't need''—overlapping programs—I stand up, and I say, ''By the way, we don't need to spend more money, we just need to spend the money better.''

The GAO report says there are 131 Federal programs and $4 billion. So I ask the Senator from Illinois why he would agree with Senator BIDEN—or, in this case, with the committee—in putting $50 million of the $95 million they have in the prevention program. That is kind of compelling. Then I say the GAO said that, not me—the GAO. But the GAO does say that.

I am going to take a few moments to bore you with some of the data underlying the GAO report. Maybe we can get an agreement here as to what the facts are underscoring the basis upon which the GAO report was filed. My colleagues on the other side—some, and a few on this side—have been saying we don't need to do more to steer our children away from gangs and drugs; we don't need to provide more safe havens from the streets; we are already doing enough. I am supportive of the argument. GAO identifies 131 programs for at-risk youth with annual appropriations of $4 billion. And the claim is that after-school prevention programs that have been proposed by me and others included in the youth violence bill but included in this case in the appropriations bill are just more of the same.

Let's take a closer look at the 131 programs being criticized over and over again and see what we are really talking about.

I apologize to my colleagues. The ranking member of the Judiciary Committee has been kind enough to allow me to continue to be the ranking member of the Crime Subcommittee, and I feel like I let him down a little bit, because he has been doing about 500 other things out there in that committee, and I should have been calling what I am about to say to the attention of our colleagues 6 months ago, to be honest with you. And I didn't. I didn't. Let's take a look at it.

The GAO report says that based on fiscal year 1995—to start with, many of the 131 programs have already been eliminated since then. In fact, 15 of the programs listed didn't even receive any funds in 1995. The report doesn't indicate whether any funds were expended on 22 others. What you had to start with is that a total of 37 of the 131 programs either didn't receive funds or weren't listed. The number of 131 is already inflated, No. 1. You are talking about maybe around 100—less than 100 programs.

According to the GAO report, the Federal Government was spending about $4 billion per year on programs for delinquent and at-risk youth, a target that all of us on the floor are concerned about, from the Senator from Alabama to the Senator from New York to the Senators from New Hampshire and South Carolina. But when you take a close look at the actual programs, only a portion of these funds and programs are targeted specifically at preventing violence and drug abuse for young people.

Let me give you two examples: $1.2 billion of the $4 billion—let's get this straight.

You can tell I have been here 25 years because I am not a chart guy. I was kidding one of my Democratic colleagues saying that he does this so well when he debates. But guys like BUMPERS, I, and HOLLINGS are not so big on charts. We haven't learned the chart deal yet. I guess I should learn it to get into the mainstream, because if I had a chart, it would be clear. What I do is just talk longer and probably confuse things. But I am going to give it a shot without charts.

Let's start off with 131 programs being offered saying we have $34 billion spent on at-risk youth. The truth is, it is 97 programs, and that is 1995. The truth is, in 1995 you really only had, at most, about 97 programs that got funded at all. OK?

Then you have a second piece. Of those 97 programs that allegedly are targeted at at-risk youth—roughly 97—what you have is, $1.2 billion out of the $4 billion that is spent on those programs goes to the Job Training and Partnership Act. That was a program championed by a lead contender for the Presidential nomination of the Republican side, Dan Quayle, and the leading Democrat on the Senate side, TED KENNEDY. That is their program. When they introduced the program—and most of us were here—I don't remember any Member standing up saying this is for at-risk youth, designed to prevent crime. Hopefully, it has the spinoff benefit of providing jobs for kids and they don't go into crime. But this is not to deal with 36 million latchkey children who walk home after school without a mother or father there because both have to work and have from 2 in the afternoon or 3 in the afternoon until dinnertime with no supervision. That is not what the Job Training and Partnership Act was. But GAO counts $1.2 billion of that against the $4 billion they say we are spending on at-risk youth, violent youth.

I am sure I don't have to remind anybody that the so-called JTPA is a program, as I said, championed by Dan Quayle and TED KENNEDY, that while job training is important, it is not what most of us think of as targeting at-risk, violent juveniles.

Now we are down from $4 billion to $3.8 billion on 97 programs. There is another quarter of a billion dollars—not quite. To be precise, $245 million goes for vocational education programs. Most of the kids my friend from Alabama and I are concerned about are not signing up for vocational education, an important program. I strongly support it, as I do the job training program. But, again, no 13-year old with a key hanging around his neck after the school bell rings, walking through a bad neighborhood and by 12 junkies to get home, says, ''My way out of this is job training; my way out of this is vocational education.'' It is an important program, but it is not what we are talking about.

Now we are down to about $2.75 billion and 97 programs. Actually, if you take vocational education, job training, and the related programs, it is about $1.5 billion the Federal Government spends. We are really down to about $2.35 billion and 97.

Let's talk about some of the other programs. They go to very worthy activities. I am not in any way criticizing them. I voted for them, and I would vote for them again. I think they make sense. But they are not targeted programs for violent youth or at-risk youth.

Let me go on.

If we are going to talk about focus—that is what I am talking about here—7 of the programs listed are assistance for homeless youth, 9 of the programs—now we are down to about 90—9 others are very important, but they are for a variety of activities directed at Indian youth, for mental health and physical health programs. Now we are down to about 80 programs.

Three other programs are dedicated specifically to mental health services for the general population. Now we are heading down into the mid seventies. Four programs deal with child abuse. Still we are in the seventies—below 70. And one of the programs is for migrant health services. So now you are down to around 70 programs from the 131.

I will give you one example. The GAO list includes the HHS Child Welfare Grant Program which provides one-third of a billion dollars, $292 million, for foster care and services for abused and neglected children—very important services but not what we are talking about.

So now we are getting down to the $2 billion area with about 70 programs. Other programs have little or nothing to do with crime and drug prevention. While any line drawing that I am making here—and I am doing that—is somewhat arbitrary, at least I hope this puts it in context for my colleagues.

Let me give a couple other examples of programs that I don't think any of us—if we had a list of all the programs that I want, all the programs any of us want here to deal with youth prevention, if we listed them all on a board and I said, ''Pick the top 50 that deal with violent youth and preventing crime,'' I doubt whether you would add the Foster Parent Grant Program, the Food Stamp Employment Program, the Youth Impaired Driving Project, four programs for promoting art with youth—all important programs, all important, none of which I disagree with, but they do not have a darned thing to do with the center of the debate the Senator from Alabama and I have.

I want programs. I want the States to be able to say, ''We will keep the school open until 5 o'clock. We are going to have baseball teams for ninth graders and football teams and basketball teams for the girls.'' None of the school districts you all live in do that, unless you send your kid to a private school. These kids have nothing to do. Kids need an excuse to tell that junkie they have to walk by on the corner to get to their home; they need an excuse to stay out of trouble.

Let's go back home to your own school districts, many of which are strapped, and ask yourself, ''Why is it there is Little League in the summer but no baseball teams after school for boys and girls in sixth, seventh, eighth, and ninth grades?'' Well, the school districts don't want to spend the money.

I am the guy who came to this floor 8 years ago and said, ''The majority of the violent crime committed by young people is not when you all think it is.'' Everybody thought it was done in the heat of the night. It is done in broad daylight, in the sunlight between the hours of 2:30 and 6.

I remember when I brought that report from the Judiciary Committee—actually, the credit goes to the joint staff then of the Judiciary Committee—when I brought it to the floor. ''Oh, there goes those liberal guys again, talking about this coddling stuff.'' Now there is not a cop in America, there is not a criminal justice person in America who doesn't say that is the problem.

My mom has an expression, as she would say, God love her—my mother is an Irish Catholic woman with 6,000 expressions. I went to Catholic grade school with the nuns. I think my mother, when she wasn't having children, was a nun. She remembers all the expressions. And one of her favorite expressions is, ''An idle mind is the devil's workshop.''

An idle mind is the devil's workshop. You get a ninth grade kid living in a tough neighborhood without supervision of any adult in a school, in a family, for 4 hours every day after school, and good kids, good kids do bad things; it is called maturation. What the heck do we expect these kids to do? They lack good judgment. Even when they know and care about right and wrong, they have bad judgment because they are 14 years old; they are not 24 or 54.

I ask all of you—you may be, and probably all are, a better person than I am, but I wonder how I would have been if every day after school for 4 hours a day I was on my own, on my own. I was a pretty good athlete, and I was a pretty good student, and I never got myself in trouble with the law. But I want to tell you something. I will bet you, if I was on my own, with all of the values my family instilled in me, I am not so sure I would have had the courage to say no to the guy who was 17 who says, ''Hey, jump in the car and take a ride with me. It's only Charlie's car. We borrowed it.'' I would like to think I would have said, ''No problem. That's wrong. You guys are doing the wrong thing. I am not going to participate.''

Let me tell you something, Jack. You are a better person than I am if you are certain how you would have done it. And that is how this incrementally starts. It doesn't start with a 13-year-old kid waking up saying, ''You know, I am going out and get a MAC–9, walk into the 7–Eleven, blow away the guy behind the counter, and get $17 in cash so I can go buy myself some dope.'' That is not how it works.

And so what are we doing here? Well, once you winnow out the programs for problems like child abuse and mental illness, once you exclude the programs directed at narrow populations, I believe that only 41 of the 131 programs in the GAO list, spending out at about $1.1 billion in appropriations a year, are targeted specifically at juvenile crime and drug prevention. And of that total of $1.1 billion, $639 million, over half, went to just two programs, one of which I am responsible for co-authoring, so I obviously support it, and the other which I support as well—over half went to just two programs; $467 million went to the Safe and Drug-Free Schools Act and community programs.

Now, the Safe and Drug-Free Schools Act is the act we passed here, got funded. Then 1 day I guess the Speaker woke up and said, ''We think that's a bad idea,'' and they cut it. The public went bananas, and they put it back in; it is OK. Of the $1.1 billion for at-risk youth, $467 million goes to the Safe and Drug-Free Schools Act, and my Republican colleagues boosted that appropriation last year to $556 million, a move I fully support and compliment the Republican leadership for doing, particularly since the House wanted to eliminate it.

So now you are talking, of the $1.1 billion, $639 million of it, over half of it, is going for programs that, again, are not about after school. Then $172 million of the remaining roughly $400 million went to the Upward Bound Program—important. It provides mentoring, tutoring, and life skill training. If my friend does not understand what work awareness is, work awareness is a lot of these kids grow up in a family with no sense, no notion, no responsibility, no image, no example of what work means. Unless something has happened, birds learn to fly by watching their parents, ducks learn to paddle in my pond watching their parents, snakes learn to slither, turtles learn to swim. Where the heck do you think we learn? Where do you think our kids learn? It is a good program, but it is directed at disadvantaged high school students, this $172 million in the Upward Bound Program, to encourage children—targeted at economically disadvantaged children—to continue their education. That is very important. It indirectly has an impact on crime. But, again, it certainly is not a targeted crime prevention program.

Then, of course, the GAO attributes about $146 million to 11 programs in the juvenile justice office, only a few of which are proposed to be consolidated in the Republican crime bill.

That is roughly $400 million for about 27 crime and drug prevention programs, some of which are tiny demonstration or pilot projects that cover no more than a handful of sites across the country and are designed to study what works and what does not. For example, in the list of that $400 million, $200,000 is for a demonstration grant program for residential drug treatment for women with young children—important, but, again, not what we are talking about.

So the impression given here that there are more than 130 Federal prevention programs designed to target at-risk youth is simply not an accurate reflection. In all of the cities and towns across America, and serving every child we can help, there are fewer than 40 programs for about $400 million. And what my friend from Alabama is saying, relying on the GAO report, is: You know, that is about as much as we can do. Government is already doing all it can and should do to stop kids from turning to gangs, crime, and drugs. But we have just seen many of the programs that are listed as targeted that, in fact, do not do that at all.

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

Mr. BIDEN. I do want to finish this at some point, but I will be happy to yield.

Mr. LEAHY. Will the Senator not agree with me that one thing we have

heard, talking with law enforcement people—not somebody who just looks at this from a theoretical point of view, but law enforcement people—is that the issue of prevention comes up over and over again? The Senator from Delaware, of course, addressed this in his original legislation. It was, as the Senator from Delaware will recall, a matter of some debate, both in the committee and on the floor. As I recall, in some of the conference committees we went to 4 o'clock and 5 o'clock in the morning several times, discussing the issue of prevention.

I believe the Senator from Delaware will recall, as I do, the number of police officers and police officials who came to us and said stay with prevention programs.

In many ways, it just makes such great sense. As a former prosecutor, I remember that it was always the prevention programs that worked the best. So I ask the Senator from Delaware, does he not agree with what the President of the National Sheriffs Association says, in an open letter?

After he speaks of the problems of juvenile crime, the President of the National Sheriffs Association says:

> So what is the answer? We must adopt a three-pronged approach to juvenile violence—prevention, intervention and enforcement. These recent statistics indicate the need for a comprehensive prevention strategy that includes education and community involvement, and addresses the root causes of delinquency. We can no longer afford to focus only on treating the symptoms while ignoring the disease. Sheriffs offices, through prevention programs . . . [the letter lists a number of them] can make a difference in the lives of children who still have a choice ahead of them as to whether or not to try drugs, join a gang, steal a car, or otherwise start on the slippery slope of a life of crime.

Wouldn't the Senator from Delaware agree with the head of the National Sheriffs Association and me and so many others who say keep these prevention programs going, do not take money away from the prevention programs, but accept the fact that they are now beginning to work and work very well? This is not the time to cut them off. This is not the time to change these prevention programs into some kind of a block grant program that would not be aimed at prevention. Would not my friend from Delaware agree with that?

Mr. BIDEN. The answer is, I absolutely do. I thank my friend for calling that to my attention.

Let me not just mention the sheriffs. I am going to quote, now, from a few of the leading police officers of America.

By the way, let's put this in context again. When the overall crime bill was drafted by me years ago, the way it got drafted was, I did not sit down with any sociologists or academics or welfare workers or, you know, liberal think tanks. I literally called in the presidents of the seven leading police organizations in America, from NAPO to NOBLE, FOP, et cetera. They sat around my conference table for the better part of 4 months.

I said: You tell me what you need. What do you think you need to fight crime?

In the overall crime bill, they said they needed about a third of it going to prevention.

When I sat down to draft the juvenile justice bill for our side of the aisle, with my colleagues, as a follow-on, I called the same people back in. Some of the presidents were changed. They were not all the same officers, the same people. To a person, they reinforced what the Senator from Vermont just said.

Let me give an example. Mr. President, 170 police chiefs, sheriffs, prosecutors, the president of the Fraternal Order of Police, the International Union of Police Associations, and the leaders of the Crime Victims Organization, came out with a call for action. They title it ''A Call For Action From America's Front Line Against Crime,'' made up of those organizations I just named. On February 5, 1998, here is what they said:

> As police, prosecutors, crime survivors, we struggle every day against crime and its devastating impact. We are determined to see that dangerous criminals are arrested and put behind bars. But anyone who thinks that jailing the criminal is enough to undo the agony that crime leaves in its wake hasn't seen crime up close. That is why no one knows better than we that the most important weapons against crime are investments that keep kids from becoming criminals, investments which enable all children to get the right start they need to become contributing citizens, and would show them that as adults they would be able to meet their families' basic needs through hard work.

(Mr. SMITH of Oregon assumed the chair.)

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

Mr. BIDEN. I will be happy to yield for a question.

Mr. SESSIONS. I enjoyed listening to the Senator. I think he suggested something that, maybe indirectly, he didn't mean to.

First, I want to say I am aware of and respect and appreciate what the Senator has done over the years on crime prevention and law enforcement. But the Senator is not suggesting, I don't think, that any one of these programs is targeted for reduction in any fashion by this amendment, is he? This amendment would simply take a new program and not increase it as much as my colleague and others may prefer to, but none of these programs is threatened. It is not a block grant of any existing programs?

Mr. BIDEN. I thank the Senator for his question. He is absolutely accurate. I am not suggesting in any way that any of the 131 programs listed by GAO would fall to his amendment in any way.

What I am suggesting is, the very compelling argument he makes, when examined, is not as compelling as it appears. And that is, I believe he offered those charts as evidence that we were already doing a great deal on the prevention side.

He is not against prevention. I am not suggesting that either. But he is basically suggesting, as many others have, that we are already doing this massive effort, totaling about $4 billion and 131 programs, to deal with prevention. He believes that what my friends from South Carolina and New Hampshire did by adding $50 million for more prevention is misplaced and it should be placed on the enforcement side of the equation.

The reason I went through in great detail why it is really only about 40 programs and really only about $400 million is to make the point that we are not doing nearly enough on prevention, and to take this paltry sum of $50 million out of prevention, as proposed by my friends on the Appropriations Committee, and put it into enforcement would be a misallocation of a limited number of resources. That is the overall point.

Secondly, I should point out, which I didn't, to put together this little syllogism, that my friend from South Carolina and the chairman of the committee, in fact, allocate $3.5 billion to enforcement just in the Justice Department. Our friends who are the managers of this bill are not—if one listened only to this debate, one would think this debate were about $400 million in youth prevention Federal Government-wide, all the programs I just said. It is not.

My friends are putting $50 million into prevention and $3.5 billion in this bill, in their appropriations bill, into enforcement. It breaks down: On Byrne grants, ½ billion dollars; local law enforcement grants, $460 million; prison grants, $711 million; reimbursement of prison costs for aliens, $350 million; juvenile block grants—that is all enforcement money—$100 million; and $1.4 billion for cops who don't make a distinction between enforcing the law against juveniles and adults.

Again, what the Senator from Alabama and I are really debating about, when you put it all aside, is not whether we should spend money on prevention and not whether we should spend money on enforcement, but the allocation: Are the limited dollars we have being appropriately allocated?

My argument is, my friends from the Appropriations Committee have appropriately allocated the limited number of dollars and that the amendment my friend from Alabama is proposing would misallocate that money by taking $50 million out of prevention and putting it into enforcement, which already has, as it should, the lion's share of the money.

Let me get back to this prevention issue. The vast majority of the police in America not only do not disagree with the notion that we should be spending money on prevention, not only do not want us to cut existing prevention programs, but want us to spend

more money on prevention. They are not in here asking that prevention money be taken and spent on enforcement.

Let me give you one anecdotal piece of evidence before I go to the major organizations. In Seaford, DE, a relatively small community, I asked a question that was—and in Dover, DE, 20,000 people, my State capital, I went to the police officers. I am going to be very blunt about this. I have a great relationship with the law enforcement community. They have always supported me. They have supported me overwhelmingly as long as I have been in the Senate. I pay attention to their concerns. I suppose that is why they support me so strongly.

I went down and met with a very conservative former chief of police in Delaware. He raises steers on the side, and he is a cowboy. I think he thinks my view on a lot of things may be too liberal. We had a debate on how we should treat gays in America, and I think we should treat them no differently than others. I am not so sure he and others would think my view is so good and makes sense, et cetera. This is not a guy who is a liberal law enforcement officer.

I said to him, ''If I can do anything for you—get you more cops, get you more equipment—what would you have me do?'' Do you know what he said to me? No malarkey. He said to me, ''Build me another Boys & Girls Club.'' This is a hardnosed cop in the southern part of my State. My friend from South Carolina knows the southern part of my State well, and I think he would tell you, it is not a lot different from Virginia or North Carolina or South Carolina. They view themselves as southern, they view themselves as conservative, and they are.

Do you know what he asked me for? He asked me for no more cops, no more money for squad cars, equipment, radios. He said, ''Build me a Boys & Girls Club.'' That is what he said, I say to my friend from South Carolina.

Seaford, DE, had a serious problem with drugs. I said, ''What do you want me to do? What do you need?'' They said, ''We need a Boys & Girls Club. Build us one.''

Well, we did. I didn't. We didn't. The local community, with some Federal help, did.

Let me give you a few statistics. This is a letter from the executive director of the Boys & Girls Club in Delaware. He said:

> I would like to share with you some recent statistics —

This dated April 30, 1998. It is not about this debate.

> I would like to share with you some recent statistics compiled by the Seaford Police Department on juvenile complaints from the period February through March of the last three years.
>
> The statistics revealed:
>
> In 1996, seventy-eight (78) juvenile complaints were logged.
>
> In 1997, eighty-eight (88). . ..
>
> In 1998, only thirty-five (35) juvenile complaints were logged.
>
> The statistics show a 151 percent drop in complaints in 1998 as compared to . . . 1997.

It is no coincidence that the drop in complaints directly corresponds to the opening of the western Sussex Club for Boys and Girls on February 1, 1998.

I say to my colleagues, this ''ain't'' rocket science. This is not rocket science. There was a study done in the mid-eighties involving three cities, I believe it was New York, Pittsburgh, and Denver. Which took some Boys & Girls Clubs. First of all, there were housing projects in the same demographic areas, same number of people. They put a Boys & Girls Club in the basement of these mostly high-rise public housing projects.

Guess what? Over a period of 2 years, all the indices of crime—rearrests, initial arrest rate, drug use, et cetera—dropped about 30 percent.

I ask unanimous consent to have printed in the RECORD this letter, Mr. President.

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

BOYS & GIRLS CLUBS OF DELAWARE,
Wilmington, DE, April 30, 1998.

Senator JOSEPH BIDEN,
Federal Building,
Wilmington, DE.

DEAR SENATOR BIDEN: I would like to share with you some recent statistics compiled by the Seaford Police Department on juvenile complaints for the period February through March of the last three years.

The statistics revealed:

In 1996, seventy-eight (78) juvenile complaints were logged.

In 1997, eighty-eight (88) juvenile complaints were logged.

In 1998, only thirty-five (35) juvenile complaints were logged.

The statistics show a 151% drop in complaints in 1998 as compared to the same period in 1997.

I believe it is no coincidence that the drop in complaints directly corresponds to the opening of the Western Sussex Club on February 1, 1998.

I am sharing these statistics with you because your support was critical in the development of the Western Sussex Club. Your support of $300,000 through the Bureau of Juvenile Assistance was instrumental in the construction of the new Western Sussex Boys & Girls Club facility in Seaford.

The following are a few additional statistics concerning the Western Sussex Club operations:

The Club's membership has grown from 600 to more than 2,000 in three months.

More than 400 boys & girls are using the facility on a daily basis.

The Senior program which is also housed in the facility has dramatically increased both its membership and program service units.

Senator Biden, we sincerely appreciate your strong support of the Boys & Girls Clubs of Delaware and our Clubs throughout the country. We both know that the Clubs work.

Again, I want to thank you for your support and thank you for joining with us in our efforts to do more for even more kids.

Sincerely,

GEORGE KRUPANSKI,
Executive Director.

Mr. BIDEN. Mr. President, prevention works. Giving kids an option works. It works in my State of Delaware, and it works nationwide. The people who recognize it most are the law enforcement community.

Let me give you a quote from William Bratton, former New York and now Boston Police Commissioner. Boston has had a phenomenal—phenomenal—success in controlling murder rates, handguns with youth, and violent crime. Here is what he said:

> Those of us who have been on the front lines know that, in the long run, winning the war on crime also will require cutting the enemy's key supply line: its ability to turn kids into criminals. Each day gangs and drug dealers assiduously recruit our children for their army. To fight back, we have to utilize other powerful crimefighting weapons—the proven ''right-start'' programs and strategies that give kids the armor of values, skills, and positive experiences to ward off crime and violence.

This is one of the toughest cops in the Nation. He is saying the way we keep this from happening is to go out there and engage in prevention activities.

The Buffalo Police Commissioner—I will not go through it —eight juvenile justice directors, the National Association of Counties, say:

> Be it resolved that not less than 25 percent of block grant funds be set aside for prevention programs.

Prevention programs.

Police Executive Research Forum; the Catholic Charities of the United States of America; Mark Klaas of the Klaas Foundation for Kids; Patrick Murphy, former police commissioner of New York, Detroit, Washington DC, and Syracuse; the national president of the Fraternal Order of Police, who is a tough crime-fighting guy —he says:

> It's time to invest in the programs proven to cut the enemy's most important supply line—its ability to turn kids into criminals.

Prevention.

The U.S. Conference of Mayors; Los Angeles County District Attorney—the list goes on. I will not take my colleagues' time, but I ask unanimous consent that their statements be printed in the RECORD.

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

WHAT POLICE, PROSECUTORS, CRIME VICTIMS AND OTHER EXPERTS ARE SAYING ABOUT HOW TO FIGHT YOUTH VIOLENCE

170 Police Chiefs, Sheriffs & Prosecutors, the Presidents of the Fraternal Order of Police and International Union of Police Associations, and Leaders of Crime Victim Organizations

As police, prosecutors, and crime survivors, we struggle every day against crime and its devastating impact. We are determined to see that dangerous criminals are arrested and put behind bars. But anyone who thinks that jailing a criminal is enough to undo the agony that crime leaves in its wake hasn't seen crime up close. That is why no one knows better that we—that the most important weapons against crime are the investments which keep kids from becoming criminals—investments which enable all children to get the right start they need to become contributing citizens, and which

show them that as adults they will be able to meet their families' basic needs through honest hard work.—Source: A Call For Action From America's Front Line Against Crime (February 5, 1998).

William Bratton, Former New York and Boston Police Commissioner

Those of us who have been on the front lines know that, in the long run, winning the war on crime also will require cutting the enemy's key supply line: it's ability to turn kids into criminals. Each day gangs and drug dealers assiduously recruit our children for their army. To fight back, we must utilize other powerful crime fighting weapons—the proven ''right-start'' programs and strategies that give kids the armor of values, skills, and positive experiences to ward off crime and violence.—Source: Boston Herald (November 4, 1996).

Buffalo Police Commissioner Gil Kerlikowske

If Congress is serious about fighting crime, it won't pretend just building more jails is going to solve the problem. Those on the front lines know we'll win the war on crime when Congress boosts investments in early childhood programs. Head Start, health care for kids, after-school and mentoring and recreational programs. We'll win when we're ready to invest our tax dollars in America's most vulnerable kids, instead of waiting until they become America's most wanted kids.—Source: Fight Crime: Invest in Kids, News Release (July 24, 1997).

Sheriff Fred W. Scoralick, President, National Sherrifs Association

It is becoming ever more apparent that increasing law enforcement, increasing prosecution of juveniles, and building more jails and prisons is neither sufficient nor adequately effective in stemming the tide of youth violence and crime . . . We must adopt a three-pronged approach to juvenile violence—prevention, intervention, and enforcement. . . . We can no longer afford to focus only on treating the symptoms while ignoring the disease. . . . The challenge facing us as sheriffs, parents, and community residents in America, is to take what is known about youth violence and apply it now to reach at-risk youth before they take their first step into the world of crime, and to deal firmly with those who are already in trouble.—Source: Sheriff Magazine, President's Message: Addressing Youth Violence (January–February 1998).

Eight State Juvenile Justice Directors

At-risk juveniles and juvenile delinquents are at a crucial turning point in their lives. Crime-prevention programs that target this age group are not only essential but also cost-effective when considering the alternative—a person who spends part of all of his adulthood in the state prison system. The success of federally-supported programs in each of the states in our region prove, convincingly, the value of investing in prevention efforts aimed at juveniles.—Source: Letter from Juvenile Justice Directors of Delaware, New York, New Hampshire, Maine, Connecticut, New Jersey, Rhode Island, Puerto Rico, and Vermont (March 5, 1998).

National Association of Counties

Be it resolved, That not less than 25 percent of block grant funds be set aside for primary prevention programs.—Source: Resolution on Senate Bill (S. 10), the Violent and Repeat Juvenile Offender Act of 1997 (February 28, 1998).

Police Executive Research Forum

[I]nvestment in prevention can mean tremendous savings to the criminal justice system. . . . PERF supports the need for improvements in prosecuting and incarcerating dangerous youths, but believes those measures must be balanced by effective prevention programs that will minimize the need for back-end solutions.—Source: Police Executive Research Forum Juvenile Justice Guilding Principles.

Catholic Charities USA

We know prevention programs work. We ask that funds for prevention be set aside to guarantee funding for prevention programs. Our children, even our troubled and at-risk children, are our future. Shouldn't we make the investment to keep today's children from becoming tomorrow's criminals?—Source: Letter from Catholic Charities USA (September 23, 1997).

American Red Cross

The American Red Cross believes that at least 30% of any funds block granted to the states should be allocated specifically to fun on-going, experienced, non-profit, and community based youth development, prevention, and after-care programs.—Source: Letter from Maria Smith, National Volunteer Specialist, Government Relations (July 7, 1997).

Mark Klaas, Klaas Foundation for Kids

Congress should invest in the proven programs that can help kids get the right start, not wait for more innocent Americans to get hurt or killed and then pretend that prisons are a substitute for prevention. No punishment can undo a crime. It is a tragedy—and a travesty—that too few politicians are even talking about making investments that help children become caring citizens instead of brutal criminals.—Source: Fight Crime; Invest in Kids, News Release (July 24, 1997).

Patrick Murphy, Former Police Commissioner in New York, Detroit, Washington, D.C. and Syracuse

When police chiefs hear someone say we can't afford investments in programs that help kids get the right start, we see more bright yellow crime scene tape, more prisons, and thousands of good men and women and boys and girls lying in pools of blood.—Source: Fight Crime: Invest in Kids, New Release (July 3, 1997).

Gilbert Gallegos, National President, Fraternal Order of Police

Its time to invest in the programs proven to cut the enemy's most important supply line—its ability to turn kids into criminals.—Source: Fight Crime: Invest in Kids, New Release (February 5, 1998).

United States Conference of Mayors

We stand ready to support juvenile crime legislation which is flexible both in terms of the requirements states must meet to receive funds and the purposes for which the funds may be used. Specifically, we believe that the legislation should . . . increase the portion of the funds which may be used for prevention and treatment, and assure that there is sufficient funding available for these purposes.—Source: Letter from Jerry Abramson, Chair, Task Force on Youth Violence, February 11, 1998.

Los Angeles County District Attorney Gil Garcetti

We need a multi-pronged approach. We must attack juvenile crime before it starts by using effective crime prevention programming. We also must recognize that there are violent juvenile criminals, particularly gang members, whose crimes are very serious, whose punishment should be severe and for whom lengthy incarceration is appropriate.—Source: Testimony Before the House Subcommittee on Early Childhood, Youth, and Families, April 7, 1997.

Winston-Salem Chief of Police George Sweat

Our fight against crime needs to start in the high chair, not wait for the electric chair. When Congress and state legislatures ignore child care and after-school programs, they force police to fight crime with one hand tied behind our backs.

Mecklenburg County District Attorney Peter Gilchrist

Prosecutors know America will never win the war on crime until it invests more in getting kids the right start. We can pay now or pay later.—Source: Charlotte Observer (October 28, 1996).

Raleigh Police Chief Mitchell Brown

Politicians need to decide if they'd rather just strut like gang members out to prove they're the toughest on their turf, or pay attention to all the overwhelming proof that they could dramatically cut crime if they'd only invest in programs for kids.—Source: Fight Crime: Invest in Kids, News Release (July 24, 1997).

Jean Lewis, President, National Organization of Parents of Murdered Children

To make America safe, we need to be as willing to guarantee our kids space in child care or an after-school program as we are to guarantee a criminal room and board in a prison cell. If we want to do more than flex our muscles and talk about crime—if we want to really keep Americans safe—we must start investing in the programs we know can steer kids down the right path.—Source: Fight Crime: Invest in Kids, *Quality Child Care and After-School Programs* (February, 1998).

Knoxville Police Chief Phil Keith

When we know the peak hours for juvenile crime are between 3:00 and 6:00 in the afternoon, it's just common sense to provide after school programs. When studies show that denying at-risk kids participation in a high school enrichment program quadrupled the chance that they would be arrested, and that excluding them from early childhood programs made them five times more likely to become chronic lawbreakers as adults, it's just common sense to include those programs in our juvenile crime strategy.—Source: Fight Crime: Invest in Kids, News Release (July 24, 1997).

Ellen Halbert, Crime Victim, Former Vice-Chair Texas Board of Criminal Justice

When politicians focus only on closing jail doors after a crime has been committed, they're leaving the door wide open for more innocent people to become crime victims. Shortsighted policies like these are a prescription for disaster.—Source: Fight Crime: Invest in Kids, News Release (July 24, 1997).

Illinois Attorney General Jim Ryan

Politics aside, what's important is to do what's best for kids, and the best way to fight crime is to prevent it from happening in the first place.—Source: Fight Crime: Invest in Kids (Illinois), News Release (April 30, 1997).

Bloomingdale Police Chief Gary Schira, President of the Illinois Association of Chiefs of Police

Our most powerful weapons to make Illinois safe for our families are investments in the proven programs that help kids get the right start, so they become contributing citizens instead of criminals.—Source: Fight Crime: Invest in Kids (Illinois), News Release (April 30, 1997).

McClean County States Attorney Charles Reynard

I work every day to see that dangerous criminals are behind bars. But we'll just be on a treadmill, with new kids being recruited to take the place of the ones we lock up until we invest in the child development and parenting support and health care programs that have been proven to keep kids from becoming criminals in the first place. These

programs really work, and they dramatically reduce crime.—Source: Fight Crime: Invest in Kids (Illinois), News Release (April 30, 1997).

Gordon Rondeau, Founders, Action America: Murder Must End Now

Politicians who focus only on punishment are cheating Americans out of the solutions that could have prevented [my daughter's] death and so many others.—Source: Fight Crime: Invest in Kids, News Release (July 3, 1997).

John Dilulio, Princeton University

Strategically, the key to preventing youth crime and substance abuse among our country's expanding juvenile population is to improve the real, live, day-to-day connections between responsible adults and young people—period. Whether it emanates from the juvenile justice system or from the community, from government agencies or from civil institutions, from faith-based programs or secular ones, from non-profits or for-profits or public/private partnerships, from structural theorists or cultural theorists, from veteran probation officers or applied econometricians, no policy, program or intervention that fails to build meaningful connections between responsible adults and at-risk young people has worked or can.

[I]f we really care about getting a handle on our present and impending youth crime and substance abuse problems, then the time has come to proceed inductively building meaningful connections between at-risk youth and responsible adults via existing community-based programs; focusing on the highly particular and often banal barriers to helping at-risk youth in particular places with particular people at particular times; having the money to fix a broken pipe that flooded the inner-city church basement where a ''latch-key'' ministry operates; finding a way to transport a young job-seeker from a public housing site to a private job site; getting police and probation officers in a particular neighborhood to work together on a daily basis; funding an incremental expansion of a well-established national or local mentoring program; and so on.—Source: Address to the National District Attorneys Association, July 14, 1997.

Mr. BIDEN. Mr. President, I realize I have kept us here a long time, but I can think of nothing from my perspective that is more important.

By the way, parenthetically, with this surplus we are all arguing about—whether or not we save Social Security, give tax cuts, spend it on things—I still think we should take a significant portion of that surplus over the years that is projected and invest it in the crime trust fund, moving from 100,000 cops to 125,000 cops, writing a juvenile justice bill, doing the violence against women II legislation, and making sure—making sure—that we give local communities more flexibility in maintaining their Federal ability to keep the national 125,000—I hope it will be—cops program alive. That is what we should be spending our money on, in my view. I will get to that at another time.

Let me conclude with the last important overall point. Many of my colleagues on the other side of the aisle have been saying, as I said, that we do not really need to do more. In a report that I offered in December of 1995, I detailed the demographic time bomb which lies ahead. And that demographic time bomb is this: 39 million children now younger than the age of 10, all of these 39 million children are the children of the baby boomers.

Each of them stands on the edge of their teen years, exactly those years that are most at risk of turning children to drugs and crime. There are 39 million children about to enter the crime-committing, drug-consuming years. And the implication of this baby ''boomerang'' as the demographers call it, even if we do everything right, and at the rate which kids commit crimes—assuming we do everything right and the rate at which kids now commit crimes does not go up one one-hundredth of 1 percent—even if those things occurred, that there is absolutely no change in the rate of crime, we will have a 20-percent increase in juvenile murders by the year 2005, which will mean an increase of the overall murder toll by 5 percent, even if we do every single thing right and there is not one one-hundredth of 1 percent increase in the rate in which juveniles commit crime.

Why? Thirty-nine million children, the largest cadre of youth since my parents were busy in World War II, about to enter their crime-committing years.

I see my friend standing. I have another 10 minutes or so. I will yield to him, but not yield the floor.

Mr. LEAHY. No. Go ahead and finish, I say to my friend.

Mr. BIDEN. Let me speed this up.

Mr. LEAHY. We do have a number of people who want to speak on the same subject.

Mr. BIDEN. I will be happy to yield the floor in a moment.

Clearly, most of the 39 million children in this baby boomerang will never turn to crime and never turn to drugs. But equally clear, we will have a rising number of at-risk children, at-risk children who are at risk to turning to drugs, at risk of being the victims of violence, and at risk of turning to crime.

Let me offer two more figures to indicate the size of the problem we face in the next 10 years. Seventy-seven percent of women with high-school-age children are working moms—77 percent. And all told, about 14 million school-age children have working moms. In all likelihood, this means that these 14 million children will be leaving school after school, unless they come from affluent families, with no supervision after school until mom gets home.

That is not a criticism of moms working, it is a criticism of our failure to recognize the demographic change as well as the social change that has taken place in America.

For the rising number of at-risk children, I believe we have to discuss what has become a dirty word among Washington politicians, even though it is a word I hear over and over again from prosecutors and police chiefs and people in the juvenile justice system and what their solution to the violent problem is. It is prevention—prevention.

We must keep as many of these at-risk children as possible away from drugs and crime in the first place. In the most practical terms, that means keeping kids busy and supervised from 3 o'clock in the afternoon until the dinner hour. Those 3 hours represent about 12 percent of the day, about 20 percent of the hours that our kids are awake; and 40 percent of all juvenile crime that is committed in America is in those 3 hours.

That is why I strongly oppose—strongly oppose—the effort by my friend from Alabama to undo the good work that our friends on the Appropriations Committee have done. And I just want to warn my colleagues, as I was kidding one of the staff here, I do not speak often on the floor, but when I do, I guess I speak long.

But the truth of the matter is, there is nothing—nothing, nothing, nothing, nothing—more important to the economy, to the security, to the safety of this country than what we are going to do to prevent those at-risk youth who find themselves among those 39 million young people under the age of 10; that nothing—nothing—will affect our standard of living, our quality of life, more than how we deal with that issue.

I will be back on this floor at a later date and, over the next couple years, arguing that portions of that surplus that we are predicting will occur as a consequence of the policies of this administration and Congress—balancing our budget and moving to surplus—should be spent—should be spent—on crime prevention, crime enforcement, and on the prison system.

I thank my friend from Vermont for being so patient. And I thank my colleagues. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Thank you very much, Mr. President.

I have had an interesting time listening to the Senator from Delaware with his remarks about the purpose and intent of our amendment. I think in that regard he is in error. And I think we should talk about that.

First of all, the Fraternal Order of Police, whom he quoted, and the Boys & Girls Clubs, have supported the incentive block grants. I certainly agree that prevention, intervention, and enforcement are the keys to the effort to reduce juvenile crime.

And what is intervention? The experts are telling me—mental health workers, drug abuse people, judges, probation officers whom I have talked with at great length—tell me the most effective point of intervention is when a child has been arrested for some sort of offense, taken to the juvenile court, and answers to the judge and the probation officer. His parents are involved. And if that child is found to be involved with drugs or other psychological or emotional problems that

may be involved, that is the single best time to intervene and to prevent them from future criminal conduct that not only makes victims out of innocent young children, who are most often the victims of other juvenile offenders, but also prevents that child perhaps from heading down a life of crime that would leave them serving long periods of time in prison.

And the Senator says these programs that I have cited are not prevention programs. I find that really stunning, to say a homeless youth program, a program designed to deal with homeless youth, isn't a crime prevention program. It surprises me to hear him say that.

Mental health programs, he suggested, are not prevention programs. Or children who are victims of abuse as a child, programs that deal with that certainly are prevention programs. By the way, our amendment does not affect any of these programs. They all continue.

The Foster Grandparent Program, I suggest, is a way to prevent children from being involved in crime. Art for Youth—that is what the art people tell me, ''We need more programs to help these young people express themselves,'' and that would help prevent them from a life of crime. At-Risk Youth Program, certainly those are prevention programs. I just say we have many prevention programs.

In fact, we have none dedicated to law enforcement. The fact that the Department of Justice spends several billions of dollars on law enforcement should not be in any way considered to have an impact on youth crime, because the truth is the Federal Government does not deal with juvenile criminals. They probably prosecute less than 100 a year in all the Federal courts in America, certainly less than a couple hundred. It is just not done. Juvenile crime is dealt with in the State systems. That is where we have the crisis. That is where we need to do something about it.

The Senator from Delaware is most eloquent in advocating after-school programs. For who? Under what circumstances? How much will we spend on them? Which agency should administer that? I suggest without any hesitation that the Department of Justice doesn't need to be the agency handling an after-school program. That ought to be done through the educational establishment.

Mr. BIDEN. Will the Senator yield?

Mr. SESSIONS. Yes.

Mr. BIDEN. Mr. President, I think local authorities should make that judgment. They should decide. I don't think you should discriminate, whether it is at risk or not at risk. It should be after-school programs in which everyone is entitled to participate. Let the States make those decisions, not us; but let's spend the money.

My point is, spend money on after-school programs. All of the other programs the Senator listed do impact indirectly on youth violence. The problem is, 14 million kids with nothing to do for 3 hours, where 40 percent of the crime is committed. None of those programs are directed at that. We don't deal with that. We don't deal with the problem, in my opinion.

Mr. SESSIONS. Mr. President, I understand the Senator's concern, passion, and emotional commitment to that problem of 14 million kids, after school, many of whom are unsupervised. I understand that.

But I believe if we are going to have an after-school program that doesn't distinguish between at-risk kids and others, we are talking about billions of dollars, tens of billions of dollars, an amount of money of which our program doesn't even scratch the surface; we are talking $50 million, is what we are talking about. How can we best use that $50 million in some sort of vague, generalized program?

Let me read to you again what this statute would dispense under the grant for prevention programs: for recreational services, tutoring programs, assessment in work awareness skills. JJTPA, the job program for youth, isn't that a prevention program, $1 billion spent on that? Certainly tries to help young people who are out of work and who have never worked before get a job. That is a prevention program. We are spending $1.1 billion on that.

What we need to do is deal with the youngsters who are coming into contact with the juvenile justice system. If something isn't done about it, they are going to murder somebody or they are going to end up committing an armed robbery and having to serve 20 years, because they are certified as an adult because they committed a serious crime at age 17 and they have to go off for 20 years. Had we had a juvenile justice system capable of intervening early—at 12, 13, 14 or 15, when they are being arrested again and again—they wouldn't be down there.

I have been there. I have talked to juvenile probation officers and judges who have dealt with this on a daily basis. I am telling you, the Juvenile Judges Association in this country endorses this block grant program wholeheartedly. They know that is what we need to do. We need to be dealing with the kids who are most at risk, the ones already coming into contact with juvenile justice.

This plan to spend $50 million more on this program is political. That is what it is. It is a political game. We are going to create a confrontation on the floor and we are going to say we care about children, we want to prevent them from crime, and we are going to spend more on all of these programs; this wide open deal—it has no goals, no standards, no real teeth to it—spend the money on anything in the world. That is on what we want to spend our money. Everybody who has any support for the law enforcement community doesn't like kids, doesn't want to see them change, doesn't care about prevention. All you guys want to lock them up.

Some children need to be locked up. I just told the Members of this body about the three kids who murdered a night watchman—7, 7, and 15 prior arrests for those kids. They would have been better, that night watchman and his family, would have been better if the court system had enough resources to intervene effectively at that point in time.

That is not mean. That is not unkind. That is not a kind of response that is insensitive. You simply cannot allow repeat, dangerous young offenders to be released time after time after time with nothing more than vague programs like this to deal with it.

Do you think that juvenile judge who has given his life to dealing with kids, do you think that juvenile probation officer who has been working with them all of his life, doesn't care about them? Do you think they are not going to try to craft a program that would help those children? I am telling you, that is what is happening in America where there is sufficient resources for it. Some of them have to be incarcerated.

One of the greatest success stories is in Boston, MA. You have heard about the Boston Miracle. They did two things. They targeted their resources. A professor from the University of Maryland advised the Department of Justice, ''If you want to reduce crime, target your resources on the groups and the people who need it the most, primarily those who have been arrested.'' But in Boston they took the high crime communities, the areas where there were gangs, they confronted the gang members and told them if they did not change their lifestyle, they would be prosecuted. The judges backed them up. They locked up those who were the leaders and the others quit being so active. The murder rate plummeted. It was dramatic what they had done.

My staff member went there and visited with them in Boston. She said, ''Do you have a place to put them when they violate probation and curfew,'' and they said, ''Yes, that was a commitment on behalf of the community.''

So we are giving resources to the juvenile justice system to set aside the kind of detention facilities, alternative schools, safe houses, whatever they feel is necessary to be able to remove that kid, discipline them for repeat offenses, and change their lifestyle.

But it is important they not be left on the street, leading a bunch of other kids down the wrong path. If you get rid of the main leaders, a lot of the other kids will cease to be involved in a life of crime.

What kind of a message does it send if the police arrest a youngster for the fourth time for an armed robbery or a car theft and nothing happens to him? What kind of moral message is that? This prevention grant program they want to spend $50 million on says one

of the goals is to teach that people are and should be held accountable to their actions. Well, I agree with that. We are not saying that the first time a youngster gets in trouble they need to be certified as an adult or sent off for a long period of time, but they need to be confronted seriously. They have to have a serious confrontation with their own immoral, illegal act. Their parents need to be involved in that. They need to have counseling programs, drug testing, drug treatment, and other activities and programs designed to insist that they get on the right track.

Judges and drug treatment people tell me that it is extraordinarily helpful when a person who has violated the law is under the gun of the judge. In other words, he can say you will go to that treatment program. We are going to drug test you. I expect you to stay drug free. I expect you to be back in school. I expect you to be home at night. In Boston, I expect you to follow the curfew I am going to give you.

Boston has a curfew. They call it Operation Night Light. And street police officers go out and knock on the door at 8 or 9 o'clock, or whenever the curfew is, to see if that youngster is there. If he is not there, something happens to him or her. They don't just forget it. That is not happening all over America. What is happening all over America—and I was there for 15 years as a prosecutor—is they come in and meet their probation officer. Some of them have family meetings for 2 or 3 weeks; they meet with parents and try to turn them around. But because of lack of resources, they say ''your curfew is 9 o'clock,'' but they don't check. Nobody is checking on these children. They do what they want to, basically, unless they get caught on another offense.

If we want to prevent crime, if we want to intervene—and intervention is one of the legs of this way to defeat crime, according to the Fraternal Order of Police—if we do that effectively, we can begin to change people. For those who want change, they simply cannot be allowed to travel in the community and threaten the lives and health of other people with impunity. We have to have spaces to put them. Our bill provides matching money that States can use, if they choose, to expand their detention capacity. And it doesn't have to be bars; it can be any kind of facility that would allow the judge to detain them and not allow them to just walk free—although some of them need to be locked up behind bars.

Let me share this number with you. Since 1980, adult prison space in America has more than tripled. Adult crime has been dropping now for some time now to a significant degree. I am convinced that one of the reasons for that is because we are doing a better job of identifying the repeat dangerous offenders, and they are serving longer periods of time. They are not corrupting others around them, and they are not out on the street committing crimes. Many repeat offenders—we know, according to a Rand study—commit as many as 200 crimes per year. You may say that is ridiculous, they don't commit 200 crimes per year. Well, that is four burglaries a week. Many commit four in one night. These repeat offenders commit a substantial amount of the crime in America. And the same is true with juveniles. We simply have to identify those, and some of them are going to have to be incarcerated.

But while we were tripling the adult prison space in America, let me share this with you. In 1978, there were 56,000 beds in juvenile detention facilities in America. In 1994, during a period when violent juvenile crime has more than doubled—I am talking about armed robbery, assault with intent to murder, murder; those kinds of things were doubling and more than doubling during that period, and we had gone on from 56,000 to 61,000 bed spaces by 1994.

Do you see what happened? We poured our resources into adult criminality and we made a big impact. But we didn't respond appropriately to juvenile crime. We did not expand our commitment there. We did not give the judges and probation officers the resources needed to intervene effectively, to monitor these youngsters who need close monitoring, because they are on the edge and they can go either way. They didn't give them those resources, and as a result, juvenile crime continued to go up, while adult crime was declining.

(Mr. BURNS assumed the Chair.)

Mr. SESSIONS. Mr. President, I am pleased that we are beginning to see a modest reduction in juvenile crime—although many experts are telling us that, with the demographics of more teenagers being in the crime-prone years, in the next few years we can expect those numbers to edge back up. I think one reason is that since 1994 States have begun to focus on juvenile crime and commit more resources to it. It is beginning to have an affect.

It is a myth and not true that we have no ability to affect crime. That is not true. Somebody said that we are going to end up putting everybody in jail. Well, everybody doesn't rob; everybody doesn't burglarize. We ought to do something serious to everybody who commits a serious crime. If we do so promptly and effectively, with wisdom, in a smart way, we can affect the crime rate, and we can make the lives of Americans safer. We ought to do that.

To me, there is no higher function of a government than to make its citizens safe in their communities, on their streets, in their homes, and where they go to work. What higher function could a government have than that? We have failed in that regard. I have seen it, and I have talked with the judges. That is why the Fraternal Order of Police, the Judges' Association, and the Boys and Girls Club support this project.

Our proposal—unlike the one set forth in the statute already, in which they are adding $50 million—is targeted to deal with criminality. Their proposal, again, is for leadership development activities, recreational services, teaching that people are and should be accountable for their actions. Well, there is nothing wrong with those goals, but that is not a very good crime proposal, in my opinion. I have been there. I have prosecuted crimes, I have dealt with every aspect of it. That is not the way to deal with crime. That is not targeted at all. That says you can spend the money on any doggone thing you want to spend it on.

Our proposal—the block grant proposal—was developed along with the support of Senator BIDEN from Delaware and others. And we had input and discussions with the ranking member from Vermont on the Judiciary Committee. Everybody had some input. They may not agree with everything in it, but it is focused on crime prevention, intervention and enforcement. By the way, the Senator from Delaware mentions $1 billion in prevention programs. He admits that. We only have $100 million in this enforcement program.

By the way, also in this bill the chairman has brought out is a new $220 million for a safe schools initiative. It is designed to build partnerships in the communities between police and schools and to try to make schools safer. That is $220 million in new money in another program designed that way. What we have left out, I am telling you—I can't tell you how strongly I believe this; I know it in my heart—what we are leaving out is the greatest engine for reducing juvenile crime, and that is the juvenile court system. They are the ones that are innovating at the most basic level, when kids are out of control. They have the capacity to effectively order them to do things they don't want to do, and to monitor those orders if we give them the support necessary.

So if we put the money into the block grant program, it would enhance prosecution and define opportunities to effectuate the bipartisan agreement that we have to support graduated sanctions or increase levels of punishment for repeat offenders. It would provide for short-term confinement for those who need it. Some do. It will also provide for the incarceration of violent repeat offenders for more extended periods. Not all the money would be for that; only 40 percent would be for that.

It would provide moneys for programs that require juvenile delinquents to pay restitution. It would provide programs to require juvenile offenders to complete schooling in vocational training. Is that a prevention program, or not? Is that a program that doesn't care about kids, or not? Does anybody deny that we need to have some children go into custody of some fashion? I doubt that. It has programs to require young juveniles to pay their child support. They ought to support their children. They bring them into this world.

Programs to curb truancy. The Senator from Delaware says we need to do something about truancy. I agree, absolutely. Truancy is a key signal that a child is out of control. School systems, police departments, and others ought to have an intensive effort to identify truancy at the earliest level.

His bill, if they want to put $50 million more in, doesn't have anything about truancy in it. The program I support does. It provides programs that seek to curb truancy by name. Then it has programs to collect records, drug testing of youngsters, juvenile crime prevention programs, and night curfews. Antidrug programs could be funded under this.

We have programs to deal with habitual offenders; programs targeted at youth gang members, trying to break them up; and programs to train law enforcement officers, juvenile judges, prosecutors, probation officers, and other court personnel in how to better deal with children.

We have $50 million on the table. That is what we have—$50 million sitting there. Do you want to put it in this bogus program that has no standards, can be spent for anything, or a program carefully crafted, carefully crafted to identify those youngsters who need help, and get it to them in a way that will reduce crime?

I am sorry if I feel strongly about it. But I have been involved in it for a long time. And I have worked hard on this committee. I am absolutely convinced that this is a valid program. We have many prevention programs. This has much of a prevention aspect to it. But what we don't have any money for is to strengthen our enforcement aspect.

Mr. President, this is a critical issue to me. It is the overlook aspect of crime in America: How can we most effectively intervene and change the lifestyle of these youngsters? Too often they are coming in for vandalism, petty theft, maybe for burglary, maybe for a household burglary, a car theft. And they come in and get involved in some other serious crime, are treated as an adult, and sent off for 15 years in the slammer. If we could have intervened for the first offense or two effectively, sometimes they might have been well served if they had been sent to jail or detained a few days. If we had intervened effectively there, we would have fewer crime victims and less need for housing for a youngster who became a career criminal and ended up serving a long time in jail.

Mr. President, that is the purpose of our amendment. I believe it meets all the standards for prevention, and for enforcement, and for intervention. I think it is the right way to go.

I yield the floor.

Mr. KOHL. Mr. President, I oppose this amendment. It would significantly cut the proposed funding for an effective prevention program, known as Title V. And it would undermine this bill's balanced approach between prevention and enforcement.

Let me explain why we should support this program.

First, it is truly bipartisan. It was originally drafted in 1992 by Senator Brown and myself. Last year, the full Senate supported increasing its funding level from $20 million to $75 million. And this year, with the support of Senators CAMPBELL, SPECTER and REID, its funding level is $70 million. Although on its face it gets $95 million, $25 million is set aside for a separate anti-drinking program. So if we cut $50 million, Title V gets the same $20 million it gets every year—and there will be no increase.

Second, it relies on local communities—who know their needs better than the federal government—to identify solutions tailored to local needs. Let me tell you about some of these programs which get funding in Wisconsin.

In Madison, Title V funds an after-school program for junior and high school age at-risk youth living in targeted low income neighborhoods. In Racine, it funds home visits by social workers and prenatal and postnatal education to mothers in low-income neighborhoods. In Jefferson County, it supports a program that works with school bullies—and their victims—to reduce school violence.

And these kinds of innovative programs are supported by Title V all over the nation. For example, in Senator SESSIONS' home state of Alabama, a Title V program in Tuscaloosa, has—according to its organizers—''made a significant impact in the incidence of juvenile violence and crime.''

Under Title V, communities qualify for funds only if they establish local boards to design long-term strategies for combating juvenile crime, and if they match federal funds with a 50 percent local contribution. Local communities know what works, and they don't throw good money after bad.

Finally, Title V works. Nearly 400 participating communities—from 49 states—believe in this program so much that, according to the GAO, they've matched federal money almost dollar-for-dollar—far more than the 50 percent match this program requires. And studies confirm that many of these programs have reduced crime in cities across the nation, including cities like Cincinnati, Ohio and Woodbury, Iowa.

Mr. President, it's a good idea to get rid of prevention programs that don't work. In fact, I authored legislation that resulted in a very controversial study by the Justice Department, which said that many prevention programs don't work. And with Senator Cohen I introduced legislation to junk bad prevention programs and consolidate many others. But we should keep and expand the programs that do work—especially ones like Title V that use federal dollars to inspire local action and local contributions.

Mr. President, I oppose this amendment.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I could respond at some length to the comments made by the Senator from Alabama. His intensity of concern and his legitimate efforts, which have been extraordinary in the area of juvenile justice, are something that I admire. He obviously has strong feelings expressed by the Senator from Delaware.

I know that there are a number of other Senators who wish to speak on this issue to express their thoughts. But I have had the courtesy of a number of Senators who have come up to me and said they would withhold their statements because there is a group of Members who wish to get down to the White House for the bill signing on the IRS, which is a fairly significant bill. I would like to get this vote completed before that occurs.

Let me simply say that I believe this is an extraordinarily balanced approach. We have eventually divided the money between prevention and incarceration, for the lack of a better term. It is an attempt to address both sides of the issue of juvenile justice within this bill. Yes, there are other programs outside of this bill that address both sides. In fact, there is a lot more incarceration money in this bill that wasn't talked about. But the fact is that this is a very balanced approach, both sets of programs are extremely credible, and we will move forward on the issue that we are concerned about, which is trying to reduce juvenile crime, which is clearly one of the major issues facing this country today.

Mr. President, at this time I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Alabama. On this question, the yeas and nays have been ordered, and 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. 220 Leg.]

YEAS—64

Akaka	Daschle	Johnson
Baucus	Dodd	Kennedy
Bennett	Dorgan	Kerrey
Biden	Durbin	Kerry
Bingaman	Feingold	Kohl
Boxer	Feinstein	Landrieu
Breaux	Ford	Lautenberg
Bryan	Glenn	Leahy
Bumpers	Gorton	Levin
Byrd	Graham	Lieberman
Campbell	Grassley	McCain
Chafee	Gregg	Mikulski
Cleland	Hagel	Moseley-Braun
Coats	Harkin	Moynihan
Cochran	Hollings	Murray
Collins	Hutchison	Reed
Conrad	Inouye	Reid
D'Amato	Jeffords	Robb

Rockefeller	Specter	Wellstone
Roth	Stevens	Wyden
Sarbanes	Torricelli	
Snowe	Warner	

NAYS—36

Abraham	Frist	McConnell
Allard	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bond	Hatch	Roberts
Brownback	Helms	Santorum
Burns	Hutchinson	Sessions
Coverdell	Inhofe	Shelby
Craig	Kempthorne	Smith (NH)
DeWine	Kyl	Smith (OR)
Domenici	Lott	Thomas
Enzi	Lugar	Thompson
Faircloth	Mack	Thurmond

The motion to lay on the table the amendment (No. 3245) was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, the managers of the legislation are trying their best to move this bill along. Senator DASCHLE and I have been working trying to keep extraneous amendments off of this bill, amendments that are not really related to it, strictly legislating on this appropriations bill. We have had some success over here, and, obviously, there has been an effort and success on the Democratic side. As usual, the longer we go, the longer the list of amendments. We need to get some finite list of amendments and work on this bill to get it completed.

It is my intent, after discussion with Senator DASCHLE and the managers, Senator GREGG and Senator HOLLINGS, that we complete this bill tonight and that we have votes tonight, as late as is necessary.

Everybody needs to know that this is not going to be a night where we all leave at 7 o'clock and the managers try to make things happen and nothing happens. We are going to be voting into the night. If it takes going to 11, 12 or 1 o'clock, I think it is time we have to do that in order to complete this work.

In that vein, I ask unanimous consent that the following amendments be the only remaining list of first-degree——

Mr. HOLLINGS. Will the distinguished leader yield? I have to check two other things. We are not prepared to agree to that.

Mr. LOTT. I had the impression we had cleared this on both sides of the aisle.

Mr. HOLLINGS. Not on this side, not yet.

Mr. LOTT. Senator DASCHLE is aware we are going to try to lock in the list. I must say, the list is 70 amendments, not exactly a great achievement.

Mr. HOLLINGS. We can clear it after a while, but I am not ready to agree right now.

Mr. LEAHY. Will the majority leader yield?

Mr. LOTT. I will be glad to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, if it helps, if the distinguished leader wishes to check that, I have a brief comment I want to make about this last vote. I will be willing to do that and you can check that.

Mr. LOTT. Mr. President, why don't we do that. We will withhold while we can run our checks then. The Senator from Vermont can comment and, hopefully, we can get it worked out.

Mr. KENNEDY. May I ask the majority leader a question? May I inquire of the majority leader if there has been any further progress in establishing a time when we are going to consider the Patients' Bill of Rights legislation? I know there have been communications between——

Mr. LOTT. We are ready to go. We have our bill. I think we have a good bill. Senator KENNEDY has his bill. I would like for us to just have a vote on his bill and a vote on our proposal. I understand that you feel you have solutions we need in this area. We feel very good about our bill.

The problem has been last week, for instance, it was suggested, ''Well, we will need 40 amendments.'' If we have these bills that have just been sent down on both sides, why don't we vote on what we have instead of going on for days and weeks trying to reach a conclusion?

Having said that, Senator DASCHLE and I have continued to talk to try to narrow down exactly when would be the best time to do it. We are talking about how we can get an agreement with which both sides can be satisfied. Obviously, the Senator from Massachusetts, Senator KENNEDY, wants to be involved in what the final unanimous-consent request will be, and a lot of Senators on this side, including Senator GRAMM, will have an interest in it.

I think we can come up with a reasonable proposal. I have been sending proposals since June 18, for a month. I continue to say, ''OK, how about this?'' And Senator DASCHLE has responded. I know he is negotiating in good faith. Both of us have a difficult time trying to satisfy Senators on both sides of this issue on both sides of the aisle, but we are narrowing them.

If we can get an agreement to a time certain that it will come up, with a couple of days for debate and for discussion of amendments or a limited number of amendments on both sides, that will be perfectly reasonable. But I know of no bill in the history of mankind that needs 40 or 50 or 70 amendments. Why do we want to go through that process? A reasonable number can be agreed to.

All I have to say is, just say yes. We are ready to do what the Senator from Massachusetts asked for a month ago. You get a vote, we get a vote and we move on. Yes; just say yes, we will do that.

Mr. KENNEDY. I am just wondering if it is the intention of the majority leader to schedule this. We are into Wednesday of this week. Is it his intention to afford us an adequate opportunity to debate these issues prior to the time of the break?

Mr. LOTT. It is certainly my hope. We are working to try to get that agreed to. In fact, it has been my plan to do that, and I am going to be disappointed if we can't get it agreed to. I know there is good faith on Senator DASCHLE's part; there is on mine. We will just keep working until we get it done.

Mr. KENNEDY. I thank the Senator.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3245

Mr. LEAHY. Mr. President, I thank the leader for his courtesy earlier. I will be very brief. Any time we speak of juvenile justice, there are, obviously, emotional issues that come up, as there was on this. But I believe the Senate has voted the proper way on the motion of the distinguished senior Senator from New Hampshire to table the amendment.

We can all tell horror stories of juvenile justice. One that came to my mind while listening to the lengthy debate this morning is a case when I was State's attorney. A man I knew well died as he was telling me who killed him. It was a juvenile. As he described it, we were in the emergency room and doctors were trying to save his life. I was there as the chief law enforcement officer of the county. And heard him tell me who the juvenile was who killed him. So we can all tell terrible stories.

What I also know, though, from my experience in law enforcement, and from law enforcement experts I have talked with today all over the country, is that prevention is still the best way to stop juvenile crimes. It is almost axiomatic. And we have a good funding method that the distinguished senior Senator from New Hampshire and the distinguished Senator from South Carolina have put together in this bill, and we should keep with that formula.

Had this amendment not been tabled, we would have had these juvenile prevention moneys—we would have had 35 percent going to building facilities and information-sharing programs, 45 percent into more judges and probation officers and prosecutors and technology and courts, and so forth.

The fact is, we are getting a handle on juvenile crime in this country, but we are doing it through prevention programs. All the police officers I have talked with in my State, and all the police officers I have talked with elsewhere, tell me the same thing: Better and more prevention programs to stop juvenile crime.

Among my duties as a prosecutor was to represent the State in the most active juvenile court in our State. Nearly a third of the juvenile cases in our State went through there. Over and over and over again, I saw the tragedy of juvenile crimes occurring because there had not been prevention programs. We did the right thing in this vote.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3252

(Purpose: To provide for mental health screening and treatment for incarcerated offenders)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 3252.

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

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

The amendment is as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. MENTAL HEALTH SCREENING AND TREATMENT FOR PRISONERS.

(a) ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.—Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or 20104, a State shall, not later than January 1, 1999, have a program of mental health screening and treatment for appropriate categories of convicted juvenile and other offenders during periods of incarceration and juvenile and criminal justice supervision, that is consistent with guidelines issued by the Attorney General.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, amounts made available to a State under section 20103 or 20104 may be applied to the costs of programs described in paragraph (1), consistent with guidelines issued by the Attorney General.

''(B) ADDITIONAL USE.—In addition to being used as specified in subparagraph (A), the funds referred to in that subparagraph may be used by a State to pay the costs of providing to the Attorney General a baseline study on the mental health problems of juvenile offenders and prisoners in the State, which study shall be consistent with guidelines issued by the Attorney General.''.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Chris Schoenbauer, an intern, and Ellen Gerrity, a fellow, be allowed to be on the floor during the debate on this piece of legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, today I am offering an amendment—and I thank both Senator HOLLINGS and Senator GREGG for their support—that would allow States to use Federal prison construction moneys for mental health treatment in our Nation's adult and juvenile corrections facilities—allow States; States make that decision.

I am a Senator from the State of Minnesota. Hubert Humphrey, a great Senator from Minnesota, once said:

The moral test of government is how the government treats those who are in the dawn of life, children; those who are in the twilight of life, the elderly; and those who are in the shadows of life —the sick, the needy, and the handicapped.

Today, throughout America, we are failing the moral test of how we treat adults and children. I want to focus on children in mental health, in the criminal and juvenile justice system, too many of whom live in the shadow of mental illness.

According to a recent article in the New York Times by Fox Butterfield—this was a front page piece. The title of it is ''Profits at a Juvenile Prison Come With a Chilling Cost.''

I ask unanimous consent that this very fine piece of journalism be printed in the RECORD.

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

[From the New York times, July 15, 1998]

PROFITS AT A JUVENILE PRISON COME WITH A CHILLING COST

(By Fox Butterfield)

TALLULAH, LA.—Here in the middle of the impoverished Mississippi Delta is a juvenile prison so rife with brutality, cronyism and neglect that many legal experts say it is the worst in the nation.

The prison, the Tallulah Correctional Center for Youth, opened just four years ago where a sawmill and cotton fields once stood. Behind rows of razor wire it houses 620 boys and young men age 11 to 20, in stifling corrugated-iron barracks jammed with bunks.

From the run-down homes and bars on the road that runs by it, Tallulah appears unexceptional, one new cookie-cutter prison among scores built in the United States this decade. But inside, inmates of the privately run prison regularly appear at the infirmary with black eyes, broken noses or jaws or perforated eardrums from beatings by the poorly paid, poorly trained guards or from fights with other boys.

Meals are so meager that many boys lose weight. Clothing is so scarce that boys fight over shirts and shoes. Almost all the teachers are uncertified, instruction amounts to as little as an hour a day, and until recently there were no books.

Up to a fourth of the inmates are mentally ill or retarded, but a psychiatrist visits only one day a week. There is no therapy. Emotionally disturbed boys who cannot follow guards' orders are locked in isolation cells for weeks at a time or have their sentences arbitrarily extended.

These conditions, which are described in public documents and were recounted by inmates and prison officials during a reporter's visit to Tallulah, are extreme, a testament to Louisiana's well-documented violent history and notoriously brutal prison system.

But what has happened at Tallulah is more than just the story of one bad prison. Corrections officials say the forces that converged to create Tallulah—the incarceration of more and more mentally ill adolescents, a rush by politicians to build new prisons while neglecting education and psychiatric services, and states' handing responsibility for juvenile offenders to private companies—have caused the deterioration of juvenile prisons across the country.

Earl Dunlap, president of the National Juvenile Detention Association, which represents the heads of the nation's juvenile jails, said, ''The issues of violence against offenders, lack of adequate education and mental health, of crowding and of poorly paid and poorly trained staff are the norm rather than the exception.''

Recognizing the problem, the United States Justice Department has begun a series of investigations into state juvenile systems, including not only Louisiana's but also those of Kentucky, Puerto Rico and Georgia. At the same time, private juvenile prisons in Colorado, Texas and South Carolina have been successfully sued by individuals and groups or forced to give up their licenses.

On Thursday, the Juvenile Justice Project of Louisiana, an offshoot of the Southern Poverty Law Center, filed a Federal lawsuit against Tallulah to stop the brutality and neglect.

In the investigations by the Justice Department, some of the harshest criticism has been leveled at Georgia. The department threatened to take over the state's juvenile system, charging a ''pattern of egregious conditions violating the Federal rights of youth,'' including the use of pepper spray to restrain mentally ill youth, a lack of textbooks, and guards who routinely stripped young inmates and locked them in their cells for days.

A surge in the inmate population forced Georgia's juvenile prison budget up to $220 million from $80 million in just four years, but the money went to building new prisons, with little left for education and psychiatric care. ''As we went through a period of rapid increase in juvenile crime and record numbers of juvenile offenders,'' said Sherman Day, chairman of the Georgia Department of Juvenile Justice, it was ''much easier to get new facilities from the Legislature than to get more programs.''

After reacting defensively at first, Gov. Zell Miller moved quickly to avert a takeover by agreeing to spend $10 million more this year to hire teachers and medical workers and to increase guard salaries.

Louisiana, whose juvenile system is made up of Tallulah and three prisons operated by the state, is the Justice Department's latest target. In hundreds of pages of reports to a Federal judge who oversees the state's entire prison system under a 1971 consent decree, Justice Department experts have depicted guards who routinely resort to beatings or pepper spray as their only way to discipline inmates, and who pit inmates against one another for sport.

In June, two years after the Justice Department began its investigation and a year after it warned in its first public findings that Tallulah was ''an institution out of control,'' consultants for the department filed new reports with the Federal judge, Frank J. Polozola of Federal District Court in Baton Rouge, warning that despite some improvements, conditions had deteriorated to ''a particularly dangerous level.''

Even a former warden at Louisiana's maximum-security prison, acting as a consultant to Judge Polozola, found conditions at Tallulah so serious that he urged the judge to reject its request to add inmates.

''I do not make these recommendations because of any sympathy for these offenders,'' wrote the former warden, John Whitley. ''It shocks me to think'' that ''these offenders and their problems are simply getting worse, and these problems will be unleashed on the public when they are discharged from the system.''

Some of the worst conditions in juvenile prisons can be found among the growing number of privately operated prisons, whether those built specifically for one state, like Tallulah, or ones that take juveniles from across the country, like boot camps that have come under criticism in Colorado and Arizona.

Only 5 percent of the nation's juvenile prisons are operated by private, for-profit companies, Mr. Dunlap of the National Juvenile Detention Association estimates. But as

their numbers grow along with privately operated prisons for adults, their regulation is becoming one of the most significant issues in corrections. State corrections departments find themselves having to police contractors who perform functions once the province of government, from psychiatric care to discipline.

In April, Colorado officials shut down a juvenile prison operated by the Rebound Corporation after a mentally ill 13-year-old's suicide led to an investigation that uncovered repeated instances of physical and sexual abuse. The for-profit prison housed offenders from six states.

Both Arizona and California authorities are investigating a privately operated boot camp in Arizona that California paid to take hundreds of offenders. A 16-year-old boy died there, and authorities suspect the cause was abuse by guards and poor medical care. California announced last Wednesday that it was removing its juveniles from the camp.

And recently Arkansas canceled the contract of Associated Marine Institutes, a company based in Florida, to run one juvenile institution, following questions of financial control and accusations of abuse.

A series of United States Supreme Court decisions and state laws have long mandated a higher standard for juvenile prisons than for adult prisons. There is supposed to be more schooling, medical care and security because the young inmates have been adjudged delinquent, rather than convicted of crimes as adults are, and so are held for rehabilitation instead of punishment.

But what has made problems worse here is that Tallulah, to earn a profit, has scrimped on money for education and mental health treatment in a state that already spends very little in those areas.

''It's incredibly perverse,'' said David Utter, director of the Juvenile Justice Project of Louisiana. ''They have this place that creates all these injuries and they have all these kids with mental disorders, and then they save money by not treating them.''

Bill Roberts, the lawyer for Tallulah's owner, Tans-American Development Associates, said that some of the Justice Department's demands like hiring more psychiatrists, are ''unrealistic.'' The state is to blame for the problems, he said, because ''our place was not designed to take that kind of inmate.''

Still, Mr. Roberts said, ''There has been a drastic improvement'' in reducing brutality by guards. As for fights between the inmates, he said, ''Juveniles are a little bit different from adults. You are never going to stop all fights between boys.''

In papers filed with Judge Polozola on July 7 responding to the Justice experts and Mr. Whitley, the State Attorney General's office disputed accusations of brutality and of high numbers of retarded and mentally ill inmates at Tallulah.

In a recent interview, Cheney Joseph, executive counsel to Gov. Mike Foster, warned there were limits to what Louisiana was willing to do. ''There are certain situations the Department of Justice would like us to take care of,'' he said, ''that may not be financially feasible and may not be required by Federal law.''

The idea for a prison here was put forward in 1992 by James R. Brown, a Tallulah businessman whose father was an influential state senator.

One of the poorest areas in a poor state, Tallulah wanted jobs, and like other struggling cities across the country it saw the nation's prison-building spree as its best hope.

Louisiana needed a new juvenile prison because the number of youths being incarcerated was rising steeply; within a few years it more than doubled. Adding to that, mental health experts say, were hundreds of juveniles who had no place else to go because of cuts in psychiatric services outside of jail. Mental health authorities estimate that 20 percent of juveniles incarcerated nationally have serious mental illnesses.

To help win a no-bid contract to operate a prison, the company Mr. Brown formed included two close friends of Gov. Edwin W. Edwards—George Fischer and Verdi Adam—said a businessman involved in the venture's early stages, who spoke on the condition of anonymity.

None of the men had any particular qualification to run a prison. Mr. Verdi was a former chief engineer of the state highway department. Mr. Fischer had been the Governor's campaign manager, Cabinet officer and occasional business partner.

Tallulah opened in 1994, and the town of 10,000 got what it hoped for. The prison became its largest employer and taxpayer.

From the beginning, the company formed by Mr. Brown, Trans-American, pursued a strategy of maximizing its profit from the fixed amount it received from the state for each inmate (in 1997, $24,448). The plan was to keep wages and services at a minimum while taking in as many inmates as possible, said the businessman involved in the early stages.

For-profit prisons often try to economize. But the best-run companies have come to recognize that operating with too small or poorly trained staff can spell trouble, and experts say state officials must pay close attention to the level of services being provided.

''Ultimately, the responsibility belongs to the state,'' said Charles Thomas, director of the Private Corrections Project at the University of Florida.

Louisiana officials say they monitored conditions at Tallulah and first reported many of the problems there. But in fiscal year 1996–97, according to the State Department of Public Safety and Corrections, Tallulah still listed no money for recreation, treatment or planning inmates' return to society. Twenty-nine percent of the budget went to construction loans.

By comparison, 45 percent of the $32,200 a year that California spends on each juvenile goes to programs and caseworkers, and none to construction. Nationally, construction costs average 7 percent of juvenile prison budgets, Mr. Dunlap said.

''That means either that Tallulah's construction costs are terribly inflated, or the services they are providing are extraordinarily low,'' he said.

Part of Tallulah is a boot camp, with boys crammed so tightly in barracks that there is room only for double bunks, a television set and a few steel tables. Showers and urinals are open to the room, allowing boys who have been incarcerated for sexual assault to attack other inmates, according to a report in June by a Justice Department consultant, Dr. Bernard Hudson.

The only space for the few books that have recently been imported to try to improve education is a makeshift shelf on top of the urinals. Among the aging volumes that a reporter saw were ''Inside the Third Reich,'' ''The Short Stories of Henry James'' and ''Heidi.''

From their wakeup call at 5:30 A.M., the inmates, in white T-shorts and loose green pants, spend almost all their time confined to the barracks. They leave the barracks only for marching drills, one to three hours a day of class and an occasional game of basketball. There is little ventilation, and temperatures in Louisiana's long summers hover permanently in the 90's.

The result, several boys told a visitor, is that some of them deliberately start trouble in order to be disciplined and sent to the other section of Tallulah, maximum-security cells that are air-conditioned.

Guards put inmates in solitary confinement so commonly that in one week in May more than a quarter of all the boys spent at least a day in ''Lockdown,'' said Nancy Ray, another Justice Department expert. The average stay in solitary is five to six weeks; some boys are kept indefinitely. While in the tiny cells, the boys are stripped of all possessions and lie on worn, thin mattresses resting on concrete blocks.

The crowding, heat and isolation are hardest on the 25 percent of the boys who are mentally ill or retarded, said Dr. Hudson, a psychiatrist, tending to increase their depression or psychosis.

Although Tallulah has made some improvements in its treatment of the emotionally disturbed over the last year, Dr. Hudson said, it remains ''grossly inadequate.''

The prison still does not properly screen new arrivals for mental illness or retardation, he reported. The part-time doctor and psychiatrist are there so infrequently that they have never met, Dr. Hudson said. Powerful anti-psychotic medications are not monitored. Medical charts often cannot be found.

And the infirmary is often closed because of a shortage of guards, whose pay is so low—$5.77 an hour—that there has been 100 percent turnover in the staff in the last year, the Justice Department experts said.

Other juvenile prisons that have come under investigation have also been criticized for poor psychiatric treatment. But at Tallulah this neglect has been compounded by everyday violence.

All these troubles are illustrated in the case of one former inmate, Travis M., a slight 16-year-old who is mentally retarded and has been treated with drugs for hallucinations.

Sometimes, Travis said in an interview after his release, guards hit him because his medication made him sleepy and he did not stand to attention when ordered. Sometimes they ''snuck'' him at night as he slept in his bunk, knocking him to the cement floor. Sometimes they kicked him while he was naked in the shower, telling him simply, ''You owe me some licks,''

Travis was originally sentenced by a judge to 90 days for shoplifting and stealing a bicycle. But every time he failed to stand for a guard or even called his grandmother to complain, officials at Tallulah put him in solitary and added to his sentence.

After 15 months, a judge finally ordered him released so he could get medical treatment. His eardrum had been perforated in a beating by a guard, he had large scars on his arms, legs and face, and his nose had been so badly broken that he speaks in a wheeze. A lawyer is scheduled to file suit against Tallulah on behalf of Travis this week.

One reason these abuses have continued, Mr. Utter said, is that juveniles in Louisiana, as in a number of states, often get poor legal representation. One mentally ill boy from Eunice was sentenced without a lawyer, or even a trial. Poorly paid public defenders seldom visit their clients after sentencing, Mr. Utter said, and so are unaware of conditions at places like Tallulah.

Another reason is that almost all Tallulah's inmates are from poor families and 82 percent are black, Mr. Utter noted, an imbalance that afflicts prisons nationwide to one degree or another. ''They are disenfranchised and no one cares about them,'' he said.

In September, Tallulah hired as its new warden David Bonnette, a 25-year veteran of Angola State Penitentiary who started there as a guard and rose to assistant superintendent. A muscular, tobacco-chewing man with

his initials tattooed on a forearm, Mr. Bonnette brought several Angola colleagues with him to impose better discipline.

''When I got here, there were a lot of perforated eardrums,'' he said. ''Actually, it seemed like everybody had a perforated eardrum, or a broken nose.'' When boys wrote complaints, he said, guards put the forms in a box and pulled out ones to investigate at random. Some were labeled, ''Never to be investigated.''

But allegations of abuse by guards dropped to 52 a month this spring, from more than 100 a month last summer, Mr. Bonnette said, as he has tried to carry out a new state policy of zero tolerance for brutality. Fights between boys have declined to 33 a month, from 129, he said.

In June, however, Ms. Ray, the Justice Department consultant, reported that there had been a recent increase in ''youth defiance and disobedience,'' with the boys angry about Tallulah's ''exceptionally high'' use of isolation cells.

Many guards have also become restive, the Justice Department experts found, a result of poor pay and new restrictions on the use of force.

One guard who said he had quit for those reasons said in an interview: ''The inmates are running the asylum now. You're not supposed to touch the kids, but how are we supposed to control them without force?'' He has relatives working at Tallulah and so insisted on not being identified.

The frustration boiled over on July 1, during a tour by Senator Paul Wellstone, the Minnesota Democrat who is drafting legislation that would require psychiatric care for all incarcerated juveniles who need it. Despite intense security, a group of inmates climbed on a roof and shouted their complaints at Senator Wellstone, who was accompanied by Richard Stalder, the secretary of Louisiana's Department of Public Safety and Corrections.

Mr. Stalder said he planned to create a special unit for mentally ill juvenile offenders. One likely candidate to run it, he said, is Trans-American, the company that operates Tallulah.

Mr. WELLSTONE. Almost 200,000 people behind bars in the United States of America, according to Mr. Butterfield, are known to suffer from schizophrenia, manic-depression, or major depression—the three most severe mental illnesses. This rate is four times greater than for the general population. And there is strong evidence, particularly among juveniles, that their numbers in the jails are growing.

The vast majority of these people, colleagues, have not committed serious violent crimes. Some are homeless people charged with minor crimes that are a byproduct of their mental illness. They just get swept up and incarcerated. Others are picked up with no charges at all, in what police call ''mercy arrests,'' simply for acting strange.

Jails and prisons often find themselves unprepared to deal with the mentally ill. For instance, medication may not be properly monitored or guards do not know how to respond to disturbed inmates who are simply not capable of standing in an orderly line for meals. A common result is that these inmates find themselves in solitary confinement.

Colleagues, 200 years ago the most common treatment for the seriously mentally ill was jail. Thousands of people with severe disorders were brutally locked away and forgotten. This did not change until Dorothy Dix, and other reformers in the middle of the last century, successfully fought to have these people transferred form jails to hospitals.

I fear that our jails are once again becoming dumping grounds for ill people who need treatment and care and that as a result we are recriminalizing the mentally ill in America today.

On July 1, Mr. President, I went with the National Mental Health Association to the Tallulah Correctional Center for Youth. Mr. President, I want to just briefly summarize this trip and then focus on mental health and children.

First of all—and I have talked with my colleagues from Louisiana who care a great deal about this. Let me say that, in particular, the warden, David Bonnette, is very committed to trying to make the changes.

I went there because I had seen some preliminary Justice Department reports that essentially said there were kids who really had not committed any crimes—by the way, the vast majority of children, over 90 percent in the juvenile corrections system, have not committed violent crime. But I heard that there were kids who had been dumped in this facility—but the same can be said for other facilities in our country—who had not committed any violent crimes. Some had not committed any crime. And then, to make matters worse, there is no medication, no counseling, and there they are. It is unconscionable.

I went to visit this facility. When I got there, I first met with people in the administrative building. A lot of officials from Louisiana were there, quite a bit of media was there—journalists, TV, radio. But forget all that.

We had some initial negotiations because I wanted to visit where the solitary confinement cells were. I wanted to find out why kids were put in these cells for up to 6 or 7 weeks at a time, up to maybe 23 hours a day—if my colleagues are listening. I wanted to find out why.

Before visiting there, we first went to a building where these kids—and they are kids from age 11 to age 18—were eating. I say to my colleague from South Carolina, he might be interested in this. Again, I am not trying to point the finger of blame, but I saw these kids eating, and probably 85 percent of them were black, African American, ages 11 to 18. There are 500-plus kids in this facility.

I went over to where some of these kids were eating, and I said, ''How are you doing?'' And this one kid said, ''Not so good.'' I said, ''What do you mean?'' He said, ''This food, they never serve this food. They just did this for today. We don't ever get this kind of food. These clothes, we never had these clothes. Every day it's the same clothes. Every day it's the same underwear. It's hot. There's no air conditioning. And we don't have any clothes like this, clean clothes. These shoes, we never had any shoes like this. Smell the paint on the table. These tables have all been freshly painted. This is just a show for you, Senator.''

Then I turned to officials from Louisiana, and I never heard them contradict that. Again, I am going to end up very much in the positive about what I think is going to happen now.

And then we walked across the compound—that is what I will call it—because I wanted to get to where these solitary confinement cells were. And this one young man climbs up on a roof, leaps up on a roof, and runs toward me and a whole lot of people who are with me. And I said to him, ''You're going to get in a lot of trouble. Why are you doing this?'' He said, ''I want to make a statement.'' I said, ''What is your statement?'' He said, ''This is a show. And we're all going to get beaten up when you leave. We get beaten up all the time.''

Then I met with four young guys. One had stolen a moped. That is why he was there. One was there for breaking and entering, and another was breaking and entering. The point is, they talked about being beaten up all the time.

Now, the Justice Department has also chronicled some of these conditions. The truth of the matter is, I believe the warden there and the State of Louisiana knows that things have to change. That is the good news, I hope. There has now been a civil rights lawsuit filed. There is a tremendous amount of interest.

What I want to say to colleagues, and I believe this Fox Butterfield article was terribly important as well, but I want to just simply talk about some of what I observed, regarding the mental health in children. One hallucinating child was in isolation for observation, yet his transfer to an appropriate mental health facility was uncertain. Another child I met was taking three different types of powerful psychiatric medications but had only seen a psychiatrist twice in the last 8 months. The Justice Department chronicled instances where boys were being repeatedly sexually and physically abused, and children with mental illness were being housed with youths who had committed violent crimes—mentally ill children who had received no therapy, and when they are having the symptoms they are often isolated or punished for their illness.

Mr. President, I just say that what is happening to these troubled children who were dumped in these facilities and get no care, many of whom shouldn't be there in the first place, is a national tragedy. All across our country we are dumping emotionally disturbed kids into juvenile prisons. Each year more than 1 million youth come in contact with the juvenile justice system, and more than 100,000 of these youth are detained in some type

of jail or prison. These children are overwhelmingly poor, and a disproportionate number of them are children of color.

By the time many of these children are arrested and incarcerated, they have a long history of problems in their short lives. As many as two-thirds suffer from mental or emotional disturbances. One in five has a serious disorder. Many have substance abuse problems and learning disabilities, and most of them come from troubled homes.

Tallulah is not the only offending facility. The Justice Department has exposed gross abuses in Georgia, Kentucky, and other juvenile facilities all across our country. Other States are experiencing similar problems. Investigators found extreme cases of physical abuse and neglected mental health needs, including unwarranted and prolonged isolation of suicidal children who are hog-tied, and chemical restraints are used on youth with serious emotional disturbances, as well as forced medication and even denial of medication. Children with extensive psychiatric histories who are prone to self-mutilation never even saw a psychiatrist. This is a Justice Department report, Justice Department findings on conditions in our juvenile ''correction'' facilities.

Mr. President, our current system fails mentally ill adults and children. The screening and treatment of mental and emotional disturbances are inadequate or nonexistent at correctional facilities. Mental illness typically is addressed solely through discipline, isolation, and restraint. At Tallulah, children told us they were beaten and put in isolation for long periods, even months, echoing in painful detail what has been revealed in the Justice Department reports.

The tragedy of this situation is that we know what works—treatment. But our current system for adults and children with mental illness favors punishment over treatment. For children, we know that family focused, individualized treatment, delivered in a child's community can improve that child's mental health and prevent them from offending in the first place. It is proven that if you integrate these mental health and substance abuse services with schools and child agencies and you make it happen at the local level, it provides even greater success. In fact, linked with community services, these other treatment programs have been shown to reduce contact with the juvenile system by 46 percent.

This amendment, really, builds on this. Under this amendment, States receiving Federal prison construction moneys would be able to use these funds to implement mental health screening and treatment of adult and juvenile offenders within their correctional systems. It is badly needed. Those States receiving Federal prison construction moneys would also be required to develop a plan for mental health treatment of mentally ill offenders. Finally, States receiving these funds would be required to provide the attorney general an initial baseline study of mental illness in their correction facilities.

We can't any longer ignore this tragedy. What I saw in Tallulah is a national disgrace. The wholesale neglect of adults and youth with emotional disturbances in our prisons must end. We, as a society, have the moral obligation to see that they get the help they need.

I thank both of my colleagues for supporting this amendment. I want to end on this note. I said it once earlier. I want to make it crystal clear, because I am sensitive to not doing any bashing of any one State. Yes, I visited the facility in Tallulah. I will tell you something, those conditions shouldn't exist. I will tell you something else, beyond the connection of mental health in children and children who have never committed a crime, they just get dumped in these correction facilities, and then when they are there they get no treatment, no vocational ed treatment, precious little education, no counseling, inadequate medical attention, on and on and on.

Mr. President, the other thing I want to say, which is another point which I guess speaks back to the vote we just had, I tell you I am all for holding people accountable when they commit a brutal or heinous crime. I have said it before and I will say it again, when three 16-year-olds beat up an 85-year-old woman and leave her for dead, I don't feel sorry for them. But I tell you Democrats and I tell you Republicans, anybody who believes that those kinds of conditions that I saw at Tallulah Correctional Center—they exist in a lot of other centers, and people in Louisiana are taking action to make things better, and I believe they will—anybody who thinks that is the answer, is way off base. A lot of those kids, those 11-year-olds and 12-year-olds I met, I wouldn't have been afraid to meet then at 10 at night before they came to this ''correction'' facility, but I wouldn't want to meet some of these kids at 10 at night alone after they have been in these facilities.

What do you think we will get from this with these kinds of conditions? What do you think we will get from this when you put kids in brutal conditions? You make them brutal. Every one of these children who I visited with is a mother's child and a father's child. This is disgraceful. This is disgraceful.

I wouldn't say this is necessarily the central issue in the country. That is why I thank my colleagues for their support. But I am telling you I really believe this amendment will be very helpful, because what this amendment will do is it will say to the States, look, if you want to do the assessment before you incarcerate a kid, if you want to find out what happened by way of violence in the home or substance abuse, or whether or not the kid should even be in a correctional facility versus somewhere else, and you want to figure if they should be incarcerated—some should—or what kind of treatment is needed, you can use some of this money to do that. We have estimates of up to 25 percent-plus of the kids in these juvenile correction facilities are struggling with these mental problems and we just abandon them.

The second thing it said is, look, States, with your prison system, you have to lay out the plan that you have for dealing with some of the people who are in the system who are struggling with these mental problems and what kind of treatment they will get. We are worse off as a nation in terms of losing our soul if we don't do this. Frankly, it is in the self-interest of every family in America to make sure we get treatment to these kids and treatment to some of these people who are incarcerated. If they don't get the treatment, or the conditions that I described today from Fox Butterfield in the New York Times article, we are all worse off for it.

So I thank both my colleagues for their support. I hope I will get strong support in conference committee as well. I am very proud to have had a chance to introduce this amendment, and I am pleased that the amendment is going to be accepted.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HOLLINGS. I have just been informed that the distinguished Senator from Louisiana wanted to be heard on the amendment.

I understand that the Senator will speak after we agree to the amendment. She will be here shortly.

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

The amendment (No. 3252) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I understand that the amendment by my distinguished colleague, Mr. WELLSTONE, has been accepted. I wanted to say how much I admire him for bringing this issue to the attention of the Senate and for his eloquent presentation on what I think is a real problem in our Nation. As he outlined, in

Louisiana, during his last visit, he found that one of our facilities sure could stand great improvement. I am also positive that there are many facilities in other States in our Nation that can also use improvement and attention.

I wanted to say for the Record that we talk, in campaigns particularly and finally when we get here to this body, a lot about being ''tough on crime.'' We talk about being smart and tough because it takes a combination of that to really drive down these juvenile crime rates, drive down crime rates in America. We need to remain tough, with tough penalties; but we also have to be smart. This was a smart amendment that we accepted just a few minutes ago. This was maybe one of the smartest things we have done in a couple of weeks here—and maybe for a long time—because we have allowed States to take some of their money for construction and use it for mental health services.

It does us no good, Mr. President, as we know, to keep juveniles in facilities that are inappropriate and don't offer the proper training and counseling, only to turn them into hardened criminals—for them to then be released to go back into our neighborhoods and communities and wreak havoc when we could have done the smart thing, which Senator WELLSTONE has urged us to do, and what we have now done, by intervening earlier and providing this counseling, which would prevent us from spending extra money. But it is not just the extra money that we spend, it is also the loss of life, the loss of property, the pain and suffering that is caused when we don't do these things early on. So spending a small amount of money for the proper mental health counseling would go a long way, I think, in our Nation toward getting us to our goal of reducing crime across the board in America.

I want to thank the Senator for his visit to Louisiana. I am familiar with this facility. I had some dealings with this and three other facilities when I was State treasurer in Louisiana. At that time, many years ago, I objected to the construction of these facilities based on the thought that it was profits driving them and not good policies about how to incarcerate, when to incarcerate, and what kind of counseling these juveniles would get. Sometimes they are first offenders, sometimes they are nonviolent offenders. The lack of those services has provided a prospective. I did not prevail, obviously, because these facilities were built. We can clearly see now that there are problems when our policies are driven by profits, not good crime-fighting policies and good prevention. I am thankful and glad that we adopted this amendment. I want to voice my support for what we are doing. Hopefully, we can do more of it.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from North Carolina is recognized.

AMENDMENT NO. 3253

(Purpose: To amend section 3486 of title 18, United States Code, relating to offenses involving the sexual exploitation or other abuse of children)

Mr. FAIRCLOTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH] proposes an amendment numbered 3253.

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

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

The amendment is as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. Section 3486(a)(1) of title 18, United States Code, is amended by inserting ''or any act or activity involving a Federal offense relating to the sexual exploitation or other abuse of children,'' after ''health care offense,''.

Mr. FAIRCLOTH. Mr. President, we all know that the Internet has become the tool of choice for sexual predators and child pornographers. In fact, the Senate just yesterday attempted to deal with pornography on the Internet by refining the Communications Decency Act.

There are numerous legislative proposals to deal with this issue.

I especially want to thank Chairman GREGG. Under his leadership in this bill, he has provided millions for the Justice Department to investigate these crimes. And his leadership on this issue is to be commended—for the method which he has handled it, and the far-reaching effect it is going to have.

I asked the FBI what tool is it that they most need to go after sexual predators on the Internet. What would do the most good? They tell me that a legislative change that is most needed by them is administrative subpoena authority to quickly get records on sexual predators—that administrative subpoena authority would do more to expedite matters than anything else we could do.

Mr. President, the FBI has an operation known as ''Innocent Images.'' The operation was created in the wake of the disappearance of a small boy in Maryland. The FBI found an elaborate operation being used to lure children over the Internet. That was its sole purpose. Thus far, the operation has net 200 indictments, 150 convictions, and 135 arrests.

Literally every day you cannot pick up a newspaper without reading about a case of a sexual predator looking for children on the Internet.

When the FBI testified before the Senate Appropriations Committee in March, Director Freeh said that when an agent, pretending to be a child, signed onto a ''chat room'' with 23 other children, 22 of the 23—23 supposed children—22 of the 23 turned out to be adults seeking improper contact with the girl, the one out of the 23.

That is how pervasive this problem is today on the Internet.

What the FBI needs most is an administrative subpoena authority for cases that involve a Federal violation related to sexual exploitation and abuse of children.

They have informed my staff that this would be the most useful tool they could have in order to crack these cases.

This would allow them to quickly access records from Internet service providers regarding a potential sexual predator using the Internet to prey on children. Without this authority, the FBI has to go through a very cumbersome process of contacting the U.S. attorney and convening a grand jury just to get this information.

The FBI has already had this administrative subpoena authority in narcotics cases and health care fraud cases. But surprisingly they do not have it in sexual predator cases involving our children.

I know that health care fraud is important. But it is not really more important than catching sexual predators.

Mr. President, there is a very practical reason this is needed as well.

The FBI task force on this issue has had to get 6,200 grand jury subpoenas for routine subscriber information off of the Internet. This would reduce the administrative burden on U.S. attorneys, and certainly on the grand jury system. Further, because of grand jury secrecy rules, this information cannot be shared with State and local law enforcement officials. So once it is acquired through a grand jury, there still are impediments to using it.

Together with local law enforcement police, the FBI needs help to catch these people. It is very important that we move in this direction. But this is a narrow approval of the use of the administrative subpoena, so that cases involving Internet crimes on children can be solved quickly and the information obtained quickly.

Mr. President, I strongly urge the Senate to accept this amendment. Mr. President, I understand the amendment is to be accepted. I urge its a adoption.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe there is no further debate on this amendment. I urge simply a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 3253) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from South Carolina.

AMENDMENT NO. 3254

(Purpose: To express the sense of the Senate on saving Social Security first)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, and Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mr. LAUTENBERG, and Mrs. MURRAY, proposes an amendment numbered 3254.

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

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

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(a) FINDINGS.—The Senate finds that:

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds have reported to the Congress that the ''total income'' of the Social Security system ''is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) Section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations; and

(3) save Social Security first by reserving any surpluses in fiscal year 1999 budget legislation.

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the Senator proposing a second-degree amendment?

Mr. GREGG. Reserving the right to object, Mr. President,

The PRESIDING OFFICER. The Senator from New Hampshire reserves the right to object.

Mr. HOLLINGS. This is a sense-of-the-Senate amendment on Social Security.

Mr. GREGG. May we have a look at it?

Mr. HOLLINGS. Yes. We all voted for it. It is the same thing we voted for.

Where do you need to ask unanimous consent for an amendment?

The PRESIDING OFFICER. The Chair will observe that the Senator does not have a right to send a second-degree amendment to the first-degree amendment until that first-degree amendment has been disposed of, or has had some action, or unless consent is granted, and the Senator from New Hampshire reserves the right to object.

Mr. GREGG. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent at this time that the Senator from South Carolina be recognized for the purposes of debate only, and that immediately upon the conclusion of his remarks the floor be returned to me.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I thank the distinguished chairman.

With respect to this particular sense-of-the-Senate amendment, it really goes right to the heart of the expression ''Saving Social Security first.'' The fact is, as we talk about campaign finance reform, the abuses and the scandals of campaign finance reform are not corporate money, labor money, soft money, hard money, Buddhist temple money, Lincoln bedroom money. The scandal of campaign finance is the looting of the Social Security fund by politicians who want to get reelected, whereby they determine every year that they have a big surplus.

The reason for this amendment, of course, is the constant chatter, particularly on the other side of the Capitol, about Social Security, surpluses, and taxes.

In order to get a surplus, here is exactly the moneys necessary to be used and even allow you to talk the language. Under the law, we are not allowed to talk the language, under section 13301. But in violation of Section 13301, a statute signed into law November 5, 1990, the CBO report uses numbers of the so-called unified budget. This is not a long report, Mr. President. I ask unanimous consent that excerpts of the CBO report of July 15 be printed in the RECORD.

I understand the Government Printing Office estimates the cost of printing this report in the RECORD to be $2,222.

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

THE ECONOMIC AND BUDGET OUTLOOK FOR FISCAL YEARS 1999–2008: A PRELIMINARY UPDATE, JULY 15, 1998

(Prepared by the Congressional Budget Office)

The Congressional Budget Office (CBO) projects that the federal budget for fiscal year 1998 will record a total surplus of $63 billion, or 0.8 percent of gross domestic product (GDP). If current policies remain unchanged, the surplus is expected to rise to $80 billion in 1999 and reach $251 billion (nearly 2 percent of GDP) by 2008. Excluding the surplus in Social Security and the net outlays of the Postal Service (both of which are legally classified as off-budget), CBO's new projections show an on-budget deficit of $41 billion in 1998, which gives way to surpluses in 2002 and in 2005 through 2008.

The budget outlook has improved significantly in the past six months. Unexpectedly strong revenue collections by the Treasury in the first nine months of fiscal year 1998 are the major reason that CBO has gone from projecting a small deficit last January to estimating a surplus of $63 billion today. The strength of 1998 revenues, together with a slightly more optimistic economic outlook, also forms the basis for increases in CBO's projections of the surplus for 1999 through 2008.

Determining the degree to which this year's unanticipated revenues should carry over into projections of future revenues is difficult at this time because the reasons for the increase are still largely unknown. In January, CBO projected that 1998 revenues would total $1,665 billion. By March, revenue collections to date suggested that the total would reach $1,680 billion. Based on collections through June, CBO believes that 1998 revenues will total $1,717 billion. New economic data explain less than $7 billion of the increase in the projection since January, while new legislation is responsible for $1 billion. That leaves $45 billion, almost all in revenues from individual income taxes, to be explained by other factors.

At this point, analysts can only speculate about the sources of income that produced the added revenues in 1998 and their implications for revenue growth in future years. Certain explanations of the sources of the additional income would suggest that projections of revenues should be adjusted by growing amounts over time. But others point to temporary factors and would suggest an adjustment that fades away over several years. After assessing the possible causes, CBO has chosen a middle path: it has assumed that the factors producing the additional revenues in 1998 will continue to add a similar amount to revenues in future years.

Changes in the economic outlook also boost surpluses projected over the next decade. A smaller expected decline in corporate profits as a share of GDP increases projected revenues, and slightly lower real long-term interest rates after 2000 reduce interest payments on the national debt. A reduction in

the projected rate of inflation—which holds down required cost-of-living increases, the growth of Medicare costs, nominal interest rates, and assumed increases in discretionary spending after 2002—significantly lowers projected outlays in the longer term. But lower inflation does not have a major impact on the surplus because it also slows the growth of taxable incomes, leading to a reduction in projected tax revenues that offsets the reduction in outlays.

CBO now expects lower outlays in 1998 than it projected in March, but that decrease largely reflects temporary factors that are not expected to reduce spending in the future. Legislation enacted since March has lowered projected surpluses by a few billion dollars a year—primarily reflecting higher spending for transportation programs.

THE ECONOMIC OUTLOOK

The economy has continued to grow at a healthy pace, with low unemployment and subdued inflation. CBO projects that growth will slow over the next few years and that the unemployment and inflation rates will gradually rise (see Table I). The current outlook is not dramatically different from CBO's last economic projections, made in January, but small increases in real growth, somewhat lower inflation, profits that account for a larger share of GDP, and lower real long-term interest rates significantly affect the budget's projected bottom line.

TABLE 1.—COMPARISON OF CBO ECONOMIC PROJECTIONS, CALENDAR YEARS 1998–2008

	Actual 1997	Forecast		Projected								
		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Nominal GDP (Billions of dollars):												
Summer 1998	8,080	8,487	8,849	9,213	9,582	10,019	10,486	10,966	11,458	11,963	12,486	13,029
January 1998	8,081	8,461	8,818	9,195	9,605	10,046	10,529	11,038	11,565	12,112	12,684	13,280
Nominal GDP (Percentage change):												
Summer 1998	5.8	5.0	4.3	4.1	4.0	4.6	4.7	4.6	4.5	4.4	4.4	4.3
January 1998	5.8	4.7	4.2	4.3	4.5	4.6	4.8	4.8	4.8	4.7	4.7	4.7
Real GDP (Percentage change):												
Summer 1998	3.8	3.3	2.1	1.8	1.8	2.4	2.4	2.4	2.3	2.2	2.1	2.1
January 1998	3.7	2.7	2.0	1.9	2.0	2.1	2.3	2.3	2.2	2.2	2.2	2.1
GDP Price Index (Percentage change):												
Summer 1998	2.0	1.6	2.1	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2	2.2
January 1998	2.0	2.0	2.2	2.3	2.4	2.4	2.5	2.5	2.5	2.5	2.5	2.5
Consumer Price Index [1] (Percentage change):												
Summer 1998	2.3	1.7	2.6	2.7	2.6	2.5	2.5	2.5	2.5	2.5	2.5	2.5
January 1998	2.3	2.2	2.5	2.7	2.8	2.8	2.8	2.8	2.8	2.8	2.8	2.8
Unemployment Rate (Percent):												
Summer 1998	4.9	4.6	4.7	5.1	5.5	5.7	5.7	5.7	5.7	5.7	5.7	5.7
January 1998	4.9	4.8	5.1	5.4	5.6	5.8	5.9	5.9	5.9	5.9	5.9	5.9
Three-Month Treasury Bill Rate (Percent):												
Summer 1998	5.1	5.1	5.2	4.8	4.6	4.4	4.4	4.4	4.4	4.4	4.4	4.4
January 1998	5.1	5.3	5.2	4.8	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7
Ten-Year Treasury Note Rate (Percent):												
Summer 1998	6.4	5.8	6.1	5.8	5.6	5.4	5.4	5.4	5.4	5.4	5.4	5.4
January 1998	6.4	6.0	6.1	6.0	5.9	5.9	5.9	5.9	5.9	5.9	5.9	5.9
Tax Bases (Percentage of GDP):												
Corporate profits: [2]												
Summer 1998	10.0	9.6	9.4	9.2	8.8	8.6	8.5	8.5	8.4	8.4	8.3	8.3
January 1998	9.9	9.7	9.2	8.8	8.5	8.4	8.2	8.1	8.0	7.9	7.8	7.7
Wages and salaries:												
Summer 1998	48.0	48.7	48.7	48.7	48.7	48.7	48.7	48.6	48.6	48.6	48.6	48.6
January 1998	48.0	48.4	48.5	48.6	48.6	48.6	48.6	48.7	48.8	48.8	48.8	48.8

[1] The consumer price index for all urban consumers.

[2] Corporate profits are the profits of corporations, adjusted to remove the distortions in depreciation allowances caused by tax rules and to exclude capital gains on inventories.

Sources: Congressional Budget Office; Department of Commerce; Bureau of Economic Analysis; Federal Reserve Board; Department of Labor, Bureau of Labor Statistics.

The forecast for 1998 and 1999

The growth of real GDP is likely to slow to 2 percent for the rest of calendar year 1998 and early 1999, down from the 4 percent pace set during 1997 and the first quarter of 1998. Factors contributing to the slowdown include a continuation of the recent increase in the real trade deficit, a pickup in inflation, and weaker profits.

Demand for U.S.-produced goods and services has been dampened by events overseas. The economic contraction in Asia stemming from that region's currency crisis was the major reason for the slowdown in demand, but an already strong dollar and the slowly growing demand in Europe also contributed to stagnating real exports and accelerating import growth. The outlook is for continued strength of the dollar and weak demand growth overseas, which make it likely that foreign trade will continue to depress demand for U.S. goods into 1999.

The underlying rate of inflation—the increase in the consumer price index (CPI) excluding energy and food prices—is forecast to rise slightly over the next year and a half because of strong upward pressure on wages and a partial dissipation of the factors that have been dampening price growth for several years. Growth of the overall CPI on a year-over-year basis was 1.7 percent in June, but that measure is distorted by the sharp drop in petroleum prices this year. The underlying rate of inflation was 2.2 percent through June. CBO's forecast assumes that the underlying rate will increase slowly to 2.7 percent by the end of 1999. Because energy prices are expected to remain steady, the forecast growth rate for the overall CPI is similar.

Some favors that have held down CPI growth over the past two or three years will continue to have an effect. For example, import prices are expected to continue declining in 1998 (in part because of the Asian crisis), and the Bureau of Labor Statistics will institute more changes to the CPI that will reduce its growth by about 0.2 percentage points in 1999 and later years. However, import price deflation is expected to fade during 1999. In addition, medical care inflation, which grew relatively slowly and dampened overall inflation in the past two years, is forecast to bounce back from its 1997 low of 2.6 percent to more than 4 percent a year during the next 18 months.

Corporate profits, which have stagnated since the third quarter of last year, will remain under pressure through 1999. Rising wages and an expected increase in the growth of employee benefits will push the growth of total compensation higher at the same time that sales growth slows. Thus, costs per unit of output will rise more rapidly over the next year and a half than in 1997. Some of those costs will be passed on in the form of higher prices, but some will be absorbed through lower profits.

The anticipated rise in inflation may lead to higher interest rates, but any increase is likely to be mild and temporary. If the Federal Reserve Board is uncertain about the pervasiveness of the slowdown in economic activity, an increase in inflation may prompt it to raise short-term rates by the end of the year. Long-term rates may also pick up slightly. However, if economic growth slows to a 2 percent rate for 1999, short-term interest rates will probably ease back to their current levels by the end of that year.

The projection for 2000 through 2008

CBO does not forecast cyclical economic effects beyond two years. Instead, it calculates a range of estimates for the medium-term path of the economy that reflect the possibility of booms and recessions. CBO then presents the middle of that range as its baseline projection of the economy for 2000 through 2008. Over that period, CBO expects real GDP to grow at an average rate of 2.2 percent a year, the CPI to increase at an average rate of 2.5 percent, and short-term interest rates to average 4.5 percent.

The small variations in real GDP growth and other variables during that period that are apparent in Table I do not stem from any assumptions about cyclical effects in those years. The slight drop in the projected growth rate of real GDP between 2002 and 2008 reflects a demographic assumption that growth of the labor force will slow in line with slower growth of the working-age population and an assumption that growth of investment will return to a lower, long-term trend. In order to achieve the projected average values assumed over the 2000–2008 period without having a misleadingly sudden drop at the end of 1999, CBO phases in reductions in inflation, interest rates, and profits as a share of GDP over the first few years of the projection period.

Changes since January

CBO now forecasts that real GDP in 1998 will be higher than it anticipated in January and projects that real GDP will grow, on average, about 0.1 percentage point a year faster over the entire 1998–2008 period than was projected at that time.

Inflation, whether measured by the consumer price index or the GDP price index, is lower this year than was forecast in January, largely because of a drop in energy prices. Inflation is expected to rise over the next two years, with the increase in the CPI projected to grow from 1.7 percent in 1998 to 2.7 percent in 2000. However, the average

growth rate for the CPI from 2002 through 2008 is projected to be 2.5 percent a year—about 0.3 percentage points lower than had been projected in January. Because of changes that the Bureau of Labor Statistics has made or plans to make in how it measures the CPI, the 2.7 percent inflation projected for 2000 is comparable to 3.4 percent inflation calculated on the basis of the measurement techniques used before 1995. The Federal Reserve Board is unlikely to be satisfied with inflation at that rate over a long period; thus, CBO assumes that inflation will be lower, on average, after 2000.

The GDP price index is also projected to increase at a slower pace than CBO anticipated in January. That assumption of lower inflation significantly reduces both nominal GDP and the total national income and product account (NIPA) tax base in the latter years of the projection period. As a share of GDP, however, the total tax base is higher in the current projection than it was in January. Corporate profits as a share of GDP in 1998 and 1999 are similar to the previous forecast, but the projection for subsequent years is significantly higher than before (although the share still drops over time). CBO increased that projection because of lower projected interest rates, which reduce the debt-service costs of companies and boost profits. The projection for wages and salaries as a share of GDP has changed little since January.

Nominal interest rates are lower than previously projected because of the assumed decline in inflation. The outlook for real (inflation-adjusted) short-term interest rates is unchanged from January. However, inflation-adjusted long-term rates are projected to be lower because of the dramatic reduction in the variation of inflation. Such a reduction tends to reduce investors' concerns about locking in investments for the long term and reduces the extra interest—the inflation risk premium—that they demand on long-term investments.

Uncertainty of the outlook

One source of errors in predicting the future performance of the economy is data on its recent performance. Reported data on GDP and the components of national income are regularly revised, sometimes by quite large amounts. Because forecasts necessarily depend on the economic data that are currently available, the likelihood of revisions to those data increases the uncertainty of any forecast.

In addition, there is a risk that future events will cause a significant divergence from the path laid out in the new forecast. The economy could be more adversely affected by the Asian crisis than CBO assumes; the tightness of the labor market could cause a significant jump in the rate of inflation (such as the increase of 3 percentage points that occurred in the 1960s); or the stock market could drop precipitously. Conversely, the Asian crisis could have little additional effect on the United States; productivity growth might remain higher than CBO anticipates, which would permit a continuation of rapid noninflationary growth and stronger profits; or labor force participation rates might again increase rapidly, easing pressures on the labor market for a few years. Such alternative outcomes could have a substantial effect on the budget, increasing or decreasing its bottom line by $100 billion or more in a single year.

THE BUDGET OUTLOOK

In March, CBO projected that the total federal budget would show a surplus of $8 billion in fiscal year 1998—the first surplus in almost 30 years—but warned that the final budget numbers for the year could quite easily show a small deficit or a larger surplus. With actual spending and revenues reported for three-quarters of the fiscal year, a surplus this year is now virtually certain, and CBO has boosted its projection of that surplus to $63 billion (see Table 2). Moreover, the improvement in the budget outlook for 1998—primarily associated with higher-than-anticipated revenues—seems likely to carry over to future years as well. Assuming that policies remain unchanged, CBO projects that the surplus will generally increase over the next 10 years, reaching $251 billion (1.9 percent of GDP) in 2008.

Although the total budget is expected to show a healthy surplus in 1998, CBO expects that there will still be an on-budget deficit. On-budget revenues (which by law exclude revenues earmarked to Social Security) are projected to be $41 billion less than on-budget spending (which excludes spending for Social Security benefits and administrative costs and the net outlays of the Postal Service, but includes general fund interest payments to the Social Security trust funds). By 2002, and in 2005 through 2008, the budget will be balanced even when off-budget revenues and spending are excluded from the calculation.

TABLE 2.—CHANGES IN CBO BUDGET PROJECTIONS SINCE MARCH 1998

[By fiscal year, in billions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
March 1998 Baseline Surplus	8	9	1	13	67	53	70	75	115	130	138
Changes:											
Legislative:											
Revenues	1	1	(1)	−1	−1	−1	−1	1	1	1	1
Outlays [2]	−1	−3	−4	−4	−4	−3	−2	−1	−1	(1)	1
Subtotal	(2)	−2	−4	−5	−5	−4	−4	(2)	1	1	2
Economic:											
Revenues	7	13	15	5	(1)	−3	−10	−17	−24	−33	−43
Outlays	1	9	10	12	16	24	32	40	48	56	63
Subtotal	8	22	25	17	16	21	22	24	23	23	21
Technical											
Revenues	30	48	50	51	49	50	49	51	52	52	55
Outlays [2].											
Other than debt service	16	−1	(1)	−1	−1	(1)	−2	−1	(1)	1	1
Debt service	1	4	7	10	13	16	19	22	26	30	34
Subtotal	48	51	57	61	61	66	65	72	78	83	90
Total Changes	55	71	78	73	72	82	84	96	102	106	113
Summer 1998 Baseline Surplus	63	80	79	86	139	136	154	170	217	236	251
Memorandum:											
Total Change in Revenues	38	62	65	56	48	46	37	35	29	20	13
Total Change in Outlays	18	9	13	17	23	37	46	61	73	86	99

[1] Less than $500 million.

[2] Increases in outlays are shown with a negative sign because they reduce surpluses.

Source: Congressional Budget Office

Changes since March

Actual revenues for 1998 reported by the Treasury have been higher and actual outlays have been lower than CBO had projected in March. Revenues now seem likely to reach $1,717 billion this year, $38 billion (2.2 percent) higher than the March estimate and $53 billion (3.2 percent) higher than CBO projected in January. CBO also expects total outlays of $1,654 billion this year, $18 billion (1.1 percent) less than projected in March.

The unexpected revenues in 1998 have led CBO to boost its projection of revenues in later years because some of the unknown factors that have affected 1998 taxes will probably continue to have an impact. The reductions in 1998 spending, by contrast, result largely from temporary factors and have little effect on CBO's projections of spending beyond 1998.

CBO's spending and revenue projections incorporate the effects of legislation enacted since March, but those effects are relatively small. Changes prompted by CBO's new economic projections have had a larger effect on the budget projections, but not nearly as large as the revisions stemming from the increased 1998 revenues. The most significant change in the economic outlook is a decline in projected inflation, but that change has a limited impact on projected surpluses because it lowers both spending and revenues.

Changes in Projected Revenues. In January, CBO predicted that revenues would total $1,665 billion in 1998. That projection was based on actual collections reported through November, economic data available at that time, and CBO's forecast of economic activity through the rest of the year. In March, actual collections reported through January let CBO to raise its projection to $1,680 billion. Based on actual collections reported through June, revised economic data, and a new economic forecast, CBO now expects total collections of $1,717 billion for the year.

Revisions to data on aggregate wages and salaries, corporate profits, and other variables reported in the national income and product accounts, and to CBO's forecast of those NIPA variables, explain about $7 billion of the $53 billion increase in projected revenues since January (Higher-than-expected wages have boosted projected individual income and payroll taxes by $11 billion, including the effects of bracket creep, but lower profits have reduced corporate income taxes by $5 billion.) Legislation enacted since March explains an additional $1 billion of the increase. That leaves a $45 billion increase in expected revenues to be explained by other factors.

What is known from the data on actual collections is that the $45 billion increase in the projection results almost entirely from additional individual income taxes. About one-third of the unexplained increase was in final payments in April, which reflect tax liabilities on income received in calendar year 1997. One-third was in higher-than-expected with-holding on 1998 incomes. The other one-third was in higher-than-expected estimated tax payments on 1998 liabilities, which are also based on 1998 incomes.

However, available data provide virtually no information about the sources of the increased income that generated those tax collections. A well-founded explanation of the unexpected revenues would require detailed information from tax returns about the incomes that generated tax liabilities in calendar years 1997 and 1998. But such information is available only through 1996. Sufficient data on 1997 incomes and tax liabilities will not be available until late this year, and data on 1998 liabilities will not be available until late 1999.

This year will be the third year in a row in which actual revenues exceed the amount CBO estimated in its winter baseline projections. The unexpected revenues represented 1.7 percent of total revenues in 1996, 4.6 percent in 1997, and are likely to represent 3.1 percent this year. Some of the explanations for the additional revenues in the previous two years could apply to the unexplained revenues in 1998. CBO based its projections of 1996 revenues on reported NIPA incomes that turned out to be too low and were later revised upward. Incomes for higher-income tax-payers—particularly income from partnerships—grew faster than expected. In addition, the growth in deductions lagged behind incomes. Not all of the factors affecting the unanticipated revenues in 1997 are known yet, but unexpectedly high realizations of capital gains in calendar year 1996 clearly contributed to them. The explanation for the additional revenues in 1998 is likely to be some combination of these and other factors.

How projections of future revenues should be adjusted to reflect the outcome in 1998 depends on which of the factors were actually at work, and to what extent. If incomes in the recent past were higher than has been reported in the NIPA data, that discrepancy would produce an effect that would be expected to grow over time at roughly the rate of the projected growth in incomes. Although the incomes of high-income taxpayers could continue to rise more rapidly than average incomes, they could also grow at the same rate or more slowly, producing a constant or declining effect on future revenues. An increase in realizations of deferred income that has accumulated over a number of years—such as capital gains—often is a temporary phenomenon that could even lead to lower revenues in the future.

After assessing the possible alternatives, CBO has chosen a middle course. its projections assume that the unexplained revenues in 1998 continue over time, neither growing nor fading away. That assumption, along with small changes resulting from other adjustments, generates the technical changes to revenues shown in Table 2. (Technical changes are those that are not attributable to legislation or the economy.)

CBO also revised its revenue projections to reflect legislation enacted since March, primarily the Internal Revenue Service Restructuring and Reform Act of 1998. Those changes increase revenues in some years and decrease them in others but boost them by a total of $3 billion over the 1998–2008 period.

Changes in CBO's economic projections affected revenues much more substantially than did legislation. Over the next few years, the revised economic assumptions increase revenues by as much as $15 billion a year. But after 2002, the revised outlook reduces revenues by amounts that grow to $43 billion in 2008. Slightly higher real GDP and a not-quite-as-sharp decline in corporate profits as a share of GDP boost projected revenues. However, lower projected inflation pushes down nominal GDP and incomes, resulting in a drop in revenues that more than offsets those upward effects after 2002. Because lower inflation also pushes down spending, that reduction in revenues does not have a major impact on the budget surplus.

Changes in Projected Outlays. CBO anticipates that 1998 outlays will be $18 billion lower than projected in March. About $5 billion of that reduction occurs in discretionary spending. A supplemental appropriation bill enacted in May boosted discretionary outlays by an estimated $1 billion, but that increase was more than offset by slower-than-anticipated spending for a number of programs. For instance, spending for highway construction and maintenance is likely to be some $1.5 billion less than was projected in March, largely because of delays in providing funding for the spending allowed by obligation limitations enacted for 1998. Spending for disaster relief is now expected to be $1 billion less than previously estimated, and reductions in projected spending for a variety of natural resources and environmental program total about $1 billion. Projected outlays for various other discretionary programs have been reduced by smaller amounts.

Lower projected mandatory spending in 1998 accounts for the remaining $12 billion in decreased outlays. More than $1 billion of that reflects economic effects—unemployment and interest rates that are lower than previously anticipated. Legislation enacted since March as had virtually no effect on net mandatory spending. Thus, the remaining $11 billion reduction in projected mandatory spending is attributable to other, techinal factors. More than $3 billion of the reduction is in Medicare, largely the result of a decision by the Health Care Financing Administration to slow the processing of payments to health care4 providers. Net outlays have also been reduced by $1.8 billion because it appears likely that proceeds from the sale of the United Stated Enrichment Corporation (USEC) will be received in 1998 instead of in 1999, as CBO previously projected. CBO had assumed that $1.5 billion would be paid in 1998 as part of the settlement stemming from the 1996 Supreme Court decision holding the federal government liable for losses resulting from statutory changes in the treatment of certain savings and loan assets. It now appears that almost none of the payments will occur this year. Projected net spending for credit programs of the Federal Housing Administration has been reduced by $1.5 billion. Spending for a variety of other mandatory programs has also been revised downward.

Lower outlays in 1998 have not led to a reduction in projected spending in 1999 through 2008. The 1998 reductions largely reflect one-time events that either have no impact on future spending or are likely to increase it. For example, the slowdown in the processing of Medicare payments will lower 1998 spending but will have little or no effect on spending in future years, since the amount saved in any year because of the delay will roughly equal the amount that is carried over to that year from the previous year. And collecting proceeds from the USEC sale in 1998 will clearly increase net outlays in 1999 above what they would have been if the proceeds had been collected in that year.

Legislation enacted since March has increased projected spending over the 1999–2008 period by a total of $23 billion. Most of that increase stems from the additional spending provided by the Transportation Equity Act for the 21st Century, enacted in June. That legislation boosted total discretionary spending allowed under the Deficit Control Act by creating separate statutory caps on outlays for highways and for mass transit while reducing the existing cap on non-defense spending by an amount smaller than that allowed under the new caps. That increase in discretionary spending was only partially offset by reductions in mandatory spending provided in the act (primarily from overturning a 1997 decision by the Department of Veterans Affairs that made it easier for veterans suffering from smoking-related diseases to qualify for compensation benefits).

Changes in CBO's economic projections have reduced projected spending by amounts that grow to $63 billion by 2008. A slight reduction in anticipated real long-term interest rates produces savings in interest on the national debt. Much more significant, however, are the reductions in spending that result from lower projected inflation. Lower inflation holds down the size of required cost-of-living adjustments for benefit programs such as Social Security, slows the growth of Medicare spending, and by lowering nominal interest rates, curbs spending for interest on the debt. Since CBO's projections assume that discretionary spending will grow at the rate of inflation after the statutory caps on such spending expire in 2002, the decline in projected inflation also reduces discretionary spending projected for 2003 through 2008. Lower inflation has a small effect on the surplus, however, because it reduces revenues by at least as much as outlays.

Current revenue projections for 1998 through 2008

CBO projects that revenues will grow about 3.5 percentage points faster than the economy in 1998, reaching 20.5 percent of GDP—a post-World War II high. In 1999, revenues are projected to grow only slightly faster than the economy and will equal 20.6 percent of GDP (see Table 3). After that, revenues are expected to decline gradually as a percentage of GDP through 2003 (when they will equal 19.8 percent) and then grow at the same rate as the economy through 2008. Despite the decline (as a percentage of GDP) from the 1999 high point, the 19.8 percent level projected for revenues in 2003 through 2008 is equal to the level attained in 1997. Thus, even with tax cuts in the Taxpayer Relief Act of 1997 that reduce revenues by an estimated 0.3 percent of GDP a year, revenues are projected to equal a larger share of GDP than in any postwar year before 1997.

TABLE 3.—CBO BASELINE BUDGET PROJECTIONS, ASSUMING COMPLIANCE WITH DISCRETIONARY SPENDING CAPS

[By fiscal year]

	Actual 1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
IN BILLIONS OF DOLLARS												
Revenues:												
Individual income	737	821	850	867	892	933	968	1,014	1,065	1,116	1,170	1,227
Corporate income	182	190	196	201	201	204	210	218	228	239	250	262
Social insurance	539	577	604	629	652	678	706	737	772	805	839	871
Other	120	129	150	152	157	163	169	174	178	182	187	193
Total	1,579	1,717	1,801	1,848	1,903	1,978	2,053	2,142	2,243	2,342	2,446	2,553
On-budget	1,187	1,296	1,359	1,388	1,425	1,481	1,534	1,601	1,675	1,750	1,829	1,911
Off-budget	392	421	442	460	478	497	519	541	568	592	618	643
Outlays:												
Discretionary spending	548	552	564	569	570	567	581	595	610	626	641	657
Mandatory spending	896	942	997	1,052	1,115	1,165	1,234	1,303	1,389	1,443	1,531	1,626
Offsetting receipts	−87	−84	−79	−84	−90	−101	−96	−99	−104	−109	−115	−121
Net interest	244	244	238	232	221	209	198	189	178	166	153	140
Total	1,601	1,654	1,721	1,769	1,817	1,840	1,918	1,988	2,073	2,126	2,211	2,303
On-budget	1,291	1,337	1,396	1,434	1,470	1,480	1,545	1,601	1,670	1,706	1,774	1,846
Off-budget	311	317	325	335	347	359	373	387	402	419	437	456
Deficit (−) or Surplus	−22	63	80	79	86	139	136	154	170	217	236	251
On-budget deficit (−) or surplus	−103	−41	−37	−46	−45	1	−10	(1)	5	44	55	64
Off-budget surplus	81	104	117	125	131	138	146	154	165	173	181	186
Debt held by the Public	3,771	3,717	3,655	3,589	3,518	3,395	3,275	3,136	2,961	2,779	2,557	2,320
Memorandum:												
Gross Domestic Product	7,971	8,389	8,758	9,124	9,485	9,904	10,368	10,845	11,334	11,835	12,354	12,891
AS A PERCENTAGE OF GROSS DOMESTIC PRODUCT												
Revenues:												
Individual income	9.3	9.8	9.7	9.5	9.4	9.4	9.3	9.3	9.4	9.4	9.5	9.5
Corporate income	2.3	2.3	2.2	2.2	2.1	2.1	2.0	2.0	2.0	2.0	2.0	2.0
Social insurance	6.8	6.9	6.9	6.9	6.9	6.8	6.8	6.8	6.8	6.8	6.8	6.8
Other	1.5	1.5	1.7	1.7	1.7	1.6	1.6	1.6	1.6	1.5	1.5	1.5
Total	19.8	20.5	20.6	20.3	20.1	20.0	19.8	19.8	19.8	19.8	19.8	19.8
On-budget	14.9	15.4	15.5	15.2	15.0	15.0	14.8	14.8	14.8	14.8	14.8	14.8
Off-budget	4.9	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Outlays:												
Discretionary Spending	6.9	6.6	6.4	6.2	6.0	5.7	5.6	5.5	5.4	5.3	5.2	5.1
Mandatory Spending	11.2	11.2	11.4	11.5	11.8	11.8	11.9	12.0	12.3	12.2	12.4	12.6
Offsetting Receipts	−1.1	−1.0	−0.9	−0.9	−0.9	−1.0	−0.9	−0.9	−0.9	−0.9	−0.9	−0.9
Net interest	3.1	2.9	2.7	2.5	2.3	2.1	1.9	1.7	1.6	1.4	1.2	1.1
Total	20.1	19.7	19.7	19.4	19.2	18.6	18.5	18.3	18.3	18.0	17.9	17.9
On-budget	16.2	15.9	15.9	15.7	15.5	14.9	14.9	14.8	14.7	14.4	14.4	14.3
Off-budget	3.9	3.8	3.7	3.7	3.7	3.6	3.6	3.6	3.6	3.5	3.5	3.5
Deficit (−) or Surplus	−0.3	0.8	0.9	0.9	0.9	1.4	1.3	1.4	1.5	1.8	1.9	1.9
On-budget deficit (−) or surplus	−1.3	−0.5	−0.4	−0.5	−0.5	(2)	−0.1	(2)	(2)	0.4	0.4	0.5
Off-budget surplus	1.0	1.2	1.3	1.4	1.4	1.4	1.4	1.4	1.5	1.5	1.5	1.4
Debt held by the Public	47.3	44.3	41.7	39.3	37.1	34.3	31.6	28.9	26.3	23.5	20.7	18.0

[1] Deficit of less than $500 million.
[2] Deficit or surplus of less than 0.05 percent of GDP.

Source: Congress Budget Office.

Although CBO assumes that the unexplained increase in 1998 revenues carries over into 1999—thus boosting revenues to an all-time high of 20.6 percent of GDP—the projected growth rate of revenues drops sharply, from 8.7 percent in 1998 to 4.9 percent in 1999. That drop is attributable in part to economic factors—the growth in taxable incomes is projected to slow to 4.1 percent in 1999, down from 5.8 percent in 1998. The rest comes from assuming that the unexplained revenue effect will not increase in 1999. If, instead, that effect increased substantially, revenues would rise at a much faster rate. However, if the unexplained revenues resulted largely from temporary factors in 1998, the rate of growth of revenues in 1999 would decline even more precipitously.

Even if revenues continue to grow rapidly in 1999, CBO believes the rate of growth will eventually slow. Because of the scheduled tax cuts provided by the Taxpayer Relief Act, and because corporate profits are expected to fall as a share of GDP, CBO projects that over the next 10 years, the average growth rate of revenues will be slightly lower than the growth rate of the economy. Revenues are projected to grow at the same rate as GDP from 2003 through 2008. During that period, individual income taxes will grow faster than GDP because individual income tax brackets are indexed for inflation but not for changes in real income, which boosts the effective tax rate as real income grows. But excise taxes grow more slowly than GDP because many rates are fixed in nominal terms.

Current outlay projections for 1997 through 2008

In dollar terms, total outlays are projected to grow from $1,654 billion in 1998 to $2,303 billion in 2008. But as a percentage of GDP, they are projected to decline throughout the period—from 19.7 percent of GDP in 1998 to 17.9 percent in 2008.

Net interest, which was the faster-growing category of spending in the 1980s, is now projected to decline from $244 billion (2.9 percent of GDP) in 1998 to $140 billion (1.1 percent of GDP) in 2008 as projected surpluses reduce the stock of debt held by the public by $1.4 trillion (see Table 4). Discretionary spending is projected to increase from $552 billion to $657 billion over that period but to shrink relative to the size of the economy—from 6.6 percent of GDP to 5.1 percent. By contrast, mandatory spending is expected to increase both in nominal terms (from $942 billion to $1.626 billion) and as a percentage of GDP (from 11.2 percent of 12.6 percent). That increase comes from both means-tested and non-means-tested programs, with Medicaid and Medicare leading the way (see Table 5).

Table 4.—CBO PROJECTIONS OF INTEREST COSTS AND FEDERAL DEBT

[By fiscal year]

	Actual 1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
NET INTEREST OUTLAYS (BILLIONS OF DOLLARS)												
Interest on Public Debt (Gross interest) [1]	356	363	363	365	363	360	357	357	357	356	354	352
Interest Received by Trust Fund:												
Social Security	−41	−46	−51	−57	−64	−70	−77	−84	−91	−99	−108	−117
Other trust fund [2]	−64	−67	−67	−70	−72	−73	−75	−77	−79	−81	−84	−86
Subtotal	−105	−113	−118	−128	−136	−143	−151	−161	−170	−180	−191	−202

Table 4.—CBO PROJECTIONS OF INTEREST COSTS AND FEDERAL DEBT—Continued

[By fiscal year]

	Actual 1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Other Interest [3]	−7	−6	−7	−6	−7	−7	−8	−8	−9	−9	−10	−10
Total	244	244	238	232	221	209	198	189	178	166	153	140
FEDERAL DEBT AT THE END OF THE YEAR (BILLIONS OF DOLLARS)												
Gross Federal Debt	5,370	5,475	5,594	5,721	5,845	5,927	6,021	6,102	6,174	6,205	6,223	6,222
Debt Held by Government Accounts:												
Social Security	631	736	853	978	1,108	1,246	1,392	1,547	1,712	1,885	2,066	2,252
Other accounts [2]	968	1,022	1,087	1,154	1,219	1,286	1,354	1,419	1,481	1,541	1,600	1,650
Subtotal	1,599	1,757	1,939	2,132	2,327	2,532	2,746	2,966	3,193	3,426	3,665	3,902
Debt Held by the Public	3,771	3,717	3,655	3,589	3,518	3,395	3,275	3,136	2,981	2,779	2,557	2,320
Debt Subject to Limit [4]	5,328	5,437	5,557	5,685	5,810	5,893	5,988	6,072	6,145	6,178	6,196	6,196
FEDERAL DEBT AS A PERCENTAGE OF GDP												
Debt Held by the Public	47.3	44.3	41.7	39.3	37.1	34.3	31.6	28.9	26.3	23.5	20.7	18.0

SOURCE: Congressional Budget Office.

Note.—Projections of interest and debt assume that discretionary spending will equal the statutory caps that are in effect through 2002 and will grow at the rate of inflation in succeeding years.

[1] Excludes interest costs of debt issued by agencies other than the Treasury (primarily the Tennessee Valley Authority).
[2] Principally Civil Service Retirement, Military Retirement, Medicare, unemployment insurance, and the Highway and the Airport and Airway Trust Funds.
[3] Primarily interest on loans to the public.
[4] Differs from the gross federal debt primarily because most debt issued by agencies other than the Treasury is excluded from the debt limit.

TABLE 5.—CBO BASELINE PROJECTIONS FOR MANDATORY SPENDING, INCLUDING DEPOSIT INSURANCE

[By fiscal year, in billions of dollars]

	Actual 1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
MEANS-TESTED PROGRAMS												
Medicaid	96	101	109	115	123	131	141	152	165	179	194	210
State Children's Health Insurance Program	([1])	0	1	3	4	4	4	4	4	4	4	5
Food Stamps	23	21	22	23	25	26	27	28	29	30	30	31
Supplemental Security Income	27	27	28	29	31	33	35	37	42	41	39	45
Family Support [2]	17	18	21	22	23	23	24	24	25	25	25	26
Veterans' Pensions	3	3	3	3	3	3	4	4	4	4	4	4
Child Nutrition	8	9	9	10	10	11	11	12	12	13	13	14
Earned Income Tax Credit [3]	22	24	26	27	28	29	29	30	30	31	31	32
Student Loans	4	3	4	4	5	5	5	5	5	5	5	6
Other	4	4	5	5	6	6	6	7	7	8	8	9
Total	203	209	228	243	257	270	285	302	323	339	355	381
NON-MEANS-TESTED PROGRAMS												
Social Security	362	376	389	406	425	446	467	489	513	539	567	597
Medicare	208	214	230	243	266	275	302	325	359	368	406	435
Subtotal	570	590	620	649	691	720	768	814	873	907	973	1,033
Other Retirement and Disability:												
Federal civilian [4]	46	48	50	52	55	57	60	63	67	71	74	78
Military	30	31	32	33	34	35	36	37	38	39	40	41
Other	4	5	5	5	5	5	5	5	5	5	5	5
Subtotal	81	84	86	90	94	98	102	106	110	115	120	125
Unemployment Compensation	21	19	21	22	25	26	27	29	30	31	32	33
Deposit Insurance	−14	−4	−4	−3	−2	−2	−1	−1	−1	−1	−1	−1
Other Programs:												
Veterans' benefits [5]	19	21	21	22	22	23	23	24	26	25	23	25
Farm price and income supports	6	8	7	6	5	5	5	5	5	5	5	5
Social services	5	5	5	6	5	5	5	5	5	5	5	5
Credit reform liquidating accounts	−10	−7	([6])	−6	−6	−6	−6	−6	−6	−6	−6	−6
Other	17	17	14	24	25	26	26	26	24	24	25	26
Subtotal	37	44	47	52	51	52	53	53	54	52	51	55
Other	694	733	769	810	859	895	949	1,001	1,066	1,105	1,176	1,245
TOTAL												
All Mandatory Spending	896	942	997	1,052	1,115	1,165	1,234	1,303	1,389	1,443	1,531	1,626

[1] The State's Children's Health Insurance Program was created as part of the Balanced Budget Act of 1997.
[2] Includes Temporary Assistance for Needy Families, Famly Support, Aid to Families with Dependent Children, Job Opportunities and Basic Skills, Contingency Fund for State Welfare Programs, Child Care Entitlements to States, and Children's Research and Technical Assistance.
[3] Includes outlays from the child credit enacted in the Taxpayer Relief Act of 1997.
[4] Includes Civil Service, Foreign Service, Coast Guard, and other retirement programs, and annuitants' health benefits.
[5] Includes veterans' compensation, readjustment benefits, life insurance, and housing programs.
[6] Less than $500 million.

Note.—Spending for benefit programs shown above generally excludes administrative costs, which are discretionary. Spending for Medicare also excludes premiums, which are considered offsetting receipts.

Source: Congressional Budget Office.

CONCLUSION

An unexpected increase in revenues in 1998 has virtually ensured that the total federal budget will be balanced for the first time in almost 30 years, and nothing currently visible on the horizon seems to threaten a return to deficits in the near term if policies remain unchanged. However, if any of a number of assumptions that CBO has made turn out to be off the mark, budget outcomes could be quite different than projected even if there are no changes in policy. for instance, if CBO's economic projections prove to be just a little too optimistic, surpluses could be much lower than anticipated, while a recession similar to that of the early 1990s could even produce a deficit. Likewise, surpluses could be lower than projected if the factors that produced the unexpected revenues in 1998 fade away quickly. Of course, it is also possible that the economy will be more robust than expected or that the unexplained revenue effect will grow over time, in which case the budget outlook is much brighter than CBO currently projects. In the face of those uncertainties, the current budget projections represent CBO's estimate of the middle of the range of likely outcomes.

Mr. HOLLINGS. These are the updated figures:

In 1998, the trust fund surplus is $105 billion in Social Security; in 1999, $117 billion; in the year 2000, $126 billion; in the year 2001, $130 billion; in 2002, $138 billion; in the year 2003, $146 billion; in

the year 2004, $154 billion; in 2005, $165 billion; in 2006, $173 billion; in 2007, $181 billion; and in 2008, $186 billion.

So what you see in the projection here with respect to so-called surpluses that are now being quoted by the President, distinguished Members of the House of Representatives, distinguished Members of this particular body, on page 11 of the Congressional Budget Office report, you will find that what we actually are spending over the 10 years in order to get down to a deficit in the year 2008—they finally reduce the deficit down according to these magnificent projections over a 10-year period—the deficit is down to $1 billion by using $1.621 trillion of Social Security trust funds.

Last evening—let me compliment the distinguished Senator from Minnesota—Mr. GRAMS talked at length about the various countries and how they approach the Social Security problem. He referred in several instances to the Social Security problem—this is just late last evening—to the ''looming crisis,'' the ''coming crisis,'' the ''fiscal crisis.'' And most of what he says, by the way, I agree with, but there is no real crisis in Social Security if we only stop spending the money.

The problem is that the politicians, both Republican and Democrat, see the Social Security trust fund as a cookie jar they can stick their hands in to get their favorite programs. Look here, they think, I can get my children's program; oh, no, I get my marriage penalty tax reform; I get the corporate taxes here; I get the estate taxes over here; I get another capital gains tax there; oh, no, I want to spend it for Medicare. This is just the biggest scandal I have ever seen, because that crowd up there in the gallery—namely, the media—will not report the truth.

I hope they look right at the Congressional Budget Office report from the 15th of this month, just a week ago. These are the supposedly nonpartisan figures. On page 11 you will see that the deficit goes up, in 1998, to $105 billion; and then, in 1999, to $119 billion; in the year 2000, $127 billion; and the year 2001, $124 billion.

I remember back in 1993, when we on this side of the aisle passed the Budget Act, the Republicans claimed that if we passed that particular 1993 budget plan, the economy would go into a nose dive; there would be a depression. My friend on the Republican side of the aisle, the chairman of the Finance subcommittee, Senator Packwood of Oregon, said he would give us his house if this thing worked. Our distinguished friend in the House, the chairman of the Budget Committee, Congressman John Kasich, said he would change parties and become a Democrat if that thing worked.

It has worked. It has worked, Mr. President, until now. That is why I, the Senator from Wisconsin, and other Senators here wanted to be heard on this. Because what is really occurring is, everybody is dealing out the Social Security trust fund to various programs in an illegal fashion—certainly in an immoral fashion. They are running around telling everybody, you can count on Social Security, except for the baby boomers. It is not the baby boomers in the next generation, it is the Members of Congress on the Senate floor and on the floor of the House. We, willy-nilly, are savaging, ravaging, looting Social Security. And there is not any question that the law disallows this.

I appreciate my distinguished chairman from New Hampshire allowing me this moment. I ask unanimous consent the Greenspan Commission report of 1983, which I worked on, be printed in the RECORD.

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

SOCIAL SECURITY AND THE UNIFIED BUDGET

(21) A majority of the members of the National Commission recommends that the operations of the OASI, DI, HI, and SMI Trust Funds should be removed from the unified budget. Some of those who do not support this recommendation believe that the situation would be adequately handled if the operations of the Social Security program were displayed within the present unified Federal budget as a separate budget function, apart from other income security programs.

Mr. HOLLINGS. The majority of the members of this commission—I am just paraphrasing—stated that the Social Security trust funds should be removed from the unified budget. You will see that in report there.

When they submitted the Greenspan report, the Commission said to remove Social Security from the unified budget. I struggled, as a member of the Budget Committee, for almost 7 years to get it done. But I kept moving. I kept trying different ways. I tried on Gramm–Rudman-Hollings and that particular budget approach. But in the summer of 1990—that is why I can remember November 5—before the Budget Committee, by a vote of 20 to 1, we removed it from the unified budget. We got it on the floor of the Senate in October, and 98 Senators—if any Senator who was here in October is still here, any Senator who was here in October of 1990—they voted just that way, to remove it from the unified budget.

I will get, later, the vote record and we will put that in the RECORD. I am not trying to embarrass or account for any Senators, but I am trying to emphasize that this body has pledged time and time again to save Social Security first and to stop looting the fund.

So we had 98 Senators vote for that, and President George Bush signed it into law. Mr. President, I ask unanimous consent that we have printed in the RECORD just that 1-page law, right here, subtitle (c) of the Budget Act on Social Security, 13301. I ask unanimous consent to have it printed in the RECORD.

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: ''The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.''.

Mr. HOLLINGS. Mr. President, ''Exclusion of Social Security from all budgets''—this is the formative statutory law. We have been talking about criminals, while many members of this body commit a crime every time they discuss budget surpluses. They are not obeying their own—

Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts or deficit or surplus for the purposes of—

(1) the budget of the U.S. Government as submitted by the President,

(2) the Congressional budget,

(3) or the Balanced Budget and Emergency Deficit Control Act of 1985.

That was Gramm–Rudman-Hollings. We have been struggling a long time, but we cannot get the truth out. We cannot get the truth out.

One of the deterrents to the truth is the common belief that every President since Lyndon Johnson has used Social Security trust funds for the general budget. This is not true, Mr. President. It was not so. No, sir. President Lyndon Johnson did not use Social Security in order to balance the budget in 1968–69. I was there. In fact, over on the House side we had the conference. George Mahon was the chairman of the Appropriations Committee. We called over and asked Marvin Watson and said, ''Ask the President if we can cut another $5 billion.'' President Johnson said, ''Cut it,'' and we balanced the budget. President Lyndon Baines Johnson was very conscientious about guns and butter. He was leaving office, and he did not want to leave a heritage of busted budgets and the charge that he had the Great Society and the war in Vietnam and he could not afford them.

Mr. President, do you know what the budget was then? It was $178 billion for all purposes of Government, defense and domestic. Do you know what the interest cost on the national debt is? The interest cost on the national debt now is going to be $363 billion, according to this recent report here—a billion dollars a day.

Do you know what the interest cost on the national debt was when President Johnson balanced the budget back then? The interest cost was $16 billion. That was interest costs for 200 years of history and the cost of all the wars, up from the Revolution right on through World War I, World War II, Korea, and Vietnam. And it was only a debt that required taxes, interest costs, to be paid of $16 billion.

Now we are up there to almost $5.7 trillion without the cost of a war. It has gone right on through the ceiling, a billion a day, $363 billion in interest costs. That is $350 billion more than what we had. And we are spending the money. This is pure waste.

Many say government is too big. I agree, it is too big. But the biggest thing in the budget is the interest costs on the national debt. It is bigger than Social Security, bigger than defense, bigger than the domestic budget. We keep spending for nothing. If we had the extra $350 billion since President Johnson's balanced budget—the defense budget is only $250 billion—we could double the defense budget: Instead of 13 aircraft carriers, we will give you 26 aircraft carriers; instead of 16 divisions, we will give you 32 divisions. Double it, and still have $100 billion for research for cancer, NIH, for education, for the environment, for anything—for cleanups, for agriculture. We have the money, because we are spending it on interest payments.

Why? Because Congress is not minding the store. It has a wonderful cookie jar it takes from by the billions every year. And over the next 10 years, Congress will continue to steal from it. Over the 5-year period, we are going to have deficits of $557 billion—$557 billion, and we are talking about balancing the budget.

Each year, every year, instead of a surplus, there is going to be a balance, and we keep going, going to it. In order to verify this, I ask unanimous consent that this chart of the budget realities be printed in the RECORD.

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

HOLLINGS' BUDGET REALITIES

President (year)	U.S. budget (outlays in billions)	Borrowed trust funds (billions)	Unified deficit with trust funds (billions)	Actual deficit without trust funds (billions)	National debt (billions)	Annual increases in spending for interest (billions)
Truman:						
1945	92.7	.....	−47.6	.....	260.1	.....
1946	55.2	5.4	−15.9	−10.9	271.0	.....
1947	34.5	−5.0	4.0	+13.9	257.1	.....
1948	29.8	−9.9	11.8	+5.1	252.0	.....
1949	38.8	6.7	0.6	−0.6	252.6	.....
1950	42.6	1.2	−3.1	−4.3	256.9	.....
1951	45.5	1.2	6.1	+1.6	255.3	.....
1952	67.7	4.5	−1.5	−3.8	259.1	.....
1953	76.1	2.3	−6.5	−6.9	266.0	.....
Eisenhower:						
1954	70.9	0.4	−1.2	−4.8	270.8	.....
1955	68.4	3.6	−3.0	−3.6	274.4	.....
1956	70.6	0.6	3.9	+1.7	272.7	.....
1957	76.6	2.2	3.4	+0.4	272.3	.....
1958	82.4	3.0	−2.8	−7.4	279.7	.....
1959	92.1	4.6	−12.8	−7.8	287.5	.....
1960	92.2	−5.0	0.3	−3.0	290.5	.....
1961	97.7	3.3	−3.3	−2.1	292.6	.....
Kennedy:						
1962	106.8	−1.2	−7.1	−10.3	302.9	9.1
1963	111.3	3.2	−4.8	−7.4	310.3	9.9
Johnson:						
1964	118.5	2.6	−5.9	−5.8	316.1	10.7
1965	118.2	−0.1	−1.4	−6.2	322.3	11.3
1966	134.5	4.8	−3.7	−6.2	328.5	12.0
1967	157.5	2.5	−8.6	−11.9	340.4	13.4
1968	178.1	3.3	−25.2	−28.3	368.7	14.6
1969	183.6	3.1	3.2	+2.9	365.8	16.6
Nixon:						
1970	195.6	0.3	−2.8	−15.1	380.9	19.3
1971	210.2	12.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	4.3	−14.9	−30.4	466.3	24.2
1974	269.4	15.5	−6.1	−17.6	483.9	29.3
Ford:						
1975	332.3	11.5	−53.2	−58.0	541.9	32.7
1976	371.8	4.8	−73.7	−87.1	629.0	37.1
Carter:						
1977	409.2	13.4	−53.7	−77.4	706.4	41.9
1978	458.7	23.7	−59.2	−70.2	776.6	48.7
1979	503.5	11.0	−40.7	−52.9	829.5	59.9
1980	590.9	12.2	−73.8	−79.6	909.1	74.8
Reagan:						
1981	678.2	5.8	−79.0	−85.7	994.8	95.5
1982	745.8	6.7	−128.0	−142.5	1,137.3	117.2
1983	808.4	14.5	−207.8	−234.4	1,371.7	128.7
1984	851.8	26.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	7.6	−212.3	−252.8	1,817.5	178.9
1986	990.3	40.5	−221.2	−303.1	2,120.6	190.3
1987	1,003.9	81.9	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	75.7	−155.2	−255.2	2,601.3	214.1
Bush:						
1989	1,143.2	100.0	−152.5	−266.7	2,868.3	240.9
1990	1,252.7	114.2	−221.2	−338.6	3,206.6	264.7
1991	1,323.8	117.4	−269.4	−391.9	3,598.5	285.5
1992	1,380.9	122.5	−290.4	−403.6	4,002.1	292.3
Clinton:						
1993	1,408.2	113.2	−255.0	−349.3	4,351.4	292.5
1994	1,460.6	94.3	−203.1	−292.3	4,643.7	296.3
1995	1,514.6	89.2	−163.9	−277.3	4,921.0	332.4
1996	1,560.3	113.4	−107.3	−260.9	5,181.9	344.0
1997	1,601.3	153.6	−22.3	−187.8	5,369.7	355.8
1998	1,654.0	168.3	63.0	−105.3	5,475.0	363.0
1999	1,721.0	199.0	80.0	−119.0	5,594.0	363.0

Note: Historical Tables, Budget of the US Government FY 1998; Beginning in 1962 CBO's 1998 Economic and Budget Outlook.

Mr. HOLLINGS. I thank the distinguished Chair.

This takes us from President Truman, in 1945, down to President Clinton's 1999 budget and the one we passed in the U.S. Senate.

You will see when President Bush left town that the actual deficit was $403.6 billion. That was how much we were spending. In 1993, we passed the budget act I mentioned earlier, and we brought the actual deficit down to $349.3 billion. Then, in 1994, to $292.3 billion. In 1995, to $277.3 billion. In 1996,

we reduced the deficit down to $260.9 billion. In 1997, to $187.8 billion. In 1998, it is down to $105.3 billion. You can see in 6 years, we have gone down, down, down, down.

The Congress and the President should be credited. We have a wonderful economy, the lowest interest rates, lowest unemployment rate, the highest business investment, more home ownership in America, consumer confidence at its highest, stock market going through the roof. We acknowledge that and take credit for it. We participated in it.

Just when we ought to stay the course and continue to reduce the actual deficit, we have an election coming up in November. Oh, boy, they see that cookie jar, and they are breaking ranks now. They voted for this particular amendment unanimously in the Budget Committee. They might want a second-degree amendment. I just want to get an actual vote, because colleagues on this side want an actual vote so we find out where they all stand.

I think they can outmaneuver us, there is no question about that, if they don't want to vote. But they can't change this record. We have a situation where instead of reducing the deficit, they want to go back and start to increase deficits, as I related, again and again for each year for 5 years running.

They are all talking about surpluses as far as the eye can see. Mr. President, the surpluses as far as the eye can see are the Social Security surpluses. These are the moneys that belong, under the law—Greenspan said put it off budget. We put it off budget. We continue to spend the money. I keep raising the points of order, and they just ignore it and go on.

Right now the word is, ''Wait a minute. If we vote for this, you can't get your tax cuts.'' Well, come, you can't get your tax cuts, because the only way you can get your tax cuts is to loot the moneys out of Social Security. That is how you get tax cuts. That is how you get all of these programs that increase spending.

In order to do it, they want to use $105 billion of Social Security in 1998. In order to get the tax cuts, how do they justify that list the distinguished speaker put out? He had capital gains, he had estate tax elimination, he had the marriage penalty, he had tuition tax credits for private education—he just got it all in and said, ''Just watch them vote against that, and we'll go after them and say, 'Tax-and-spend, tax-and-spend, tax-and-spend.' '' The truth of the matter is, he is the one increasing taxes, because as you do this, as you loot the Social Security fund, the debt increases, as we see by the CBO record; and as the debt increases, spending for interest goes up. It cannot be avoided. It is going to be spent. That is exactly what is going on. It is fiscal cancer.

Let me say a word about that. I was on the Grace Commission, Mr. President, and worked with Peter Grace. We were against waste, fraud and abuse. At the very time we put out this magnificent volume, which was 2 inches thick, of our wonderful work of eliminating waste, fraud and abuse, we were creating the biggest waste in the history of Government; namely, deficits and the national debt. We cut revenues, we increased spending, we didn't pay for it, and the debt went up, up, and away. Whereby it was a little less than a trillion dollars when we first started with President Reagan—it was $903 billion at that particular time—it has gone up now with 12 years of Reagan-Bush to over $5 trillion. Of course, it has gradually gone up even though we have been reducing the deficit each year. At this minute, we will spend, if we approve the budget that has been approved in the Senate and what they confirmed over on the House side, over $100 billion more than we take in.

On April 15, we are supposed to complete the budget work. I have been on the Budget Committee since we instituted it. Modestly, I say I used to be the chairman, and we did reduce spending at one time. Now it is July, and we haven't even had a conference. They appointed everybody in the conference committee from both budget groups, but they can't confirm because they can't face up to each other and say, ''Wait a minute. Somebody is going to tell the secret that the only way there are any surpluses around here is the budget trust fund surplus that we have to loot in order to get all of these tax cuts, children's programs, Medicare costs,'' and everything else of that kind. The media doesn't even report it. It is a scandal.

There it is. We started the biggest waste at that particular time. You have to understand why this is given sanction even in the business community. I have argued with Alan Greenspan about this one. He loves the unified budget. That business crowd doesn't want the sharp elbows of Government crowding in to the bond market running up interest costs, running up inflation. They don't serve in public office. They don't have to face the statutes, laws and policies that we enact as Members of the Congress. They say, ''Oh, it will be taken care sooner or later.'' They go ahead with the unified budget pointing, if you please, Mr. President, to the difference between the corporate economy and the country's economy.

The corporate economy, of course, is higher profits. The country's economy is for the good of society. And they don't necessarily meld. Or it is good for the corporate economy for NAFTA to go like gangbusters down in Mexico. That is where General Motors is headed with that strike. Actually, Honda exports more cars than General Motors this minute in the United States of America. We are going out of business.

I have lost 24,000 textile and apparel jobs since NAFTA. Those are good jobs. It is an industry that under President Kennedy we found out is necessary to the national security. After steel, it was the second most important. It was a finding in the sense you couldn't send the soldiers to war in a Japanese uniform. You had to have clothing.

Seventy-five percent of the clothing within the view of us in the U.S. Senate is imported. We are at the water's edge of whether or not we are going to have that industry.

The other industry is going down, because in the corporate culture, if you can save—it is shown that you can save a good 20 percent of your labor costs, 20 percent of volume, by moving to a low-wage, offshore country.

So if you have $500 million in sales, you can move offshore. Just keep your corporate office, your sales folks, but move your manufacturing offshore and you make $100 million. Or you can continue to stay here and work your own employees—they call them associates now—and go broke because your competition is gone. The multinationals could care less. They are in the business of making money. We are in the business of making a good and strong economy.

And America's strength is like a three-legged stool. You have on the one leg your values. That is strong. We sacrificed to go to Somalia. We are now out in Bosnia. No one questions the values of the United States of America. We have the second leg, of course, which is the military. That is strong. But the third leg, the economic leg, is fractured, and intentionally.

That is the corporate culture, corporate economy—move on down to Mexico. And they promised at the time, of course, that we were going to increase the balance of trade that we had of $5 billion. Now it is $15 billion negative. They said we are going to create 200,000 jobs. We lost 400,000. They said it was going to solve the immigration problem. It has gotten worse. They said it was going to solve the drug problem. It has gotten worse. The actual Mexican worker is taking home 20 percent less pay. So they have suffered.

The $12 billion that we paid in there to keep it from going totally under has gone back to Wall Street. It should have gone into a common market approach where we could have developed in Mexico—and I would vote for it this afternoon—the institutions of a free economy, a revered judiciary, the right of labor to strike, the corporate interests of owning property, the right of appeal, and those kinds of things.

Over in Europe, the European countries in the common market approach taxed themselves for 4 years, $5 billion before they allowed Greece and Portugal.

So what happens? We use the free market approach, which is good for the corporate economy, but not the country's economy. And therein is where we are really headed with the fiscal cancer that is eating us alive here, because you have $1 billion a day. We are going

to meet tomorrow, and we are going to spend another $1 billion for nothing. We are going to meet on Friday, and we are going to spend another billion in this Nation's Capital for nothing. We can meet on Saturday, and we are going to spend another $1 billion for nothing. We can meet on Sunday, and we are going to spend, like it or not, another $1 billion for nothing—total waste.

Here we were trying to stop waste, fraud, and abuse, yet under the Grace Commission we instituted the biggest waste. I thought finally—finally—we had gotten on it. We not only were bringing down the deficit, but in his message to the Congress, the President of the United States said, ''Save Social Security first.'' And every Congressman and every Senator said, ''Amen, brother. That's what we want to do.'' Everybody went off the floor and had their little interviews. ''We've got to save Social Security.''

So we go into the Budget Committee, and we get a vote and unanimously vote for it. But now conferences are ongoing with respect to the parliamentary maneuvers to make sure that you do not vote. They can have a second-degree amendment. We will come back later on with other bills. We will have our chance. Oh, we will just nag them and never get to a vote, but we will point it out from now until October: ''Save Social Security first.''

There is no surplus. This country has fiscal cancer. If you keep spending up, up and away, interest costs on the national debt will mount, with the debt increasing each year for 10 years running. These are not surpluses as far as the eye can see, but rather deficits as far as the eye can see.

And this particular report of the Congressional Budget Office—if that is the case, Mr. President, you can see at a glance that Congresses that are going to be meeting in the next century—for the millennium and for the next century—we will meet, we will put a little bit in Social Security, we will put a little bit in defense, and a big bit in interest costs on the national debt, and we will not have any Government.

Now, judging by their Contract with America, that is what they want: to abolish the Department of Education, the Department of Commerce, the Department of Energy, the Department of Housing, the Corporation for Public Broadcasting. Just get rid of highways—they do not even want the highway system. They objected around here and said it busted the budget when we used highway moneys for highways. Very interesting.

We passed a highway bill, and all we used was the gas taxes for highways. But, oh, no, they wanted to rob the highway fund for foreign aid or any other particular project that they had in mind.

Because of the distinguished Senator from Rhode Island, Senator CHAFEE, we changed that. I commend him for doing it. We finally agreed that after this year we are going to spend highway gas taxes, highway money on highways. Boy, I am telling you, just to get something normal, decent and understandable here in the U.S. Congress is next to impossible.

But there it is. We have a resolution that says, ''Save Social Security first.'' Now, they can get into parliamentary maneuvers. I guess one thing is: Move to commit the bill, like they did earlier. They can do another one to commit the bill with instructions and hide behind it.

But I can tell you, whatever the maneuver is, the issue is clear; it is almost undebatable. I want them to say, ''I am wrong on the figures I have given.'' I want them to say the CBO is wrong on the figures or whatever. I want them to get up here and debate it and say, ''No. It is necessary to spend the Social Security trust fund.'' That is all I want to hear them say. But I do not believe you are going to hear a Senator in the Senate say that. They all are going to hide behind the maneuvering here and second degrees and third degrees, and move to recommit, and everything else possible; and we will get a rollcall on that. And that will be the call on whether or not you want to continue to loot Social Security.

I know my distinguished friend from New Hampshire does not want to do it. There is Senator FEINGOLD there. Under the unanimous consent, of course, we agreed that the distinguished leader of this particular bill, our chairman, is to regain the floor, but I hope the other Senators here who, of course, are cosponsoring—and I put this up so we can actually get a vote on a sense of the Senate.

And don't tell me that this is not relevant to State-Justice-Commerce. It is relevant to the fiscal state of the United States. I can tell you that now. We do have fiscal cancer. The media is not paying any attention to it. They are all hiding under the unified, unified, unified. It is against the law. I have given you the law. It is against policies. It is against the vote of the Budget Committee.

But there is a quiet discussion. I listened on the weekend shows, and again and again they were talking about surpluses here, surpluses there, including, of course, the Administrator here of the Congressional Budget Office. If we have that report—I would like to refer just one second to that particular report so you can see even she disobeys the law. You cannot get even the Congressional Budget Office—the conclusion, on page 13:

> An unexpected increase in revenues in 1998 has virtually ensured the total Federal budget will be balanced for the first time in almost 30 years.

False, according to her own records, her own figures.

The previous pages showed that is not the case. On page 11, all she has to do is read her own document.

> An unexpected increase in revenues in 1998 has virtually ensured that the total Federal budget will be balanced for the first time in almost 30 years and nothing currently visible on the horizon seems to threaten a return to deficits in the near term if policies remain unchanged.

I know I wouldn't use her to do my income tax return. I would be in jail, I would be gone, with that kind of doubletalk.

There is no surplus. But when the Director of the Congressional Budget Office, Madam June O'Neill, comes and says there is nothing on the horizon, when she shows that in order to say that you have to spend $1.621 trillion of the Social Security trust fund, Social Security by the year 2008, supposedly, if this weren't occurring, would have a surplus of $2.252 trillion.

Look at that, on page 11 of this particular report—$2.252 trillion. Yet everybody is going around with solutions to Social Security. The only solution, and the first solution, is to quit looting the fund. There won't be any $2.252 trillion. That is why you have all of the bills in to solve the Social Security crisis, the Social Security shortfall, the baby boomer problem. All nonsense, all out of the whole cloth.

She is talking again and again, ''However, if any other number of assumptions that CBO has made turn out to be off the mark, budget outcomes could be quite different than projected, even if there are no changes in policy. For instance, if CBO's economic projections prove to be just a little too optimistic, surpluses could be much lower than anticipated.''

Surpluses—there isn't any surplus in the report. There is a surplus, supposedly, in Social Security. That is where the surplus is. Section 13301 of the Budget Act says don't spend Social Security surpluses, don't count on them in reporting a budget; don't count on them, Congressional Budget Office, when you analyze a budget. But she willy-nilly talks about surpluses. It is just amazing to me, until you see her projections, of course, of the interest costs.

Again, on page 11, she finds that interest costs on the national debt are just going down, down, down. It has been increasing each year anywhere from $10 to $20 billion. The debt has been going up. The interest costs—even with that increased debt, even though interest rates are down, the interest costs have been going up.

If you want to see the pressure brought by the Speaker on the Director of the Congressional Budget Office, look at that series of figures straight across the board. She finds that from 1958 to the year 2008 the actual interest costs decrease $11 billion.

Totally out of the whole cloth, this is made. They kept nagging her and they held up the Budget Committees. The Budget Committees don't meet; they don't sit down and confer over the budget. They go on the weekend talk shows and put out all the documents about tax cuts, spending programs, and put in here these optimistic figures.

The Director of the Congressional Budget Office has responded to the pressure of the Speaker of the House; there isn't any question in this Senator's mind. We know what is going on.

I wish the media—whether print media, TV media, or any other media—would please, please, please, report truth in budgeting. That is what we had when we had Gramm–Rudman-Hollings—truth in budgeting. We sold it over on this side of the aisle, 14 votes up and down. Our Democratic colleagues, majority, voted to cut spending over the objection, at that time, of the leader, over the objection of the chairman of the Budget Committee. But there was a conscience back in 1985.

Now, in 1998, it has become the game of the day: Just look over and find whatever you want in the $100-some billion Social Security surplus, and it grows each year. It is only $105 billion this year; 10 years out, it is $186 billion. So we have plenty of money to spend for plenty of programs until we run right up against the wall, run right up against the wall, and the interest costs eat us alive. We have fiscal cancer. We won't acknowledge it.

I am glad and proud, on behalf of my colleagues on this side of the aisle, to bring up this sense of the Senate. It is more important than the entire State-Justice-Commerce bill or any appropriations bill. Unless we get ahold of our senses and vote a sense of the Senate that we save Social Security first, we are gone.

Mr. DORGAN. Will the Senator yield?

Mr. HOLLINGS. I am delighted to yield.

Mr. DORGAN. I have listened to the Senator from South Carolina.

Mr. GREGG. Mr. President, regular order.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator has a right to yield for a question.

Mr. HOLLINGS. I have to yield back to our chair.

Mr. DORGAN. Parliamentary inquiry. I believe regular order is for the Senator from South Carolina to be allowed to yield for a question; is that correct?

The PRESIDING OFFICER. The Senator has the right to yield for a question.

Mr. HOLLINGS. Mr. President, I understand what the distinguished chairman is saying, and I agree with him. But I want to answer that question and then do as we agreed, because I only have the floor under the courtesy of Chairman GREGG.

Mr. DORGAN. Mr. President, I understand Senator GREGG has the right to the floor when the Senator from South Carolina completes his statement.

I have been listening to the Senator from South Carolina, who has offered an amendment that we have discussed before on the Senate floor. We are reacting to recent press reports that cite one prominent member of the majority party as saying that Congress should enact $1 trillion in tax cuts over 10 years.

Isn t the Senator's point that those who propose massive tax cuts would be taking the money, in effect, from the Social Security trust funds in order to fund a tax cut; would that not be the case?

Mr. HOLLINGS. It is absolutely the case. The only place you can find this kind of money for tax cuts is here in the Social Security trust fund, which is a violation in and of itself of section 13301 of the statutory laws of the Budget Act of the United States of America. President Bush signed it, 98 Senators over here voted for it, almost unanimous over in the House of Representatives. We voted for it. But it is not hit-and-run driving. Let's stop right there.

Let me emphasize, in 1994 we were really distraught with respect to the takeover artists. Individuals were coming in, the corporations, and literally taking the pension funds, paying off the corporate debt, and taking the remaining money and running. The employees were left high and dry. So we passed the Pension Reform Act of 1994.

Now, our good friend, the former pitcher up there from Detroit, Denny McLain, became the head of a corporation. As the head of the corporation, last year he had paid off the company debt with the pension fund. That was made a felony. He got an 8-year jail term. If you can find what jail he is in, tell him, next time, instead of running a corporation, run for the U.S. Senate; instead of a jail term, you get the good government award up here for looting the pension funds to pay your debt.

That is exactly what we are doing. We go against the formal law that we passed ourselves. We go again the policy set for corporate America. But when it comes to us, we have to get reelected. The worst campaign finance violation and abuse is using Social Security trust funds to reelect ourselves, telling them we are trying to protect Social Security.

Mr. DORGAN. If the Senator will yield for one additional question, and then I shall not inquire further. Will the Senator yield for that purpose?

Mr. HOLLINGS. Yes.

Mr. DORGAN. Mr. President, this ought not to be a controversial amendment.

The question is, simply, Is there an opportunity for someone to say, either in the Senate or the House of Representatives, that they are going to provide hundreds of billions of dollars, or a trillion dollars, of tax cuts under the current fiscal policy? Is there an opportunity to do that without using the Social Security trust funds? I can't see that that opportunity exists. While I would like to see some additional tax cuts, I happen to think that saving Social Security first and reducing the Federal debt would be much more meritorious for the future of this country.

In any event, we ought not to be talking about tax cuts before there is money to give them. That money available for tax cuts does not include—I ask the Senator—and that money should never include, the Social Security trust fund money; am I correct?

Mr. HOLLINGS. The Senator from North Dakota is correct. Denny McLain, who was an all-star pitcher for the Detroit Tigers, got sentenced to 8 years for using the pension fund to pay off the company debt, in violation of our law, the Pension Reform Act of 1994. Yet, we do it here in violation of our own law and policy of 1994 for corporate America. Fine and dandy. I would tell him to, next time, run for the Senate, and instead of a jail term he will get the good government award.

Mr. GREGG. Mr. President, for the purpose of debate only, I ask unanimous consent that the Senator from Wisconsin be recognized. How much time does he need?

Mr. FEINGOLD. I need 12 minutes, Mr. President.

Mr. GREGG. I ask unanimous consent that the Senator from Wisconsin be recognized for up to 15 minutes and that the floor then be returned to me, unless the Senator from Maryland also wishes to speak. How much time does she wish?

Ms. MIKULSKI. I want to speak on the bill itself regarding cyberporn and cybercrime.

Mr. GREGG. How much time does the Senator need?

Ms. MIKULSKI. Five minutes or less.

Mr. GREGG. For the purpose of debate only, I yield 15 minutes to the Senator from Wisconsin and 5 minutes to the Senator from Maryland. I ask unanimous consent that I retain the floor upon the conclusion of their statements.

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

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I thank the Senator for his courtesy.

Mr. President, I am very pleased to join my good friend, the Senator from South Carolina, in offering this amendment to express the sense of the Senate regarding the Social Security trust fund balances.

I could not agree more with the Senator from South Carolina and also the Senator from North Dakota that there really isn't anything more important than stopping this practice of using Social Security dollars for things they are not supposed to be used for, including premature tax cuts. That is the central budgeting issue in this country. The Senator from South Carolina has been the leader for years and years in making that point. I have greatly enjoyed working with him on this. We are going to continue to work on this until this practice is stopped, until this theft of Social Security funds is prevented.

Mr. President, there is a fundamental difference between the way many in Congress approach the budget and the way the Senator from South Carolina and I approach it. That difference is Social Security.

For 30 years, Presidents of both parties, and Congresses controlled by both parties, have included the Social Security trust fund balances in their budget calculations. As I had a chance to mention during the debate over the budget resolution itself, the result is a false picture of our country's fiscal health. And just like a false medical report that covers up a serious illness, it can lead to major problems in the future.

This false budget picture has been used so often that, in effect, it has almost become a ''budget convention.'' It has so impressed itself into the vocabulary of the budget that we now hear this word ''surplus'' over and over again when there is no surplus. We hear people talking about a budget ''surplus'' in Congress, we see it in the newspapers, and we are even seeing it in letters from constituents who are, in effect, being misinformed into thinking that there is somehow a surplus at this time.

Mr. President, the recent CBO estimates of our budget picture have made this matter all the more urgent. Using this budget sleight-of-hand known as the ''unified budget,'' some are pointing to significant surpluses as a justification for their own budget agenda, as the Senator from South Carolina has very eloquently outlined in his remarks.

Mr. President, we have not achieved a budget surplus, and despite the greatly improved budget picture, CBO still estimates that we will not achieve anything indicating a true surplus until at least the year 2006. There is a deficit that is still being hidden, and Social Security is the curtain that is being used to hide it.

For the current fiscal year, CBO expects the deficit to be roughly $41 billion. That is a great improvement over the $340 billion deficit we experienced in 1992. I am proud to have been a part of bringing that deficit down, but that is still a significant deficit.

While the deficit picture improves slightly in the next few years, we still face a real problem on the budget deficit. It is true that if all of CBO's assumptions are borne out, we will barely achieve a balanced budget in 2002 and then again in the year 2005—just in those 2 years. And, of course, this is encouraging news. But it is hardly the kind of significant surplus on which to establish any major new initiatives, whether they be in the spending area or in the tax area.

It is obvious that the economy may not perform as well as CBO expects, and the slightest change in the underlying assumptions could mean something very different from surpluses. It could mean deficits that are billions of dollars greater than are currently estimated. CBO itself makes this point in its current estimates.

The report states, ''* * * if any of a number of assumptions that CBO has made turn out to be off the mark, budget outcomes could be quite different than projected, even if there are no changes in policy.''

Mr. President, the CBO projections also assume that Congress will be making the spending cuts necessary to comply with last year's balanced budget agreement. Mr. President, as is sometimes said in court, when it comes to assuming that Congress will do everything it should do with regard to making those spending cuts, CBO could be ''assuming facts that are not in evidence.''

Congress has not yet made those spending cuts, and the attitude that is being exhibited by some Members of Congress is not reassuring. We are already seeing a bidding war develop over how to spend the so-called surplus. It is a surplus that isn't even projected to really exist for another 8 years, Mr. President, but they are falling all over each other to figure out how to spend it before we finish the job.

With so many focused on how to dispense this phantom surplus, there is an increasing risk that we will not actually finish the important work of truly balancing the budget. Mr. President, just a little over a year ago, a lot of our colleagues were saying it was the most important matter before us and urging us to amend the Constitution itself to ensure that outlays did not exceed receipts in any given year. Now, here we are, just a few months later, and many who supported this drastic step—and, as it turned out, unnecessary step—to amend our Constitution are now very ready to spend a surplus that we don't have. It could not be more inconsistent with what was at least said to be the spirit and the purpose of the balanced budget amendment.

Mr. President, it has taken us several years and many tough votes to get where we are today, to get within reach, within vision of truly balancing the budget. It will take more tough votes to finish the job. Unfortunately, the notion of a so-called unified budget, which just began as a political convenience to mask the deficit almost 30 years ago, has now become budget reality for many, many people. This has to stop.

''Surplus'' is supposed to mean something extra like a bonus. What it is supposed to mean is that all the bills are paid and there is really money left over. But, Mr. President, as I noted during the budget resolution debate, one dictionary defines ''surplus'' as ''something more than or in excess of what is needed or required.'' But the so-called unified budget, the surplus is not ''more than or in excess of what is needed or required.''

Those funds are needed; they are needed to pay future Social Security benefits. They were raised by the Social Security system, specifically in anticipation of commitments to future Social Security beneficiaries.

There is, however, one simple, straightforward step that this body can take to help Social Security and to protect the trust fund. It is very simple. Just do not spend it. Don't spend it. We have no right to spend it.

I urge my colleagues to join the Senator from South Carolina and the other cosponsors of this amendment in passing this amendment and expressing the sense of the Senate that we understand this essential fact: That when Congress makes budget obligations today based on the Social Security funds, whether in the form of tax cuts or spending increases, we are committing to a fiscal path that jeopardizes future Social Security benefits.

Mr. President, let me once again sincerely thank my friend from South Carolina for his tremendous leadership on this issue. It has been a pleasure to serve with him on the Budget Committee, and I deeply respect his work to promote not only deficit reduction, but honest budgeting as well.

Mr. President, I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President.

Mr. President, I will not be speaking on the pending amendment. I will be speaking on the overall nature of the State-Justice-Commerce appropriations.

I commend Senator GREGG and Senator HOLLINGS for the outstanding job that they have done in bringing an excellent bill to the floor.

Yesterday we talked about some of the things we thought were missing from the bill, and particularly what would affect the safety and well-being of children.

We talked about gun locks. Mr. President, I am a supporter of gun locks. If we put locks on our cars to protect our automobiles, locks on our doors to protect our property, I think we should have locks on guns to protect our children. We worked our will yesterday. That didn't pass.

But I will tell you, the Gregg-Hollings bill brings before us a real Justice Department commitment to protect our children. I would like to thank them for that. I would like to thank them for their efforts in fighting juvenile crime. I would like to thank them for bringing us legislation to prevent violence in our schools. But most of all, I am really grateful that they have put money in this budget to fight child pornography on the Internet. We need cops on the beat, and we need cops on the computers to be able to protect our communities and our children.

Let me share with you a story.

There was a little boy in Prince Georges County whose parents had bought him a computer where they thought it would be an opportunity for him to learn about the world and be ready for school each and every day. However, there was a sexual predator who treated that computer as if it were a virtual playground. And they stalked that little boy, and it ended in his death.

But thanks to the response of the U.S. Congress—and I would like to particularly thank Senator GREGG for his

cooperation and leadership on this—we have actually put money into the Federal budget for the FBI to establish a special headquarters in Maryland to fight cyber-kiddieporn on the Internet, with $10 million bringing 60 FBI folks into this, and 25 special agents. I have been there, and I have seen what they are doing to protect our children. You would love to see these FBI agents who are making use of the newest and latest technology to be able to intervene, intercept, and detect those people who sit in chat rooms coming after our children.

I sat with those agents. I watched the pictures on the screen. I was repulsed. I was horrified not only at what I saw, but what others could be subjected to.

Because of our prompt response, the program is actually already working. In the short time that this committee has put money in the Federal checkbook to fight cyberporn against children, there have been 400 search warrants executed, over 200 arrests, and we are well on our way to over an 85-percent conviction rate.

In my home State of Maryland there have been 15 arrests, 15 indictments, and 12 convictions.

That means that we will be able to protect our children. The average child molester has more than 70 victims throughout his lifetime.

Because of the work we have done here to put cops on the beat through our community policing in concert with the computer, both in our streets and our neighborhoods to protect our children, children's lives have been saved.

In Maryland alone 15 child molesters have been taken off the streets. That means that 1,000 Maryland children have been saved and rescued.

This is just part of what we are doing to protect our children.

I know through the work of this subcommittee, of which I am proud to be a Member, $210 million has been put into the Federal checkbook for a new safe schools initiative.

We need to hire more security guards, improve coordination with local police, get the violent kids out of our schools, and while we are doing that, in addition to the policing that we are doing, I know that this committee has put in substantial money for prevention—not the type of prevention where we don't know what is going to be shown for it.

This committee is a tough committee. We are going to go after the crooks and the criminals and the stalkers. But we know that, if we are going to have policing and punishment, we are going to do prevention, and we are going to do it by creative activity to fight and prevent gang violence—to be able to do structured, afterschool activity; working with faith-based organizations.

Because of the work of this subcommittee, our streets and our schools will be safer because we put cops on the beat and cops on the computers.

I thank the chairman for allowing me to speak. But most of all, I would like to thank the ranking member for this outstanding bill.

Mr. GREGG. Mr. President, I thank the Senator from Maryland for those words—those type of words. She could speak all day. We appreciate that, to say the least. I want to especially thank her for her extremely supportive and aggressive assistance in the ''Innocent Images'' effort, which she has pointed to and explained to us that arose out of a situation in Maryland. The central nervous system for the FBI initiative is now in Baltimore. What they are doing, I think, is very appropriate. They are developing protocol so they can spread this knowledge of how to fight cybercrime against kids across the country to other levels of law enforcement, and they are using the protocols developed at Baltimore to do that. It has really been a tremendous success story for the agency.

It is in large part because of the support this committee has given to the FBI that they have been successful in this. Although they were the ones who initiated it and they should get the credit for it, that support has come as a result of the strong and firm commitment of the Senator from Maryland, and her understanding of the threat. The threat is very significant.

As she knows, because she has gone to the actual site of the activity where the FBI is pursuing these sort of sting operations—I have seen it done at remote sites—the amount of attempts by people who are clearly not pursuing a positive use of cyberspace for our children, the amount of hits in a chat room, which appear to have very significant negative potential for our kids, is overwhelming. You can turn on a chat room, introduce yourself as a 12-year-old girl, and within a very brief period of time—30 seconds—have five or six hits in that chat room, which will ask for illicit or lead to illicit activity in an attempt to get pornographic material, or in an attempt to expose that child to pornographic material.

Regrettably, they create travel cases where they try to get the child to go and meet with the pedophile. In fact, we had a situation in New Hampshire where somebody actually traveled all the way from Norway to Keene, NH, because that individual thought they were going to be able to have some sort of sexual activity with a child. Luckily, in this instance at least, it was a police officer who was using the Internet following the protocols that the FBI set out of ''Innocent Images'' that was able to stop and apprehend that individual.

But it is a very serious issue because the Internet is a great and expansive source for our kids and something that our kids should have access to with the opportunity to learn, the opportunity to communicate with people across the world. It is just a unique and special opportunity or activity that our generation did not have and the next generation does have. Making it safer for our kids is critical. So I thank very much the Senator from Maryland. I am in support of her FBI initiatives in this area and certainly appreciate her kind comments.

AMENDMENT NO. 3255 TO AMENDMENT NO. 3254

At this time, I send to the desk a second-degree amendment to the pending Hollings amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself, Mr. LOTT, Mr. DOMENICI, Mr. MACK, and Mr. GRAMM, proposes an amendment numbered 3255.

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

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

The amendment is as follows:

In the pending amendment, strike all after the word ''Sec.'' and insert the following:

SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(a) FINDINGS.—The Senate finds that—

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds have reported to the Congress that the ''total income'' of the Social Security system ''is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) saving Social Security first would work to expand national savings, reduce interest rates, enhance private investment, increase labor productivity, and boost economic growth;

(7) section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget; and

(8) the CBO has estimated that the unified budget surplus will reach nearly $1.5 trillion over the next ten years.

(b) SENSE OF THE SENATE—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations;

(3) save Social Security first; and

(4) return all remaining surpluses to American taxpayers.

Mr. GREGG. I offer this amendment on behalf of Senator LOTT, Senator DOMENICI, Senator MACK, Senator GRAMM, and myself.

I will now propound a consent allowing for two votes, hopefully shortly, on this Social Security issue, the first vote being a vote in relation to the majority version of the amendment, to be followed by a vote in relationship to the Hollings amendment. If an objection is heard, I will have no choice but to fill up the amendment tree so that our vote is guaranteed to be the first vote.

I would note that the amendment we have sent to the desk seeks the same goal in that what we seek is to preserve the surplus for the Social Security system so that Social Security can be saved first. That should be the first and primary purpose of the use of the surplus.

However, we make the point in our amendment that after Social Security has been saved, after we have reached an agreement for how to save Social Security—and I happen to have a bill which accomplishes that. It would save it for the next 100 years. It happens to be a bipartisan bill of Senator BREAUX and myself. There are other proposals floating around. The Senator in the Chair is a strong supporter of a number of initiatives to save Social Security. But after an agreement has been reached by the Congress and we have put in place a system for saving Social Security, our sense-of-the-Senate says then let's send the money back to the taxpayers. That seems to be a reasonable approach to me.

So we do not disagree with the desire to save Social Security first. We only want to make sure that after Social Security has been saved, additional surpluses go back to the taxpayers.

So with that being said, I now ask unanimous consent that there be a total of 60 minutes, and I would be willing to adjust that if there is a desire to adjust it, but we have been on this for almost 2 hours now, 60 minutes for total debate, to be equally divided between the majority leader or his designee and Senator HOLLINGS, and following the conclusion or yielding back of time, the Senate proceed to a vote on or in relationship to the Lott amendment, to be followed by a vote on or in relationship to the Hollings amendment.

Mr. HOLLINGS. I am trying to clear that now and find out—that is agreeable, except for the fact that we have how many Senators seeking time? Four Senators. We have 50 minutes. I will be the fifth one.

Mr. GREGG. An hour-and-a-half equally divided?

Mr. HOLLINGS. Yes, an hour-and-a-half equally divided.

Mr. GREGG. I amend that request: Instead of 60 minutes, there be 90 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, let me begin this discussion, although the discussion has already proceeded. Much of what the Senator from South Carolina and the Senator from Wisconsin talked about, I agree with in the area of Social Security reform. There is absolutely no question but that the single, biggest fiscal policy issue facing this country today is the question of how we make the Social Security system a strong and vibrant system for generations to come and how we avoid what will be a fiscal disaster for our Nation if we do not address this issue in the near term.

This problem is generated by the fact that we have a baby boom generation headed towards retirement. It is now turning age 50. In 15 years, it will be fully retired. In 12 years, we will begin to retire a baby boom generation that is the largest generation in the history of this country. And as that generation has moved through the system, it has affected this Nation in every decade throughout its life experience. In the 1950s, the baby boom generation created a huge need for elementary schools and baby carriages. In the 1960s, it created a tremendous restructuring of our social fabric with occurrences involving civil rights, involving rights of women, involving Vietnam. In the 1970s, we saw further impact, and in the 1980s we have seen the huge economic impact, and as we move into the 1990s, we are also seeing the impact of that generation as it begins to save for retirement and that is one of our primary reasons of this economic boom.

But the biggest impact this generation is going to have is when it retires, and it begins to retire in the year 2008, and not unusually, or not to be unexpected, in the year 2008 the Social Security system begins to lose money. In fact, that is the year when we start paying out more in Social Security benefits than we are taking in. By the year 2015, the Social Security system is paying out so much more than it is taking in it basically cannot right itself. By the year 2029 or 2030, essentially the country has such a large debt and obligation under the Social Security system that it will be unable, in my opinion, to afford to maintain that system and we will face a fiscal meltdown of sorts.

The way I describe it, it is as if we could pick a date when we know as a nation we were going to have a major earthquake, a major flood, a major hurricane come ashore, and we know that date exists and we know it is going to occur. Obviously, it would be irresponsible for us as a Congress not to react to that, not to take preventive action, not to get our people prepared for that. But we know the date when we are going to hit a fiscal crisis of inordinate proportions because the people are already born who are going to create such a huge demand on the system. That date is approximately the year 2015.

So what should we do? We should address it today. Why should we address it today? Because, basically the sooner we address this, the sooner we can solve it in a constructive and effective way and in a positive way where everybody will end up being more of a winner than end up being a loser. It is a lot like that old oil filter ad, ''You can pay me now or pay me later.'' If we begin to address this problem today, we can significantly improve the system in the long run for everyone. If we wait even 2 years, certainly if we wait 4 or 5 years, the capacity to address it becomes much more acute and we go off a cliff.

So how should we address it? The proposal we put forward in our sense-of-the-Senate is that we should address it by using the surplus first to address it, and that is absolutely right. That is what should be done.

I would note this was not the President's position. The President said we should reserve the surplus, reserve the surplus until we have solved the Social Security problem. That is what he said in his State of the Union Address. Our position as Republicans is we should use the surplus to protect the Social Security system. And one way to do that, one way that has been proposed by myself and a number of other Members in this body, including the person sitting in the Chair, is to give people who are presently working and paying taxes into the system and who, unfortunately, are looking at a very low rate of return for all of the taxes they are paying into the system—in fact, if you just happened to go to work, say, you were 20 years old and you went to work today, the likelihood that you would get very much back from what you paid into the system in Social Security taxes is extremely low. If you happen to be an African American, actually it is a negative number. You get less back than you will pay in.

So the system has some very serious problems in the way that it returns benefits to people who are younger today. What we have suggested is to give people today who are earning money, paying into the system, let's give them some ownership. Let's give them the ability to have an asset which they physically own as part of their Social Security retirement structure. And these are called personal accounts.

Under the present system, what happens is, you pay in taxes all your life. And, unfortunately, let's say you died when you were 58. If you did not have a wife and you did not have children,

you have nothing for all those taxes you paid in—absolutely nothing. You have absolutely no vested interest which pays your estate anything. If you had a wife or children, they might get a little bit, but not a whole lot compared to what you paid in.

We are suggesting that some portion of the taxes that you pay into the Social Security system today you should have ownership of; you should actually, physically, have the right to claim, upon your retirement, as yours. Every year you should get a statement. You should have a little savings book, basically—I didn't bring mine with me today as an example; the Senator in the chair may have his—but you should have a savings book which says how much you have in your account at the Social Security Administration, which is yours, physically yours. No matter what happens, it cannot be taken away from you. Those are called personal accounts. Thus, if you were, unfortunately, to die before you reached the age of retirement, your estate would actually get an asset. It would get that money that was built up in that account. That is one plus of this.

A second plus of this is that under the proposal we have, you would, essentially, get the benefit structure which Social Security gives today, but on top of that benefit structure you would be able to get the benefit of the investment of that personal account. What would that investment be in? Under the proposal we put forward, it would be in one of a variety of what amounts to mutual funds, three or four different mutual funds, which you would choose, which would be under the control and operation of the Social Security Administration, so there wouldn't be any outrageously risky investments taken. But you would have a choice. You could choose a conservative investment, you could choose a moderate investment—you could choose a moderate investment in equities.

Why is that important? Today, the entire Social Security fund is invested in Government bonds. And what do they yield? They yield about 2.5 percent interest. Over no 20-year period in history has the equity market yielded less than 5.5 percent. So you can see the rate of return people are getting—because the average working life is 40 years—the rate of return people are getting on the amount which they are paying in Social Security taxes really is pretty weak, 2.5 percent. As I mentioned earlier, if you are an African American who happens to go into the workforce today and you are in your early twenties, your rate of return is zero—it is actually a negative number.

But the fact is, you would have a personal account, which you would have some control over, which is invested by the Social Security Administration in probably three or four different mutual funds which you have the right to choose from but which are set up under the Social Security auspices, much like we have, in the Federal Government, the Thrift Savings Plan. If you are a Federal employee today, there is something called a Thrift Savings Plan, and the Thrift Savings Plan trustees, who work for the Federal retirement plan, set up three different options: You can choose a high-growth fund, a moderate-growth fund, or a low-growth fund—or a low-risk fund. You can put your money, your savings and your retirement, into whichever one you want. This would be the same idea under Social Security. You would get to choose which one of those funds you want to put your money in —a low-risk fund, a moderate-risk fund, a higher-risk fund.

When you retired, you would then own that asset. The appreciation on that asset would be significantly better, we are absolutely sure, than the 2.5 percent that you are presently getting under the Social Security Administration. So that is an effective way to begin the process of making the Social Security system solvent. That would be a type of plan that would work.

The problem, of course, is, to make this work effectively, you have to act sooner rather than later. You cannot wait for 3 or 4 years in order to put this in place, because people need time to build up the accounts. The accounts we are suggesting do not represent your entire Social Security tax. What we are suggesting is, you use 2 percent of your Social Security tax. We would basically give you a tax cut for that 2 percent. You would then be able to invest that in this retirement fund or be required to invest it in a savings fund which would be managed by the Social Security trustees and would give you a much better rate of return.

There are a lot of other ideas out there. The point is, we need to get on to this issue, we need to get on to the specifics of how you are going to make the Social Security system solvent.

The President has been traveling around the country. He has been talking about this. Many of us on the Republican side of the Senate have been traveling around, also talking about this. We had a bipartisan group which involved myself and Senator BREAUX on the Senate side, and Congressman STENHOLM and Congressman KOLBE on the House side, and a whole group of people who are expert in this area. We met for 18 months, and we put together an excellent plan, part of which I have outlined, which would make the system solvent for the next 100 years. But it is a plan; it is not specific legislation. So, what we need is specific legislation.

This sense of the Senate comes forward, which essentially restates what everybody wants to do, which is make Social Security solvent. But it does not move along the plan. It doesn't move along how you get to actual legislation. If we really want to be constructive as a Senate, what we should do is probably have a sense of the Senate which calls on the President to come forward with a specific plan, and have it to us at the end of this year, so the beginning of next year we could actually begin to legislate on the Social Security system and Social Security reform, because our window of opportunity here is really quite small. If we don't put in place Social Security reform legislation by June of 1999, I am not sure we are even going to be able to put it into place, because then we are going to do a Presidential election. If it gets slid past the Presidential election, we have basically missed the window of opportunity to begin to build up equity in some kind of personal account or any sort of equity activity which involves investing in the market; we have given away 2 years of opportunity for that type of investment activity.

So, what we really need is specific action. Another sense of the Senate is nice. It is very appropriate, I suppose, to keep making this point over and over again, so it does not end up being overly politicized. But the fact is, what we need to do is go from the sense of the Senate situation to specifics.

What is the difference between the two sense of the Senate amendments here? I am not sure the differences are all that substantive, to be very honest with you. Where the difference is, essentially, is in the third point: ''save Social Security first by reserving any surpluses in fiscal year 1999 budget legislation.'' Our sense of the Senate adds a fourth item: Third, ''save Social Security first,'' which we all agree on, and, fourth, ''return all remaining surpluses to the American taxpayers.''

So we take it a step further. We basically add another point to the sense of the Senate by saying, once you have saved Social Security, let's take the other part, the surplus that is left over—there may not be any, but hopefully there will be—and return it to the American taxpayer.

I would say this language, ''save Social Security first by reserving any surplus in the fiscal year 1999 budget legislation,'' is a little confusing, because fiscal year 1999 budget legislation could either mean the year 1999 or it could mean the 5-year period that budget legislation covers. So it is not really clear to me exactly what surplus they are talking about here. Is it a 1-year surplus or is it a 5-year surplus?

In any event, what we are saying is, independent of that issue, let's save Social Security first. But if there is a surplus above saving Social Security, let's do the right thing with it; let's return it to the taxpayer.

Who can disagree with that? We don't want to spend it, that is for sure. We might want to use it to reduce debt, but of course the best way to reduce debt is to save Social Security. Once you have saved Social Security, you have significantly reduced debt, dramatically reduced debt, because the biggest debt the Federal Government owes is to the Social Security system. So let's take that extra money, if there is any, and return it to the American taxpayer.

I think our sense of the Senate maybe takes the Hollings sense of the Senate, which was a good attempt, good statement on its face, in many ways, and makes it a lot stronger, because it makes it absolutely clear that not only do we want to save Social Security but we also want to return any extra surplus, after we have saved Social Security, to the American taxpayer.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, briefly I want to yield to the distinguished Senator from New Jersey. I ask unanimous consent I add to our particular amendment Senator REID, Senator FORD, and Senator JOHNSON.

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

Mr. HOLLINGS. And that we have no points of order? If somebody wants to raise one—and it is agreed we waive any points of order.

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

Mr. HOLLINGS. I yield to the Senator from New Jersey.

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

Mr. HOLLINGS. I yield 10 minutes.

Mr. LAUTENBERG. Mr. President, I note with interest that all Members on the floor now are members of the Budget Committee, which I think is particularly significant, because we are here talking about not only Social Security and our obligation to make the system solvent—to create a degree of confidence that, looking out into the future, we are going to be able to say to people, some who have already worked a dozen years: Worry not, we are here going to solve the problem of the question of solvency on the Social Security fund and it will be there for you —but we are also, at the same point, talking about the work done to get ourselves to a balanced budget point and, beyond that, to develop the surplus stream that we now see flowing very mightily.

The fact is, I think the Senator from South Carolina has worked so hard for so many years on the independence and on the solvency of the Social Security trust fund that he is almost ''Mr. Social Security.'' No questions are raised about Social Security when the distinguished Senator from South Carolina, Senator HOLLINGS, isn't there defending the system and defending the right of those who expect to have the benefits to have them there at the time they need them.

We shouldn't start spending those projected surpluses that look like they are going to be in abundance until we confront our biggest long-term challenge, and that is to make sure that we have done the things necessary to solve the questions about the Social Security trust fund.

We need to ensure that younger Americans can benefit from the system, just as their parents and their grandparents are benefiting today. Once we fix that Social Security system and we have really done the job, we can consider using any remaining surpluses to provide real tax relief to ordinary Americans, to put more money in the pockets of struggling middle-class families.

Yes, they are enjoying this prosperity that we have, but I don't know many of them who feel like their heads are that well above water that they can provide the education their children will need to help ensure that they, too, will have a decent quality of life, one that is better than those who are working now. They need some help, and we want to do it.

We have a commitment that, first, we are going to start putting that money into the Social Security system, so that in the later years they have the reliability of the pension fund, of the Social Security fund. When we have done that, then we can, again, help the middle-class families afford education, health care, and take care of our infrastructure.

The point of this amendment is to say, before we start raiding projected surpluses, that we have some hard work to do. We ought to make the decisions that say to our young people, ''Your retirement is going to be there,'' to do exactly what it is that the President pledged when we saw the surplus coming, and that is, save Social Security first.

Social Security isn't just another Government program, it is the most important social insurance program in our Nation. It has dramatically reduced poverty among older Americans, and it provides a critical safety net for those who suffer from disabilities or the death of a family member.

Keep in mind that a majority of American workers have no pension coverage other than Social Security; that is it. Nearly a third of all seniors get 90 percent or more of their income from the program. Without Social Security, more than half of the elderly would live in poverty.

It is absolutely critical that we maintain this safety net for future generations. Yet, Social Security's long-term viability is now threatened by the impending retirement of the baby boomers. Unless we act, the trust fund will become insolvent in the year 2032. Do we want to say to people who have already worked a dozen years of their life, on average, that you can start to envision life in your later years without the help that comes from Social Security? We can't let that happen.

Given the importance of solving the Social Security problem, Members of Congress on both sides of the aisle have supported the concept of ''saving Social Security first.'' In fact, I remind my colleagues that the Senate already has approved a budget resolution that proposes to save all future budget surpluses.

I didn't support that resolution because, like some other Democrats, I felt it shortchanged important priorities like education and child care and created procedural obstacles to comprehensive tobacco legislation. But I did support the resolution's fundamental approach on the use of surpluses. The budget resolution said that all new spending and all new tax breaks will be fully offset, and it was the right thing to do.

My friends on the Republican side of the aisle, especially the distinguished chairman of the Budget Committee who sits here now, Senator DOMENICI, deserve credit for a job well done. He worked hard, as we all did, to get this budget into balance and to make sure that we start on the road to developing some surpluses and protecting Social Security.

Unfortunately, some Members are now suggesting that, ''OK, we have some money in the bank; it looks like it is going to be there; let's start spending the projected surpluses.'' Frankly, I think it is a peculiar irony that we see some of those who are most concerned about fiscal discipline, sound fiscal policy, are now saying, ''Hey, this is the time to start getting rid of these surpluses.'' I don't understand that when we are so deep in the hole. No one would advise a family or a business owner to do the same thing. When you have debt on your hands—and we have plenty of it, and it was noted by the distinguished Senator from New Hampshire that most of that debt belongs to the Social Security trust fund—I don't understand what it is that suddenly has impelled these folks to want to now spend the money.

The weakening of the budget discipline seems to be based in part on new budget projections released only last week by CBO. They are now estimating surpluses in future years will be larger than originally anticipated. It is great news. According to the CBO, the unified surplus this year will be $63 billion, and by 2008 that figure will grow for that year to $251 billion.

These figures are cause for celebration and they are cause for pride. They show that the disciplined policies we have adopted since President Clinton took office, including last year's bipartisan budget agreement, are working. Members on both sides of the aisle deserve credit for that. But CBO's new projections should not be used as an excuse to throw fiscal discipline out the window. They don't change the fact that Social Security still faces real, long-term problems. The trust fund, I repeat, will become insolvent, based on current projections, in 2032. We have to do something about that before we squander any of the projected budget surpluses.

I fully support providing tax relief to ordinary working Americans. I want to strengthen at the same time our Nation's commitment to education and health care. But there isn't any reason why we can't provide tax relief or invest more in education, and we can do it today if we pay for it. What we ought

not to do is start treating future surpluses as a giant piggy bank for an excuse to abandon the fiscal discipline that got us to the good condition we are in today.

I also note that if Congress goes on a wild spending spree, the costs will not be limited to the long term. We could also trifle with investor confidence, and that then could create an upset in the market, about which everyone is concerned. People will be watching and saying, ''When is the downturn going to come?'' It could threaten our economy.

Importantly, raiding the surplus could undermine, once again, this great opportunity that we have to secure Social Security for those in the long-, long-term future. It would be unfair to those baby boomers and other young Americans.

I urge my colleagues on both sides of the aisle to support this amendment. Let's maintain our commitment to fiscal discipline. Let's continue the long-term thinking that got us to the good position we are in today.

The PRESIDING OFFICER (Ms. COLLINS). The Senator's time has expired.

Mr. LAUTENBERG. Let us fulfill the commitment that was made not implicitly but specifically to protect the retirement benefits of today's younger Americans. Let us do the right thing. SOS: Save Social Security first.

Thank you.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I yield 10 minutes to the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Thank you very much, Madam President. And I thank Senator GREGG.

First, I am pleased to be on the floor to hear the discussions that have taken place and pleased to hear Senator LAUTENBERG comment about our taxpayers and the need to return to the taxpayers—he described it his own way—but to return to them some of their hard-earned money.

Actually, the difference between the two resolutions is very clear now. First of all, on Social Security it could not be more clear. The Republicans do not talk about 1999 and Social Security; they say: ''Save Social Security first''— unqualified.

The difference between the two resolutions is very, very simple, but I think rather profound. First of all, both resolutions purport to say, and try to say, that we want to save Social Security first. We just say that, and we do not qualify it with reference to years or which budgets. We just say, ''save Social Security first.'' That is No. (3) in our conclusionary resolves.

And then we add a fourth one. And I will just read it, because you cannot do any better than just reading the language. ''Return all remaining surpluses to American taxpayers.''

Now, that is very simple. That establishes that this resolution, which is sponsored by the chairman of the committee, Senator GREGG, Senator LOTT, and myself, with some additional cosponsors—what we are saying is, take care of Social Security, no ifs, no ands, no buts. Any additional surpluses should be given back to the American taxpayers.

Frankly, there is a great debate occurring now on what we should do with the surpluses because, believe it or not, I recall that many Senators said, ''We will never see the day that we have real surpluses.'' What was being said was, ''Social Security moneys are being used to pay for our bills. We will never reach the day when we have surpluses without using Social Security at all that are real.'' And for this discussion, I will call them ''operating surpluses.'' ''Never will we see the day.''

Well, if CBO is right, Madam President, we have seen the day, as a matter of fact, in the sixth year of this 10-year projection. And it is not a terribly optimistic set of economics; it does not take into account a real big recession, but actually in its overall calculations it assumes a rather moderate and then even a slight downturn in this economy, and it still has, in the sixth, seventh, eighth, and ninth years, a $40-billion-a-year operating surplus, not using a penny of Social Security during those years.

I can recall my good friend, Senator HOLLINGS, who is the chief sponsor of the resolution, which I commend him for, saying we would never get to that day. And I did not think we would either, I say to Senator HOLLINGS. I never thought we would. But we are there. Frankly, we may be—we may be—in a position, believe it or not, when those surpluses occur much sooner than that. And it may be that we can fix Social Security permanently into the next century and have some very big surpluses left over, for we might not need all of the Social Security money that is in this budget to fix Social Security. We may fix it differently and make it very solvent and truly credible for the next 100 years.

What we are saying—and we want this loud and clear to the American people—the American fiscal policy is such that you are paying more taxes than we need to run our Government. And we are saying, when that day arrives that we have fixed Social Security and we still have more of your taxes than we need to run this Government, we are saying we will give it back to you. I repeat—return all remaining surpluses to the American taxpayer.

I would hope that rather than the two sides have an argument over that, I would hope the Democrats would support ours.

Let me tell you, the only thing I can see that would not have them joining us is if they perceive that Government isn't big enough now and that what we must do in the future, Madam President, if we have the surpluses that we have both been talking about, is we have to save some of that to add more expenditures to Government.

Maybe it is wishing too much that both sides of the aisle would agree on that, but I submit that we on this side of the aisle would have been badly mistaken had we voted for a resolution that did not say to the American people we have a big enough Government—we have a big enough Government. The question now is, take care of Social Security, and then do not use the excess revenues which we took from the public for more Government; give it back to the people by way of tax relief.

That is a simple, as I indicated, but profound difference between the two resolutions. And I hope—I hope—that we leave here at 4:15 having turned a rather inconsequential vote into a very significant vote, because on the one hand it could be a vote that said we are going to save Social Security. But we have already agreed to that. The President has agreed to that. We put it in our budget resolution.

The difference now is that in addition to that, which we are reiterating, we added a second part that says: If we get there, and we have these surpluses that it looks like we are going to have, then we do not want to have any ifs, ands, or buts about that, we want to give it back to the taxpayer in tax relief.

I hope that the second-degree amendment sponsored by Senator GREGG, the chairman of this subcommittee, Senator LOTT, and myself, will be adopted.

If I have any time remaining, I yield it back and yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 3255, AS MODIFIED

Mr. GREGG. I ask unanimous consent that the Gregg amendment be modified to reflect the first degree status which is at the desk.

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

The amendment, as modified, is as follows:

At the appropriate place, insert:

SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(a) FINDINGS.—The Senate finds that—

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Fund have reported to the Congress that the ''total income'' of the Social Security system ''is essentially to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to

prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) saving Social Security first would work to expand national savings, reduce interest rates, enhance private investment, increase labor productivity, and boost economic growth;

(7) section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget; and

(8) the CBO has estimated that the unified budget surplus will reach nearly $1.5 trillion over the next ten years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations.

(3) save Social Security first; and

(4) return all remaining surpluses to American taxpayers.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I say to the distinguished Senator from New Mexico, I hope I can get to Heaven. But if I ever get to Heaven and have to make an accounting to the Lord of all my sins, I hope I have you as my lawyer, because you are really very persuasive.

Mr. DOMENICI. Actually, I say to the Senator, in——

Mr. HOLLINGS. Let me tell you why you miss the point and how you danced around it. Now, here is the difference. It says, ''The CBO has estimated''—this is the Domenici-Lott resolution; sense of the Senate—''The CBO has estimated that the unified budget surplus will reach nearly $1.5 trillion over the next 10 years.'' Absolutely false and in violation of section 13301, Madam President.

Without reading the whole thing—''Exclusion of Social Security from all budgets.''

Now, how do you get $1.5 trillion without using $1.621 trillion, $1.621 trillion of Social Security money? That is the first mislead here. They first say that they are not going to use Social Security, but then they talk about a budget surplus. And the only way they can really mislead and continue the fraud and continue the campaign finance fund for all of us politicians to get reelected is to talk about tax cuts and surpluses when there are not any. There are not any, Madam President—absolutely none. But they use $1.621 trillion in order to get to the $1.5 trillion.

Now, Madam President, there is a further point to be made. Here is the entire—I ask unanimous consent the trust fund surpluses from Social Security alone for the next 10 years—rather than a $1.5 trillion surplus, there is a $1.621 trillion deficit—I ask unanimous consent that it be printed in the RECORD.

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

SOCIAL SECURITY TRUST FUND SURPLUSES: CBO SUMMER 1998 BASELINE

[By fiscal year, in billions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Trust fund surplus	105	117	126	130	138	146	154	165	173	181	186
Interest received by fund	−46	−51	−57	−64	−70	−77	−84	−91	−99	−108	−117
Non-interest surplus	58	66	68	66	68	69	71	74	74	73	70
Trust fund balance, end of fiscal year	736	853	978	1,108	1,246	1,392	1,547	1,712	1,885	2,066	2,252

Source: Congressional Budget Office.

Mr. HOLLINGS. Then I go to the real point with respect to surpluses, as if there were plenty of them around. There are not.

I ask unanimous consent to have printed in the RECORD the trust funds looted to balance the budget.

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

TRUST FUNDS LOOTED TO BALANCE BUDGET

[By fiscal year, in billions of dollars]

	1997	1998	2002
Social Security	631	732	1,236
Medicare:			
HI	117	113	109
SMI	34	34	51
Military Retirement	126	133	163
Civilian Retirement	431	460	584
Unemployment	62	72	98
Highway	22	23	56
Airport	7	10	30
Railroad Retirement	19	20	23
Other	53	55	68
Total	1,502	1,652	2,418

Mr. HOLLINGS. Now, we find out with this, Social Security is only one-half of the problem. The truth of the matter is that this year we will owe—these are CBO figures—$732 billion. We will owe Medicare, $113 billion; and the hospital and SMI, $34 billion; military retirement, $133 billion; a deficit in civilian retirement of $460 billion; a deficit in the unemployment compensation of $72 billion; a deficit in the highway trust fund of $23 billion; a deficit in the airport trust fund of $10 billion; a deficit in the railroad retirement trust fund of $20 billion; and others, like Federal Financing Bank of $55 billion.

I only limited it to 1 year, trying to get their attention to what is going on this particular year. We can extend it out. There is no difference there. But don't go along with this continued fraud. Don't go along with this continued trickery. There is $1.652 trillion overall. Social Security is less than half; almost $1 trillion from the military retirement and civilian retirees and unemployment fund.

So the Government, us politicians, have been running around and gabbing about everyone. I thought I could get the seniors to pay attention to Social Security, but they are only paying attention to Medicare and Medicaid. I have been trying my best to get them in that particular movement. The military retirees don't understand it, and civilian retirees don't understand it at all.

So what is really wrong is not only that CBO has estimated the unified budget surplus will reach nearly $1.5 trillion when there is no surplus, they act like they are trying to give dignity and credibility to unified budgets. There is no surplus. Look on page 11 of the CBO report, and for the next 10 years there is listed a deficit, gross deficit. It is listed there in the column like I emphasized—otherwise, returning all remaining surpluses.

At this point, tell me, where is a surplus in the Government accounts? None—N-O-N-E. In fact, deficits—they mislead and say once we make a plan for Social Security, we can continue to spend the Medicare trust funds, the military retirement, the civilian retirement, the unemployment, the railroad retirement, the highway trust fund, the Federal Financing Bank. All of these are deficits—not surpluses.

So they say I hope we can get together and fuzz it all up, and there is really no difference here. This is a cancer, I emphasize again, a fiscal cancer because unless and until it shows instead of surpluses over the next 5 years—and that is what we are talking about, this year's deficit, $557 billion spent more than we take in. Deficits, deficits, deficits—not surpluses. And we add that to the national debt, the interest costs go up. According to June O'Neill, it doesn't, but I can tell you right now it will go up.

You can see Mr. Greenspan hedging his bet right now. When we do that, we will go back to the interest rates we had 10 years ago, and we are going to be eaten alive. So we have fiscal cancer. Nobody wants to talk about it, and we want to come up on the floor of the U.S. Senate with this nebulous language ''return all remaining surpluses to the American taxpayer.'' If you have them, Brother HOLLINGS would be for that. But I don't want to mislead the American public. I haven't been nearly 50 years in public office to come here with this kind of fraud and doubletalk

to the American people. There are no surpluses. I challenge them to point out the surplus in the highway fund, point out the surplus in Medicare, point out the surplus in military retirement, point out the surplus in civilian retirees, in unemployment, railroad retirement, Federal Financing Bank, all of the rest of them.

All of them are in deficit. That is why the debt has gone through the ceiling, and that is why we are increasing spending faster than we can cut it. It is $1 billion a day we are increasing spending on the interest costs on the national debt. Who in his right mind is going to cut spending $365 billion? That is our problem. The best way to ignore it is to put it under the rug, come in here and ''return all remaining surpluses.'' They still want to use that language to give in to Speaker GINGRICH over on the House side; that is what they are trying to do.

That is why we are raising this all-important point right now. If I can get their attention, just this 1 year we will have accomplished our intent here. I retain the balance of our time.

Mr. DORGAN. Will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. DORGAN. Mr. President, I have been interested in seeing the responses of some who come to the floor and say we support this ''save Social Security first'' notion, and we want to add to it and make it better.

I bet when this vote is over, within 24 hours we will have them or their cousins or their kin or their friends talking about how big the surplus is and how much of a tax cut they want to give.

The question is, Where do you think they can provide the money to fund a tax cut if they are not to dip into the Social Security trust funds, and to go back on exactly what they are now proposing in the Gregg amendment, which is to save Social Security first?

Mr. HOLLINGS. Exactly. That is what they intend to do. But they think the politician makes his own little laws and sits attentive to his own applause—Plato's famous words.

The language, the image—it is a scandal. It really is a scandal. We are going broke, and we are talking about surpluses when we have nothing but deficit all around us.

Mr. DORGAN. Might it be the case that those who say, ''Yes, let's save Social Security first,'' don't really mean that? They want to protect the trust funds because the same people who are talking about additional tax cuts right now can only get it by taking the Social Security trust funds. Could it be they don't understand the language of saving Social Security first, which means protecting the Social Security trust funds?

Mr. HOLLINGS. My dear colleague, they understand the language. They know exactly what they are doing. I can tell you here and now as a Governor who went before Standard & Poor's, went before Moody and got a triple A credit rating, we wouldn't have any rating at all, the U.S. Government on its bonds, this very minute with these kinds of deficits. You couldn't doubletalk Wall Street about surpluses. Wall Street goes along with the unified because it is business for them. That is why I pointed out the difference between corporate and the country's economy.

Mr. DORGAN. I understand it would be in my interest to provide tax cuts all the time, I suppose, if we could afford to do that.

Mr. HOLLINGS. That would be lovely. Reelect me, I am for all the tax cuts. Whoopee.

Mr. DORGAN. If the Senator will continue to yield, if we are collecting more money than is necessary for the Government, it ought to go back to the folks who send it in, no question about that.

But the question is, we have a debt of nearly $6 trillion and we have a problem in Social Security, as the Senator from South Carolina has pointed out. Just after World War II there were a lot of warm feelings around this country and we had the biggest baby crop ever produced in American history. People liked each other a lot and we had a lot of babies. Those babies are fixing to retire soon, and when they hit the retirement rolls it will be a maximum strain on the Social Security system. We have accrued surpluses year after year to meet that test for the baby boomers' retirement and those surpluses are invested in government bonds.

When the folks over here say well, gee, now we have the Congressional Budget Office that tells us there is a surplus, they are taking one page of the CBO report. They are forgetting the other page. The other page says if you include the Social Security fund in your budget totals, there is a surplus. But if you don't count the Social Security fund—which you shouldn't be able to do, because that money is paid into a trust fund for only one purpose—if you don't count the Social Security trust fund, there is no surplus.

Those folks are going to the second page, taking the number they want, and saying not only is there a surplus—which there isn't—but with the surplus we want to provide a big tax cut.

When? The month before the election. Gee, that is Politics 101, I suppose, but it is not good government. That is the purpose of the amendment that is offered by the Senator from South Carolina. It says, let us do with the Social Security trust funds what we promised the American people we would do—that is, save them for Social Security needs when the baby boomers retire.

Mr. HOLLINGS. They are telling the baby boomers they are the problem when we are charging them. They are not the problem; it is us adults on the floor of the Congress. The baby boomers are not the problem. We provided in the Greenspan Commission and in the law passed and signed by President George Bush on November 5, 1990, to take care of the baby boomers. Instead of taking care of them, we are continuing to charge them and, at the same time, telling them there is going to be a problem in the next generation when we are causing the problem.

I yield to the Senator from New Jersey.

Mr. LAUTENBERG. Thank you. Madam President, I will just take a few minutes out of the distinguished Senator's time to illustrate what is being discussed here in as direct and simple terms as possible. This chart really does it.

For years now, the Senator from South Carolina has been sounding the alarm. He has been the Paul Revere of Social Security for years now. He is always calling our attention to the fact that, yes, we now have enough to fund the needs of the Social Security payout program, the beneficiaries. But look out for the future, watch out, there is a train wreck coming. And he works at it all the time to make it abundantly clear. I hope the message gets through. He endorses, as we do, and as our friends on the other side of the aisle said today—and I will use the word perhaps ''admitted'' today—the best idea is to save Social Security first.

Well, frankly, I was a little astounded at what I heard here. In the same breath, they said we are taking in more than we need to spend for Government, so essentially let's get rid of that which is left over. I wonder if the same proponents of that type of a policy would say to their kids, ''Listen, kids, if you have more money than you need today, spend it.'' I doubt it. Would you, if you were running a business, decide that if you had more than you needed for today's expenses, you would go ahead and spend it?

I ran a big corporation before I came here. One of the things that we always tried to do was to make sure that we were putting away the funds necessary for long-term investment, for new programs, for new marketing, for new production, to make sure that we would be ready for the future to stay competitive. That is what we are saying now. We are saying, yes, yes, to tax relief for hard-working Americans. But the first thing that we committed to do is to make sure that we save Social Security. I use the term ''SOS,'' which is the international call for help—save our security, save our Social Security—SOS.

The Senator from South Carolina has been the one who stood here in the face of all kinds of opposition and worked hard to make sure that the message got through. Finally, it is getting through. And now, as it gets through, we want to spend it.

Here is the picture in very simple terms. In the 5 years, including 1999 to 2003, we will have a surplus that includes Social Security—includes Social Security. I repeat, we take in on Social Security more than we spend; thus, we

are able to portray a surplus—$520 billion in 5 years. Now, if we take out the Social Security surplus—that means the funds that the people pay in through their payroll taxes—we wind up with a $137 billion deficit. So we ought not to continue this sleight of hand, as I call it, which is what is helping us to create these surpluses.

From 1999 to 2008, the surplus is Social Security; $1.540 trillion is created because we include the Social Security balance in there. And if we follow the policy that we have developed now, we will use those funds to project the life of Social Security off into the future—into the foreseeable future, beyond 2070. If we don't use the Social Security surplus, we wind up, in this same period of time, with $31 billion compared to $1.5 trillion.

So when I hear that, yes, we want to save Social Security, oh, absolutely; we want to send the message out to those who will come of retirement age in the years ahead that it will be there for you. But it can't be there for you if we spend it now, if we go ahead and do as we have heard said and subscribe to the Republican policy of huge tax cuts, as it comes over from the House. Get rid of this surplus; get rid of it now; let everybody feel good; let everybody believe this is good business practice—while we go broke in the process and create debts that we will never be able to meet.

So I hope that we will take the amendment by the Senator from South Carolina and get it passed. I like the amendment that we hear about from the Senator from New Hampshire because in it they say very clearly, save Social Security first. The language is precise: ''and return all remaining surpluses to the American taxpayer.'' So there is first and there is second. The second part of this is returning the surpluses to the American taxpayer. Everybody wants to see tax relief available to those who are working and trying to take care of their families' needs and provide education and job opportunities. But we can't do it with this kind of hocus-pocus that we are seeing here.

Nobody here who understands financial balance sheets would permit this kind of thinking to overtake their judgment if they were running a business. I would not, and I know the Senator from South Carolina would not, and our colleagues on the other side would not do it, either. But when you sprinkle it with a little bit of politics in there, the tune changes, and the tune is: Spend it while you got it, baby. That is what is being said here on the floor of the Senate. I think, frankly, it is the kind of a message that the American people will see through.

With that, I yield the floor.

Mr. GREGG. Madam President, I yield the Senator from Texas 8 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 8 minutes.

Mr. GRAMM. Madam President, I thank the chairman of the Commerce, State, Justice Committee for yielding. Every once in awhile, we have a debate on something that really defines the choice that the American people face every 2 years when they go to the polls and decide whether they want a Republican majority in Congress or a Democrat majority in Congress. Many of the things we vote on, we agree on. Often, the distinctions are not so clear. And often the issues where they are clear, don't appear to be big at the time. But why I think the vote we are about to have at 4:15 is a very important vote and why I think the issue is significant—or at least it should be—to Americans who sit down every night around their kitchen table and get out a pencil and have the back of an envelope, and at the first of the month they take the amount of the paycheck and write it at the top of the envelope and they start subtracting bills they have to pay and try to figure out if they are going to make ends meet and whether they are coming out ahead that month—why this issue is a defining issue between the two parties is that there is one small, but significant, difference between the two resolutions that are before us. First of all, there are two very fine resolutions. They both talk about the fact that we are blessed by having a very strong and vibrant economy.

We are blessed by having a lot of Americans who are working, and that we have joined together, at least to this point, in a bipartisan commitment to try to save Social Security, which implies two things—No. 1, we admit, on a bipartisan basis, that it needs saving; No. 2, we are willing to do the heavy lifting to get the job done.

I know Senator GREGG has a plan and has been willing to take a courageous stand in showing us how we can save Social Security. Senator DOMENICI and I are working on a program to try to save Social Security and protect its benefits. So the difference here is not about Social Security, the difference is, What do you do if you save Social Security and there is still some money left? Our resolution says that, A, we want to save Social Security first, but we want to return all remaining surpluses to the American taxpayer.

That is the difference between these two resolutions.

Why is that important? Why that is important is that if you take Federal, State, and local taxes, the tax burden on American families today is at the highest level in American history. Never in the history of this country—at the peak of the war effort in World War II, at the peak of the war effort in the Civil War—have we ever had working Americans face and bear a higher tax burden than they have today.

What Republicans are saying is, first of all, we want to live up to our obligations; we want to save Social Security not with a slogan but with a real program, to begin to shift from a Social Security based on the debt of the Federal Government to a Social Security based on investment and wealth. That is the way we believe we can save Social Security. Obviously, we are going to have a debate on that.

But the resolutions before us—both fine resolutions, but the difference is, our resolution has a part 4; and the part 4 is: Return all remaining surplus after we save Social Security to the American taxpayer. We believe the tax burden is too high. So we want to save Social Security first. But if money remains after we do that job, we want to give it back to taxpayers.

Let me tell you why we are concerned, why we think Congress needs to go on record.

The President proposed a budget this year. At the same moment he was saying save Social Security first, he proposed a budget that had $56 billion worth of new discretionary spending programs busting the spending caps that we agreed to only last year.

What we are saying in our resolution is, we do not intend to see those spending caps breached, we do not intend to increase Government spending; we intend to hold the line on spending, tax the surplus, save Social Security with a real investment-based system that belongs to the individual worker, and then to the extent that there is any money left—and if we hold the line on spending, there will be money left, tens, hundreds, of billions of dollars left ultimately—we want that to go back to American families.

What would we like it to go back in the form of? We would like to repeal the marriage penalty. We have voted on an amendment that I offered this year to repeal the marriage penalty so that we don't have this absurd situation where people fall in love and get married and they end up giving the Government $1,400 additional income for the right to live in holy matrimony. Unfortunately, that was a bill that didn't become law.

One of the things we want to do with the money that is left when we save Social Security, if there is money, is we want to repeal the marriage penalty. We happen to believe that families are important. I believe, and believe very strongly, that we are overfeeding government. We are starving the one institution in America that really works. That institution is the family.

I would like to stretch out the income tax brackets. The average family in America is a two-wage-earner family. It earns $49,000 a year. It is in the 28-percent marginal tax bracket. I would like to link them to a 15-percent bracket so that more struggling American families who are trying to own their own home, trying to send their children to college, can continue to stay in that lower tax bracket longer.

Finally, I would like to junk the current unfair, complicated—and unfathomable to most Americans, including me—Tax Code we have now and go to a

simple system that has flatter rates and that is comprehensible to the taxpayer, so that people can fill their tax return out in some semblance of some form they understand.

This is a big issue on a relatively minor resolution. What is the sense of the Senate? Some would say that it is sort of an oxymoron to be talking about it. But to the extent there is, are we simply trying to save Social Security, or do we want to go a step further and say that, if we save Social Security, if any money is left, we want it to go back to the taxpayer instead of being spent? That is what we say.

I hope people will vote for our resolution.

I thank the Chair.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, let me go right to the point made by the distinguished Senator from Texas. He said, ''We believe the tax burden is too high.'' We all agree on that. But what is increasing that tax burden rather than decreasing it is this profligate spending, increasing the deficit, and increasing the debt.

If you look on page 11 of the Congressional Budget Office report, you find out that we increase spending over what we bring in for the next 10 years, and there is nothing but deficits. There are not any surpluses. There are not any surpluses.

Go right to the point of, yes, the President did submit a budget, and he increased spending $70 billion. You look on page 10 where the total went up to $1.721 trillion. The budget that passed the Senate with the vote of the distinguished Senator from Texas increased spending $70 billion. The President is guilty. The Congress is guilty.

This Senator tried a budget freeze. We had a vote on it last year, tried it again in the Budget Committee, and couldn't get any support. They call it the ''Fritz freeze.''

But the whole point is, return all moneys or surpluses to the taxpayers. Common sense would indicate that there must be some surpluses after Social Security.

I ask unanimous consent to have this chart printed in the RECORD.

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

TABLE 4.—CBO PROJECTIONS OF INTEREST COSTS AND FEDERAL DEBT

[By fiscal year]

	Actual 1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
NET INTEREST OUTLAYS (BILLIONS OF DOLLARS)												
Interest on Public Debt (Gross interest) [a]	356	363	363	365	363	360	357	357	357	356	354	352
Interest Received by Trust Funds:												
Social Security	−41	−46	−51	−57	−64	−70	−77	−84	−91	−99	−108	−117
Other trust funds [b]	−64	−67	−67	−70	−72	−73	−75	−77	−79	−81	−84	−86
Subtotal	−105	−113	−118	−128	−136	−143	−151	−161	−170	−180	−191	−202
Other Interest [c]	−7	−6	−7	−6	−7	−7	−8	−8	−9	−9	−10	−10
Total	244	244	238	232	221	209	198	189	178	166	153	140
FEDERAL DEBT AT THE END OF THE YEAR (BILLIONS OF DOLLARS)												
Gross Federal Debt	5,370	5,475	5,594	5,721	5,845	5,927	6,021	6,102	6,174	6,205	6,223	6,222
Debt Held by Government Accounts:												
Social Security	631	736	853	978	1,108	1,246	1,392	1,547	1,712	1,885	2,066	2,252
Other accounts [b]	968	1,022	1,087	1,154	1,219	1,286	1,354	1,419	1,481	1,541	1,600	1,650
Subtotal	1,599	1,757	1,939	2,132	2,327	2,532	2,746	2,966	3,193	3,426	3,665	3,902
Debt Held by the Public	3,771	3,717	3,655	3,589	3,518	3,395	3,275	3,136	2,981	2,779	2,557	2,320
Debt Subject to Limit [d]	5,328	5,437	5,557	5,685	5,810	5,893	5,988	6,072	6,145	6,178	6,196	6,196
FEDERAL DEBT AS A PERCENTAGE OF GDP												
Debt Held by the Public	47.3	44.3	41.7	39.3	37.1	34.3	31.6	28.9	26.3	23.5	20.7	18.0

Source: Congressional Budget Office.

Note.—Projections of interest and debt assume that discretionary spending will equal the statutory caps that are in effect through 2002 and will grow at the rate of inflation in succeeding years.

a. Excludes interest costs of debt issued by agencies other than the Treasury (primarily the Tennessee Valley Authority).

b. Principally Civil Service Retirement, Military Retirement, Medicare, unemployment insurance, and the Highway and the Airport and Airway Trust Funds.

c. Primarily interest on loans to the public.

d. Differs from the gross federal debt primarily because most debt issued by agencies other than the Treasury is excluded from the debt limit.

Mr. HOLLINGS. Madam President, these are all deficits. I have asked the other side that sponsors this resolution to, for heaven's sake, show that dumb Senator from South Carolina where the surplus is. Show me the surplus, and I will hush and vote for your resolution. But you can't show me a surplus.

There is nothing but deficits in these reports. And mislead the public so that we can use Social Security as a slush fund to reelect ourselves—that is what we are doing. It is the greatest campaign finance abuse that I know of to continually have the word ''surplus'' come out of the mouth of that side of the aisle. There ought to be ashes in their mouths. They oppose—in fact, still are.

Down in South Carolina, I have a young Republican colleague running around hollering ''the biggest tax increase in history.'' Of course, we know it was under President Reagan and Senator Dole. That has been analyzed in every newspaper. But I plead guilty, I voted for that tax increase. It is not the biggest.

What happened was, we cut spending $250 billion. Yes, we increased taxes $250 billion. We downsized the Government by over 300,000 Federal employees. That is what has the economy good—lowest unemployment, lowest inflation rate, biggest business investment, stock market through the ceiling, more home ownership, more young children getting help in receiving health care. We are in good shape.

If we can't talk the truth to each other now about where we stand fiscally, we never will. This is one grand fraud. That is what has occurred.

For those who fought us on down the line, instead of $250 billion—yes, the revenues went up.

Where is the amendment that says do away with the Social Security increase that we put in that they are now blaming me for? Where is the amendment that says we reduce the gas tax increase that they are blaming me for? I go home and they are blaming me. Yet, they want to come up here and holler, ''Oh, the economy is so good; man, we got surpluses everywhere; now what is in order is, let's all now have a bunch of tax cuts.''

I want to expose that fraud. Don't go along with this Republic resolution to fuzz it, using the word ''surpluses.'' As my sister used to say, ''Saying it so doesn't make it so.''

There is no surplus. If they can find one in the Federal Government, God bless them. I will join me. But these are all deficits.

I ask unanimous consent, once again, to have this chart of the budget realities printed in the RECORD.

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

HOLLINGS' BUDGET REALITIES

President (year)	U.S. budget (outlays in billions)	Borrowed trust funds (billions)	Unified deficit with trust funds (billions)	Actual deficit without trust funds (billions)	National debt (billions)	Annual increases in spending for interest (billions)
Truman:						
1945	92.7	.....	−47.6	.....	260.1	.....
1946	55.2	5.4	−15.9	−10.9	271.0	.....
1947	34.5	−5.0	4.0	+13.9	257.1	.....
1948	29.8	−9.9	11.8	+5.1	252.0	.....
1949	38.8	6.7	0.6	−0.6	252.6	.....
1950	42.6	1.2	−3.1	−4.3	256.9	.....
1951	45.5	1.2	6.1	+1.6	255.3	.....
1952	67.7	4.5	−1.5	−3.8	259.1	.....
1953	76.1	2.3	−6.5	−6.9	266.0	.....
Eisenhower:						
1954	70.9	0.4	−1.2	−4.8	270.8	.....
1955	68.4	3.6	−3.0	−3.6	274.4	.....
1956	70.6	0.6	3.9	+1.7	272.7	.....
1957	76.6	2.2	3.4	+0.4	272.3	.....
1958	82.4	3.0	−2.8	−7.4	279.7	.....
1959	92.1	4.6	−12.8	−7.8	287.5	.....
1960	92.2	−5.0	0.3	−3.0	290.5	.....
1961	97.7	3.3	−3.3	−2.1	292.6	.....
Kennedy:						
1962	106.8	−1.2	−7.1	−10.3	302.9	9.1
1963	111.3	3.2	−4.8	−7.4	310.3	9.9
Johnson:						
1964	118.5	2.6	−5.9	−5.8	316.1	10.7
1965	118.2	−0.1	−1.4	−6.2	322.3	11.3
1966	134.5	4.8	−3.7	−6.2	328.5	12.0
1967	157.5	2.5	−8.6	−11.9	340.4	13.4
1968	178.1	3.3	−25.2	−28.3	368.7	14.6
1969	183.6	3.1	3.2	+2.9	365.8	16.6
Nixon:						
1970	195.6	0.3	−2.8	−15.1	380.9	19.3
1971	210.2	12.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	4.3	−14.9	−30.4	466.3	24.2
1974	269.4	15.5	−6.1	−17.6	483.9	29.3
Ford:						
1975	332.3	11.5	−53.2	−58.0	541.9	32.7
1976	371.8	4.8	−73.7	−87.1	629.0	37.1
Carter:						
1977	409.2	13.4	−53.7	−77.4	706.4	41.9
1978	458.7	23.7	−59.2	−70.2	776.6	48.7
1979	503.5	11.0	−40.7	−52.9	829.5	59.9
1980	590.9	12.2	−73.8	−79.6	909.1	74.8
Reagan:						
1981	678.2	5.8	−79.0	−85.7	994.8	95.5
1982	745.8	6.7	−128.0	−142.5	1,137.3	117.2
1983	808.4	14.5	−207.8	−234.4	1,371.7	128.7
1984	851.8	26.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	7.6	−212.3	−252.8	1,817.5	178.9
1986	990.3	40.5	−221.2	−303.1	2,120.6	190.3
1987	1,003.9	81.9	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	75.7	−155.2	−255.2	2,601.3	214.1
Bush:						
1989	1,143.2	100.0	−152.5	−266.7	2,868.3	240.9
1990	1,252.7	114.2	−221.2	−338.6	3,206.6	264.7
1991	1,323.8	117.4	−269.4	−391.9	3,598.5	285.5
1992	1,380.9	122.5	−290.4	−403.6	4,002.1	292.3
Clinton:						
1993	1,408.2	113.2	−255.0	−349.3	4,351.4	292.5
1994	1,460.6	94.3	−203.1	−292.3	4,643.7	296.3
1995	1,514.6	89.2	−163.9	−277.3	4,921.0	332.4
1996	1,560.3	113.4	−107.3	−260.9	5,181.9	344.0
1997	1,601.3	153.6	−22.3	−187.8	5,369.7	355.8
1998	1,654.0	168.3	63.0	−105.3	5,475.0	363.0
1999	1,721.0	199.0	80.0	−119.0	5,594.0	363.0

Note: Historical Tables, Budget of the U.S. Government FY 1998; Beginning in 1962 CBO's 1998 Economic and Budget Outlook.

Mr. HOLLINGS. I will give it to my colleague from New Hampshire, and he can get everything, the Congressional Budget Office figures. And the main point to be made, Madam President, is just that. Where you see an actual surplus down here in 1998 that they project of $63 billion, in order to do that they had to use trust funds of $168.3 billion. They used not only Social Security but all the rest. And then where they project for next year an $80 billion surplus, they had to use $199 billion in trust funds from Social Security and the retirement funds. That is how they talk that language. And I am trying to stop the doubletalk and talk sense to the American people.

I retain the remainder of my time.

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

Mr. GREGG. Madam President, I just wanted to return to the specifics of the resolution, because I do think it is important to note that the resolution put forward by the Democratic membership is a resolution which tracks the statements made by the President in his State of the Union Address, which were that we should save Social Security first, we should reserve the surplus until we have saved Social Security first.

That is a paraphrase, but I think it is an accurate paraphrase. In other words, the President did not say, ''We shall use the surplus to save Social Security.'' No, he chose his words very precisely. He said, ''We would reserve the surplus until Social Security is saved.'' If you look at this proposal brought forward by the Democratic leadership, it says, ''Save Social Security first by reserving any surplus.'' It doesn't say the surplus is going to be used. It says they are going to reserve it, again.

What is the difference here? We are saying use the surplus to save Social Security. They are saying reserve the surplus until Social Security has been saved. So all of the arguments they have made relative to the surplus and how it ties into the need to have the surplus for the purposes of benefiting the Social Security system really are not supported by the terms and specifics of their language because they are not even saying they intend to use the surplus to save Social Security. They are saying they are going to reserve the surplus until Social Security is saved, which leads one to the conclusion that maybe what they are planning is some change, some horrific change to the Social Security system where they are going to cut benefits and slash here and slash there so that they can pump up the surplus and have saved the Social Security system and still have a surplus to spend.

You can read their language to say that. You can't read our language to say that. Our language says, ''Use the surplus to save Social Security.'' So the histrionics around here are a bit much, and I don't know what they

mean. I don't know what they mean when they say ''reserve.'' I don't know what they mean when they say, ''The surpluses in the year 1999 budget legislation'' because that doesn't necessarily mean the year 1999. That could mean the next 5 years, for all I know, that the budget legislation expires.

So this is a resolution that is, to be kind, imprecisely drafted, or maybe it isn't imprecisely drafted. Maybe they intended to obfuscate the issue by using the term ''reserve,'' obfuscate the issue by using the term ''1999 budget legislation.'' We do not obfuscate the issue. We say, ''Save Social Security first,'' period. None of this qualifying language about reserving anything. And then we say, and we don't obfuscate this either, to the extent that there remains a surplus, ''Give it back to the American taxpayers.'' Give them a tax cut. Across this country in State legislatures where the surpluses are being added up—along with our Federal surplus, most States are running surpluses —we are seeing tax cut after tax cut because the States understand that they are taking in more than the government needs. You shouldn't spend it. You shouldn't create new programs. You should return it to the taxpayers.

Now, the Senator from South Carolina has spent a considerable amount of time—in fact, he was kind enough to give me his numbers, and they are very nice numbers, presented very nicely, well formatted—on how there is no surplus out there besides the Social Security surplus. Well, I know the Senator from South Carolina is a student of the budget. In fact, he is one of the most knowledgeable people around here. I would simply refer him to the CBO numbers which say in the outyears there is a surplus independent of the Social Security system, independent of the Social Security system. In other words, there is a surplus beginning in the year 2005, which is a surplus that is not generated in any relationship to the surplus in the Social Security trust fund, and in 2006, in 2007, and in 2008, and beyond that maybe—we hope. But in any event, over that 4-year period, and that adds up to almost, by my calculations, $150 billion of surplus, which is an onbudget surplus generated not by the Social Security surplus but generated after you have taken into account Social Security payments.

So the CBO is telling us there is a distinct potential for there to be a surplus which has nothing to do with the Social Security trust funds. Not only is there a potential; they say there is going to be one, specifically saying. So I believe the Senator from South Carolina has misspoken on that point, or I disagree with his position on that point. He may not have misspoken. I am disagreeing with his position, because I am looking at the CBO July update which says there is a surplus.

Should we use that surplus for something other than Social Security? My own personal opinion is no. No. The onbudget surplus, that I just talked about, should probably be also used for the purposes of addressing the Social Security issue. That happens to be my personal position. The way it should be done is by cutting taxes, which is what we happen to mention here in our amendment. We should cut taxes.

What tax should we cut? We should cut the Social Security tax. Why? Because it is the most regressive tax which we have. It is assessed across the board. Every wage earner pays it, and it is extraordinarily high. In fact, for most wage earners in America today, the Social Security tax is higher than their income tax. And it has no relationship to your total income; it simply is applied to your wage base. So it should be cut.

That is our proposal. It happens to be a bipartisan proposal. In fact, I think it now has something like seven or eight sponsors almost evenly divided between the Democrat and Republican side of the aisle here. And what we propose is to cut the Social Security tax by 2 percent, allow people to take that money, invest it in a savings vehicle managed by the Social Security Administration, which will give them a better return and give them physical ownership of that asset as we have discussed earlier.

So substantively I believe the proposal that I have brought forward here that is cosponsored by Senator LOTT, Senator DOMENICI, Senator GRAMM, and Senator MACK is a better idea. It says, ''Save Social Security,'' period. That has to be done. It has to be done first. And then if there is a surplus, let's return it to the American taxpayer. It doesn't say there will definitely be a surplus, but if we look at the CBO numbers, we know there is a distinct possibility that there will be a surplus because they are scoring one for us. It does not obfuscate the issue with words like ''reserve'' and words like ''fiscal year 1999 budget legislation.'' Pretty blunt.

So I think if the membership wants to choose a clear, concise, specific statement that says Social Security will be saved and will be saved first, and that then we will look at cutting taxes for the American taxpayer, they will want to choose the amendment offered by myself. If they wish to choose an amendment which is a little more opaque in its presentation and does not address the issue of cutting taxes, then they will choose one presented by the Democratic leadership.

Mr. HOLLINGS. Will the distinguished Senator yield for a question?

Mr. GREGG. Certainly.

Mr. HOLLINGS. I think we can bring this right into focus for everyone. The Senator was reading from page 10 about surplus, and I have already been critical, of course, of the Director of the Congressional Budget Office, because that is using surplus funds, that is using trust funds and moving them. The question would be—just turn the page—on page 11 you have the Federal debt, 2002, $5.927 trillion, and then why, if you have surpluses those years that you are talking about, and return those surpluses to the taxpayers—why is it, in 2003 it increases, in 2004, in 2005, in 2006, in 2007, 2008—why does the debt go up, if you have surpluses?

Mr. GREGG. As the Senator knows, there are a lot of other functions. But I am looking at the surplus, at the deficit surplus function, on budget, July: $37 million, $46 million, $45 million, $1 million, $11 million, zero; then we go into surplus, $5 million, $44 million, $55 million, $65 million.

We can spend the entire day here debating what the CBO means when it puts a surplus number out which says an on-budget surplus number. But the numbers are there. The Senator said find me a place where we can show a surplus. I found him a place. He wants to try to talk now about gross debt—

Mr. HOLLINGS. That is exactly right, because that is not a surplus. They are using trust funds. That is exactly my point. That is what the whole debate is about: Save Social Security.

Mr. GREGG. Didn't the Senator ask me to answer his question? I believe I answered his question by pointing out to where it has shown a surplus. So, obviously, there is an opportunity here to show a surplus independent of the Social Security investments.

Mr. HOLLINGS. What fund shows a surplus? Because the Federal debt goes up each year. So you show me—that is what I am saying: Name the surplus. I agree she used the word ''surplus.''

Mr. GREGG. That is $169 billion, according to the CBO numbers, between the period 2004 and 2008.

Mr. HOLLINGS. That is by using, of course, all these Social Security moneys.

Mr. GREGG. No; that is independent of Social Security.

Mr. HOLLINGS. Madam President, 2004–2008, you use the year 2004, $154 billion of Social Security moneys to make it a slush fund; 2005, $166 billion; 2006, $173 billion; 2007, $181 billion; 2008, $187 billion.

That is how you use the word ''surplus.''

Mr. GREGG. No, that is not the same at all.

Mr. HOLLINGS. What fund here is in surplus?

Mr. GREGG. Let's go back to the unified budget surplus.

Mr. HOLLINGS. Unified.

Mr. GREGG. If you use the Social Security trust funds, the surpluses in 2004 would be $154 billion. If we don't use the unified, you get a zero number.

Mr. HOLLINGS. If you use Social Security.

Mr. GREGG. If you use the unified, you get $171 billion. If you don't use—those are surpluses that are independent of the Social Security system.

Mr. HOLLINGS. The Senator and I agree that we are using Social Security and not saving Social Security. That is what the whole debate is about.

Mr. GREGG. No, we are not using Social Security. If I may restate the

point, CBO numbers, which came out on July 15, showed fairly definitively that there is a surplus, independent of the Social Security trust fund, of approximately $169 billion.

The Senator may not accept those numbers. He may not like those numbers. He may feel those numbers are inaccurately, inappropriately arrived at. But those are the numbers which we have been given. Which leads to the secondary point, because the numbers are really almost irrelevant to the debate. It leads to the secondary point here, which is the key point, which is that there is a potential to give the American taxpayers a tax cut. Let's give it to them. Let's lock in the statement, ''We want to give a tax cut, if there is a surplus in excess of what we need to benefit the Social Security system and make it solvent.''

Why would we walk away from the opportunity to say to the American taxpayer, ''If we can make the Social Security system solvent, after we have done that, if we have extra money, we are going to give you a tax cut?'' Why would we ever want to walk away from such a statement? I think it is a fairly reasonable statement, a clear statement, concise statement, unlike the statement from the Democratic leadership which is totally—which is very hard to understand because it uses terms like ''reserve,'' uses terms like ''fiscal year 1999 budget legislation,'' both of which are terms of art and which are very hard to understand, would be very hard to even get a legal definition of, much less a commonsense definition of.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, assuming the Senator was correct, the reason you don't walk away, if you can possibly ever quit using Social Security as a slush fund, is the almost $1 trillion—that is why I put this chart in—from Medicare. We are still using Medicare. There is a surplus in Medicare right now. We have debated that. But we are using that to balance the budget. Military retirement, civilian retirement, unemployment, highway, airport moneys, railroad retirement, the other funds there, Federal Financing Bank and others—it is $1 trillion worth of other moneys.

If we could ever stop using those, which are deficits, and make them balance, just in the black instead of in the red, then I would go along with all the tax cuts. I want to go along with the tax cuts anyway. I voted to save the tax increase on guns just yesterday. I voted to cut the other so-called penalty, marriage penalty, on another item. I don't mind cutting taxes. But, overall, let's not act like we have money to spend when we are going broke, and that causes the debt to increase, which causes the interest costs to increase, which causes the waste to increase.

They act like, ''We can play the game and we will get to it later.'' That is what is really hurting us, the $1-billion-a-day interest costs on the national debt for absolutely nothing.

I reserve the remainder of our time.

Ms. MIKULSKI. Madam President, I rise to support Senator HOLLINGS' amendment. This amendment puts the Senate on record in support of Saving Social Security first. It says before we do anything with the budget surplus, whether that is cutting taxes or funding worthwhile programs, we must ensure the solvency of Social Security. This is a very important vote. It expresses our commitment to the Social Security system for the millions of Americans who currently rely on Social Security. It also sends a powerful message to the millions of Americans who have come to doubt that Social Security will be there for them when they retire.

I support this amendment because I believe that promises made must be promises kept. We must be thoughtful and cautious when addressing the needs of a system that so many Americans count on, especially elderly women and disabled children. We need to ensure that we have the resources necessary to put Social Security on a sound footing, for both the short-term and the long-term.

Now we are in the midst of a historic event: the first federal budget surplus in decades. We've gone from a record deficit of $290 billion in the last year of the Bush Administration to a projected surplus of $80 billion for fiscal year 1998. There is no end to the proposals on how to use this ''extra'' money. I believe that we should follow President Clinton's lead and not commit the surplus to any program until we first resolve the long-term solvency of the Social Security system.

When you remove the Social Security Trust Fund from the budget calculation, there is no surplus and the budget isn't balanced. The Social Security Trust Fund is an important part of our current fiscal good fortune. We must continue to work to bring the budget into true balance without counting Social Security Trust Fund balances. In the past, I have voted to remove the Social Security Trust Fund from the federal budget calculation and I will continue to do so in the future. While Social Security is still in the overall budget calculation, any budget surplus should not be used to justify new spending initiatives. Our seniors, disabled, and survivors deserve better.

We are in the early stages of a deliberative process to determine the best way to assure the solvency of Social Security. I am pleased that President Clinton started this initiative by putting Social Security solvency front and center in his State of the Union Address. Since then, various groups, both public and private, have brought forth a vast range of proposals. I am taking part in that debate and want to be an advocate for the original intention of the Social Security program: a safety net for our seniors and for the disabled.

Let me say again that I believe that promises made must be promises kept. I want that to be a guiding principle for any plan to modify the Social Security program. I am pleased to support this amendment that reaffirms our commitment to Saving Social Security First.

Mr. GREGG. Madam President, I ask that Senator MURKOWSKI be added as a cosponsor of my amendment.

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

Mr. GREGG. I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DASCHLE. Madam President, as I understand it, there are a few minutes left. I wanted to come to the floor to commend the distinguished Senator from South Carolina on his amendment. I believe this is really one of the most critical economic and fiscal decisions we will make this year. It will probably affect, more dramatically than anything else we do, the budget, the deficit, and, most certainly, Social Security. There are four numbers that I think everybody needs to understand. I know a lot of this has been discussed before.

The first number is $520 billion; $520 billion is the projected surplus including Social Security trust funds that we anticipate between now and the year 2003. If you take out the Social Security trust funds, you get to the second number—-$137 billion. If we remove the Social Security trust funds, we actually have a deficit over the next 5 years of $137 billion.

Let us not kid anybody here. When we talk about a surplus—and I wish we could talk more forcefully and more convincingly that, indeed, we have a surplus—the reality is that we have a surplus only if we include the Social Security trust funds.

Let's move to the second set of numbers. The first is $1.548 trillion. All of these figures, by the way, Mr. President, are CBO numbers. That figure is the budget surplus including the Social Security trust funds that CBO anticipates for the next 10 years.

The fourth and final number is $31 billion; $31 billion is all that CBO anticipates that we will have over the next 10 years in surplus if we do not include the Social Security trust funds.

There should not be any question about our circumstances. Do we have a surplus? Yes. But it is yes with an asterisk, and that is what the distinguished Senator from South Carolina says so forcefully and so convincingly. We have a surplus only if we are prepared to drawn down those Social Security trust funds that we know we are going to need in the outyears.

When we talk about how do we use the surplus, it is pretty simple. The question we should be asking is, How do we use the Social Security trust funds? Of the roughly $650 billion over five years and $1.5 trillion over the next 10 years in Social Security trust funds, how do we use them?

Most of us believe very strongly that we ought to use those funds for one purpose and one purpose only: to pay out the commitment that we have made to Social Security recipients in this generation and the next and the next.

That is the question. That is why this resolution is so important, and that is why I hope everybody will support the distinguished Senator from South Carolina.

I yield the floor.

Mr. GREGG. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from New Hampshire has 3 minutes 3 seconds.

Mr. GREGG. How much time does the Democratic side have?

The PRESIDING OFFICER. One minute on the other side.

Mr. GREGG. I suggest we yield back all time and go to a vote.

Mr. HOLLINGS. I yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3255 offered by the Senator from New Hampshire. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—55

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	
Faircloth	McCain	

NAYS—45

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Reed
Byrd	Johnson	Reid
Cleland	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden

The amendment (No. 3255) as modified, was agreed to.

VOTE ON AMENDMENT NO. 3254

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 3254 offered by the distinguished Senator from South Carolina.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Bumpers	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Snowe
Daschle	Kohl	Specter
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Feingold	Levin	

NAYS—53

Abraham	Faircloth	Mack
Allard	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Chafee	Hatch	Sessions
Coats	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	

The amendment (No. 3254) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the following amendments be the only remaining first-degree amendments in order and subject to relevant second-degrees; that following the disposition of the below listed amendments the bill be advanced to third reading, and a vote occur on passage of the bill as amended.

I further ask that following the vote on the Senate bill, the bill remain at the desk awaiting receipt of the House companion bill, all after the enacting clause be stricken and the text of S. 2260 be inserted, the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table.

I further ask that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint the following conferees on the part of the Senate: GREGG, STEVENS, DOMENICI, MCCONNELL, HUTCHISON of Texas, CAMPBELL, COCHRAN, HOLLINGS, INOUYE, BUMPERS, LOTT, MIKULSKI, and BYRD. Finally, I ask unanimous consent that the Senate bill be indefinitely postponed.

I submit the list of amendments.

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

The list of amendments is as follows:

AMENDMENTS TO CJS

Gregg—Relevant.
Lott—Relevant.
Lott—Relevant.
Stevens—Relevant.
Managers—Relevant.
Kyl—Border crossing cards.
Kyl—Internet gambling.
Kyl—Special masters.
Specter—Schuykill Courthouse.
McCain—P.O.W./M.I.A.
McCain—Patent and trademark office.
Sessions—Relevant.
Sessions—Relevant.
Brownback—Modifies membership of Fed./State joint board on universal service.
Grams—International criminal court.
Grams—Extradition of U.S. Nationals.
Grams—Provides standard notification of UN no growth budget certification.
Faircloth—Admin. subpoena authority for FBI on child exploitation.
Inhofe/Brownback—Patent and Trademark office building.
Nickles—Defense attorneys.
Smith, Wyden, and Craig—H2–A.
Hatch—Relevant.
Hatch—Relevant.
Thompson—Federalism.
Allard—Satellite mapping.
Akaka—Relevant.
Baucus—Havre Montana training site.
Biden—Sec. 403, UN arrearages.
Biden—Violence against women.
Biden—Relevant.
Biden—Relevant.
Biden—Relevant.
Bingaman—Trademark.
Bingaman—Relevant.
Bingaman—Relevant.
Bryan—Children's online privacy.
Bumpers—Immigrant investors program.
Bumpers—Telephone privacy.
Byrd—Relevant.
Byrd—Relevant.
Dodd—Blocking software.
Dorgan—USTR.
Durbin—Child access protection.
Durbin—Nursing relief for disadvantaged areas.
Durbin—Voluntary criminal background check for senior housing volunteers.
Durbin—Law enforcement training elderly abuse.
Feingold—Cable rates.
Feingold—Juvenile detention.
Feingold—Relevant.
Feinstein—Gangs.
Feinstein—Killer clips.
Ford—Relevant.
Graham—H2A workers.
Graham—Tourist visas.
Graham—Relevant.
Harkin—Communications.
Hollings—Manager's amendment.
Hollings—Relevant.
Hollings—Relevant.
Johnson—National Weather Service.
Johnson—Sentencing commission.
Kerrey—Copper.
Kerrey—Money to TIIAP.
Kerry—Relevant.
Kohl—Background check.
Landrieu—Adoption of immigrant children.
Lautenberg—Funding for prosecutions.
Lautenberg—Funding for certain police activities.
Leahy—Kurds.
Lieberman—Asian financial crisis.
Moseley-Braun—Embargo prohibition.
Moseley-Braun—Internet predators.
Moynihan—Relevant.
Reed (RI)—TPS to Liberians.

Torricelli—Bounty hunters.
Torricelli—Gun safe.
Torricelli—New Jersey radio use.
Torricelli—Nonsource point pollution.
Wellstone—Battered immigrant spouses.
Wellstone—Mental health.
Wellstone—Sexual assault of prisoners.
Wyden—72 hour holding period.

Mr. GREGG. Under the agreement which we have been talking about, we will now turn to the Senator from Arizona for an amendment.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3257

(Purpose: To prevent any consolidation of the Patent and Trademark Office until the Administrator of General Services conducts a cost-benefit analysis that is not limited to a specific geographical region and makes a recommendation on the basis of that analysis)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment. The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 3257.

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

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

The amendment is as follows:

On page 62, strike ''*Provided further*,'' on line 3 and all that follows through line 16 and insert the following: ''*Provided further*, That none of the funds appropriated or otherwise made available under this Act or under any other provision of law may be obligated or expended by the Secretary of Commerce, through the Patent and Trademark Office, to plan for the design, construction, or lease of any new facility for that office until the date that is 90 days after the date of submission to Congress by the Administrator of General Services of a report on the results of a cost-benefit analysis that analyzes the costs versus the benefits of relocating the Patent and Trademark Office to a new facility, and that includes an analysis of the cost associated with leasing, in comparison with the cost of any lease-purchase, Federal construction, or other alternative for new space for the Patent and Trademark Office and a recommendation on the most cost-effective option for consolidating the Patent and Trademark Office: *Provided further*, That the report submitted by the Administrator of General Services shall consider any appropriate location or facility for the Patent and Trademark Office, and shall not be limited to any geographic region: *Provided further*, That the Administrator of General Services shall submit the report to Congress not later than May 1, 1999.''.

Mr. McCAIN. I understand we have a time agreement on this amendment?

Mr. GREGG. There is no time agreement yet, but I would ask unanimous consent there be half an hour.

Mr. McCAIN. This is the Patent Trademark Office relocation. I just say to my colleagues I intend to be brief. I would be glad to have any time agreement that is reasonable. So I would be glad to enter into any time agreement.

Mr. HATCH. Reserving the right to object, Mr. President.

Mr. McCAIN. I have not asked for a unanimous consent agreement.

The PRESIDING OFFICER (Mr. ABRAHAM). There is no unanimous consent request pending.

Mr. HATCH. Will the Senator yield?

Mr. McCAIN. I would not ask for a unanimous consent, but I would ask unanimous consent for the Senator from Utah to be recognized without losing my right to the floor.

Mr. HATCH. Mr. President, all I ask is that the Senator from Utah be permitted the opportunity to speak following the remarks of the distinguished Senator from Arizona.

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

The Senator from Arizona.

Mr. McCAIN. Mr. President, again, I say to those who are interested, I will be glad to enter into a very short time agreement. I know the Senator from New Hampshire wants to finish up the bill, and so I will be glad to enter into a very short time agreement.

Mr. President, this amendment is very simple. It prohibits the Patent and Trademark Office from spending any funds to plan for or proceed with the consolidation and relocation of its facilities until 90 days after the General Services Administration submits a new report to the Congress on the costs versus benefits of relocating all Patent and Trademark Office facilities to a new facility or location, and the costs associated with leasing versus lease-purchase, Federal construction, or other alternatives for new space, and finally, a recommendation of the lowest cost alternative for the project.

Most importantly, the amendment requires a GSA report to be prepared without regard to a specific geographic location. I want to repeat, Mr. President, so all my colleagues know, the amendment requires the GSA report to be prepared without regard to a specific geographic location.

The proposal to consolidate and relocate the various offices of the Patent and Trademark Office is an enormous project, the largest real estate venture the Federal Government is expected to enter into in the next decade. The current proposal raises serious questions.

First, the project is estimated to cost the taxpayers approximately $1.6 billion. About $1.3 billion of this amount is to pay for a 20-year lease of a new 2-million-square-foot facility somewhere in Northern Virginia. The additional $250 million is what the Patent and Trademark Office proposes to spend to ''improve'' the building, to bring it up to PTO standards, which appears to me extravagant and luxurious amenities that most of America's businesses do not provide to even their senior executives.

Most alarming, the language contained in the committee bill imposes no enforceable ceiling on the potential costs of this huge project.

Both the Citizens Against Government Waste and the National Taxpayers Union have raised serious concerns about the enormous cost of this project.

How can we claim to wisely spend Americans' hard-earned tax dollars when we are essentially giving the Patent and Trademark Office a blank check for this project? I have no desire to prohibit the Patent and Trademark Office from streamlining and improving its operations. It may be that the PTO does need to consolidate and relocate. However, we have a responsibility to ensure that this consolidation takes place in a fiscally responsible manner.

The proposed Patent and Trademark Office building complex is shamefully expensive and extravagant. In addition, in putting the proposal together, the Congress limited the Patent and Trademark Office to considering only sites in Northern Virginia, which is certainly not an inexpensive area for construction and leasing of office space.

To make matters worse, the bill before the Senate does not effectively limit PTO's budget for this project. The amendment I propose would require GSA to reevaluate the site selection process and look at more cost-effective alternatives which are not tied to one specific locality.

Mr. President, this $1.6 billion project is entirely too expensive. Under the current proposal, PTO plans to lease a 2-million-square-foot building ''shell,'' which is essentially a structure with walls, ceilings, floors, and windows, but without electrical wiring, computer and telecommunication lines, carpeting, furniture, and all the other necessary interior fixtures.

The Patent and Trademark Office will not have to pay the costs of constructing the building ''shell.'' However, the Patent and Trademark Office plans to spend an outrageous amount of taxpayers' dollars to bring the building up to its ''standards.''

First, the PTO is authorized to spend up to $88 million to ''build out'' the shell. This includes such necessary items as carpeting, electric, plumbing fixtures, and necessary environmental control upgrades to support the computer-intensive work of the office.

Unfortunately, compared to the Government's ''standard'' rate for this type of expenditure, building out the PTO building will cost 20 percent more than most Government buildings.

For example, the PTO building costs are $44 per square foot. NASA's new building was $37 a square foot. FERC's building cost $36 per square foot. And the Government standard is $36.69 per square foot.

On top of that $88 million, the PTO also plans to spend another $29 million for extravagant amenities, including extra elevators, granite and marble decor, jogging and walking trails, sculpture gardens, and outdoor amphitheaters.

That is a total of $117 million to finish the interior of the building and to add millions of dollars of extravagant amenities. On a per-square-foot basis, that is $58 per square foot of occupiable space, or 58 percent over the Government standard. But that is not all. The

PTO also plans to spend another $135 million to move into the building, install the telecommunications equipment and buy furniture. Almost half of this money, $65 million, is for the purchase of new furniture and furnishings, including $250 shower curtains—$250 shower curtains—$1,200 chairs, $1,000 coat racks and $562 mailroom stools.

Mr. President, in case my colleagues missed that, I will repeat, $250 shower curtains—I would like to view that shower curtain—$1,200 chairs, $1,000 coat racks, and $560 mailroom stools.

Altogether, then, the PTO will pay $250 million to bring the building up to its standards, standards which far exceed the Government's norms, and which can only be called luxurious by any standard.

After spending $252 million to spruce up the premises, the PTO is prepared to pay $50 million per year for a 20-year lease, over and above the cost of its improvements listed above. That is approximately $1.3 billion in lease payments alone over the next 20 years.

Altogether, now, the PTO project is expected to cost the taxpayers almost $1.6 billion, and we will not even own the building at the end of 20 years. Let me repeat, we will not even own the building at the end of 20 years.

Remember how the cost of the Ronald Reagan building skyrocketed? The Ronald Reagan building, which is 3 million square feet, began at $362 million and ended up costing $800 million. That is a huge cost increase. This deal will be worse than the Ronald Reagan deal. The PTO project involves a 2.3 million square foot facility that will cost $1.6 billion when finally completed.

The new PTO building will be smaller than the Reagan building, 700,000 square feet smaller, and it is much more expensive. We spent $800 million on the Reagan Center, but at least we own a building that is designed to last at least 200 years and includes rentable space to offset its costs. The PTO deal is insane. The taxpayers pay to finish the interior building, add a myriad of extravagancies, and then pay to lease it for a total of $1.6 billion over 20 years, and at the end of 20 years, we give the building back to the owner. What kind of a deal is that? I think it is remarkable, remarkable.

The project was destined to become a fiscal nightmare. Our first mistake was we didn't allow ourselves to look at all possible locations to determine the most cost-effective facility to house the PTO complex. Instead, we only looked at sites in Northern Virginia. The sheer excesses in the PTO's proposals for the building's amenities are unbelievable: $250 shower curtains, $1,000 coatracks, and miles of walking and jogging paths. The tax dollars should be spent on processing patent applications. We should not be spending America's hard-earned tax dollars on extravagant perks. We should be spending tax dollars on processing patent applications, and we should make sure we spend them in the most cost-effective manner possible, by looking at all possible locations for this Government facility, not just one region.

Mr. President, I am not trying to kill this project. Maybe the PTO does need to consolidate. However, I think we, as a body, have a responsibility to act to ensure that the cost of this project is justified and kept in check. The amendment will require the GSA to take another look at this project before we spend $1.6 billion on it.

I would like to quote from a letter from the Citizens Against Government Waste:

> At a starting price tag of $1.3 billion, the PTO facility will dwarf the final cost of the $800 million Ronald Reagan International Trade Building, which has 700,000 more square feet. Adding insult to injury, at the end of the 20-year lease period, the government would not even own the PTO building.
>
> The PTO says it needs 2.3 million square feet. However, the Department of Commerce Inspector General has issued a report, Insufficient Planning is Jeopardizing PTO's Space Consolidation Project, which casts serious doubt on the appropriateness and cost-effectiveness of the venture.

In the letter they mention not only $250 shower curtains and $1,000 coatracks but $700 baby cribs.

> On behalf of the 600,000 members of [Citizens Against Government Waste], we are pleased to endorse your amendment. . . .

I have a letter from the National Taxpayers Union.

> . . . the Reagan Building is built to last 200 years, at about half the cost of the proposed 20-year PTO lease.

That is just the start of this giant boondoggle.

> PTO's costs just for moving into the new headquarters could run more than $130 million. That ought to buy a new building, not just pay for relocation.
>
> As part of the move, PTO plans to purchase $65 million in brand new furniture, including $250 shower curtains, $750 cribs, $309 ash cans. . . .

On that list are $309 ash cans.

> The environmental clean-up costs of possible PTO relocation sites could be as high as $194 million—some may contain carcinogens or even unexploded ordnance.
>
> . . . the PTO plan is "flawed because the lease development project lacks a defined cost ceiling." By a 3 to 1 margin, PTO employees represented by the Patent Office Professional Association oppose the move to a new complex.

I am surprised at that. Maybe they don't like $250 shower curtains.

> It would appear that PTO Commissioner Bruce Lehman is seeking a grand monument to his tenure, to be leased at government expense. If your amendment fails, the PTO lease will stand as the largest monument ever erected to government excess.
>
> For these reasons we endorse your PTO Amendment and urge your Senate colleagues to support it. The vote will be . . . weighted [et cetera].

I have a letter here from the American Intellectual Property Owners association.

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

Mr. MCCAIN. I am almost finished. I will be glad to yield.

Mr. WARNER. The Senator has made frequent use of "taxpayers dollars," but I think in a sense of fairness, and I will eventually speak in greater detail, primarily the funding for this important function is entirely derived from the fees paid by the users of the services. It is not involved, these egregious sums of taxpayer dollars. I thought the Senator might want to comment on that, because I certainly will bring that out.

Mr. MCCAIN. My only comment is when somebody pays a fee to the Government for a service, I don't know how you differentiate between that and money being taken out of someone's paycheck—because they are paying. They are not receiving this Government service for free. So you can call it a user fee, but that is the same thing as when you and I buy an airline ticket and 10 percent of that goes to the FAA to keep the FAA in operation, the air traffic control system, et cetera. Most people still view that as a tax.

Mr. WARNER. I say to my distinguished friend, when we go to the Department of Transportation to consult and get their advice on an issue, issues which are very much foremost in my distinguished colleague's mind now on aviation, we don't pay any fees. When we go to the Department of Defense or the Department of Justice to work with other Government agencies and Departments, fees are not paid. This thing was devised by Congress, this institution, to operate on a rotating basis of fees paid, which fees are passed on down the line to the consumers. I just wanted to bring that out.

Last, you mentioned the IPO. They just sent in a letter today endorsing it. I know the Senator is trying as hard as he can to list as many persons with an objection, but at the appropriate time I will put this letter in the RECORD. In the meantime, I will get a copy for the Senator. I thank the Chair and thank the Senator.

Mr. MCCAIN. I thank my friend from Virginia. When he does talk, I would be interested in hearing him discuss the $250 shower curtains, $750 cribs, $309 ash cans, and $1,000 coatracks. I would be very interested in hearing—perhaps he has had an opportunity to view those. I would like to see them myself. In fact, perhaps we could have a hearing and view some of that, because it must be exciting stuff there, and all of the miles of trails.

Also, I would have to ask about the logic of my friend from Virginia. We pay $1.3 billion over 20 years, we take a shell and we put in all the furnishings, all the wiring, all the plumbing and everything into it, and then after 20 years it is not even ours, after a payment of $1.3 billion. I don't understand it.

By the way, let me mention two things to my friend from Virginia real quick. No. 1, I know this amendment will not be agreed to. That is why I am willing to have a relatively short time agreement. I have no illusions about that. But I think it is important to put all of this on the record here.

I also am aware both Senators from Virginia are very committed to this project. I understand and admire their commitment.

I also want to mention one thing about the chairman, the distinguished chairman of the Judiciary Committee. He is going to say, and I will respectfully agree with him, he has wrestled with this issue for years. He has done everything he can to try to resolve this issue. He has my utmost respect and appreciation for his efforts. I just happen to think this is the wrong answer. I think it is wrong to pay $250 for a shower curtain. I think it is wrong, after 20 years, to have to give back a building that you basically built, except for the shell. Frankly, I think it is wrong, in all due respect to my two friends from Virginia, that we should earmark any Government facility in a geographic-specific location. I think there should have been competition for this from all over the Washington, DC, area, if not from all over the United States of America.

Mr. President, I will yield the floor. Again, I will be glad, for the sake of the managers, to enter into a time agreement with my colleagues who want to speak on this issue so we can move on to the next amendment. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is to be recognized at this time.

Mr. HATCH. I will be happy to yield to the distinguished chairman while reserving my rights to the floor.

Mr. GREGG. I would like to reach a time agreement, if possible. I understand the Senator from Utah wishes to speak for about 10 minutes?

Mr. HATCH. Probably less, but if the Senator will list 10 minutes, that is fine.

Mr. GREGG. And the Senator from Virginia.

Mr. WARNER. Both Senators, Mr. President, would like, say, 15 minutes equally divided between my distinguished colleague and myself.

Mr. GREGG. I suggest all debate on this amendment be concluded within 25 minutes.

Mr. McCAIN. Reserving the right to object.

Mr. GREGG. The allocation will be 10 minutes—sorry, 30 minutes—10 minutes to the Senator from Utah, 15 minutes to the Senator from Virginia, and 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that the following amendments be the next amendments in order, subject to relevant second degrees, and that following debate, each amendment be laid aside to reoccur at 9:30 this evening in a stacked sequence in the order in which they were debated.

I further ask unanimous consent that there be 2 minutes prior to each vote for closing remarks.

The amendments are:

The pending McCain amendment, a Durbin amendment on guns, a Thompson amendment on federalism, a Bumpers amendment on telephone privacy, a Nickles amendment on defenders, a Feingold amendment on child exploitation, and a Kyl-Craig amendment on gaming.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the Senator from Utah is recognized.

Mr. GREGG. Mr. President, I simply state that the next series of amendments with rollcalls will be at 9:30 this evening.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I ask unanimous consent that if my remarks are less than 10 minutes, that it be cut off the time that the Senator asked for.

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

Mr. HATCH. Mr. President, I rise in opposition to the amendment proposed by the Senator from Arizona. If adopted, the McCain amendment would result in needless, costly delays in the user process to obtain better facilities for the Patent and Trademark Office.

Look, we studied this thing to death. We know doggone well if this is delayed again, you are only going to have one bidder instead of three, and there is the question of whether that one bidder will do anything to save any money.

In fact, the amendment of the distinguished Senator from Arizona would cost a lot more money. Let me make my case.

The PTO procurement process has been studied to death. We don't need another study. Let me catalog for you the attention that has been paid to this procurement process. The PTO procurement process has been the subject of two comprehensive studies: one by the Inspector General of the Department of Commerce and another by an independent consultant who reported to the Secretary of Commerce. The independent consultant was Jefferson Solutions, which is headed by the former director of OMB's Office of Procurement Policy in the Reagan and Carter administrations. Both studies agreed that the competitive lease procurement should proceed so that the PTO can obtain the benefits of competition. Let me emphasize that, from the start, the PTO procurement process followed all the rules and complied with all the safeguards in the Standard Federal Government Procurement Procedures.

These studies are in addition to the normal Government procedures. Of course, they do provide for competitive bidding. Mr. President, Senator McCAIN's amendment calls for a study of the benefits of leasing versus purchase, Federal construction, and other housing alternatives, such as lease purchase. This has already been done.

The GSA, the Department of Commerce, and the OMB thoroughly evaluated the options before submitting the lease prospectus for congressional approval. Both the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure concurred, when the prospectus was authorized in the fall of 1995, and in light of the limited funds available for capital investment and operating lease of the PTO, that is in the best interest of the PTO's fee-paying customers, which the distinguished Senator from Virginia has raised.

Furthermore, in a colloquy between Senators GREGG and WARNER conducted on the Senate floor during the vote on H.R. 3579, Senator GREGG agreed that no funds would be available in the foreseeable future to purchase or construct a facility to house the PTO.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Presiding Officer cannot hear the Senator from Utah.

Mr. HATCH. I thank the Chair.

H.R. 3579, which became law, required the Secretary of Commerce to review the project and submit a report to Congress by March of 1998. This is the Jefferson Solutions report that I referred to earlier.

The cost-benefit analysis that accompanied it, called the Deva report, showed the PTO will save $72 million over the 20-year life of the lease by consolidating.

I don't know about the shower curtains, but that is a lot of money to be saving compared to what we would lose if we went ahead with the amendment of the Senator from Arizona. I know he is trying to save money, and I have no problem with that.

The Jefferson Solutions report found that the consolidation of PTO space through a competitive lease would improve workflow efficiencies and improve the environment for employee retention, as well as reduce costs.

In addition to these studies and reviews, the procurement process has been tested judicially. A 1997 protest by the existing landlord alleging improprieties in the terms and conditions of the procurement was dismissed. Similarly, an unfair labor practice complaint filed by one of the PTO's unions was dismissed earlier this year.

Given these numerous studies, reviews, and court tests, why is it that we are here debating this issue yet once again? There appears to be a campaign to delay the procurement process, and I have to ask who is behind it. I don't think it is a matter of $250 shower curtains.

I know that Senator McCAIN is not motivated by a desire to merely delay. I am sure he has real concerns based on facts as he views them. But the fact of the matter is, he is talking about peanuts compared to the millions and millions of dollars that will be lost if we do another study rather than go ahead after all of this work has been done, all the studies have been done. It is crazy. Nevertheless, there has been an ongoing campaign to delay this.

Who is behind it? Is it the parties who use the PTO services? No. The parties who use the PTO are the patent applicants, patentees, and trademark registrants. They oppose this amendment, and they want the procurement process to go ahead.

But, Mr. President, the current landlord of the PTO makes over $40 million a year from renting space to the PTO. Would 1 year's additional rent be worth mounting a campaign of delay? That is $40 million plus the $72 million we are talking about we lose by another study. I think you can buy a lot of shower curtains for that.

It would be to the landlord's benefit to delay it. That is why he has hired a major lobbying firm to kill this process. It is not the public demanding a delay, it is the PTO's current landlord. I can hardly blame him, because he will make $40 million more. But I would blame us if we permitted that to go on just because of some shower curtains and a few other things that the distinguished Senator from Arizona has mentioned.

I conclude, Mr. President, with an assurance that I am as concerned as anyone with cost overruns and lavish spending in the procurement process. I am disturbed by allegations of amphitheaters, exercise tracks, and high-priced furniture. I pledge to work with anyone who has a concern about specific excesses in the procurement prospectus. In fact, I intend to support the Inhofe-Brownback amendment that cuts back on build-out appropriations and the ability of the PTO to get more money for moving expenses. Congress should investigate these particular allegations and take a surgical approach. Another comprehensive study, however, is not the answer.

Let me just say for the benefit of the distinguished Senator from Arizona, he may have some points here, but they are very, very minor in comparison to the moneys that will be saved by moving ahead rather than having another delay by losing $72 million on one side and $40 million on the other over a few shower curtains. It just seems penny-wise and pound-foolish. I am against this amendment. I hope we defeat it.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, I will be very brief. I concur with the assessment just rendered by the distinguished Senator from Utah. My distinguished senior Senator, Senator WARNER, and I are both very much opposed to this amendment. It is a delaying tactic that simply benefits the status quo and costs money.

For the benefit of Senators, I will quote from a couple of the reports that were referenced indirectly by the Senator from Utah, if I may. The Appropriations Committee, July 2, committee report:

> The committee has reviewed the reports submitted by the Secretary, and does not object to the Secretary's direction that the competitive procurement process should continue.

An independent report dated May 15, 1998, by Jefferson Solutions, Inc., BTG, Inc., Economics Research Associates:

> The PTO has used a sound methodology and valid reasoning in defining its need for new space, in researching its current and future functional needs, and in managing its consolidation and space acquisition process.

With respect to this, the Department of Commerce inspector general report in March 1998 in terms of its fiscal prudence:

> Long-term cost savings should be realized because the current leased PTO space is more expensive than the $24 per square foot authorized by the Congress.

An independent report, May, 22, 1998, by Deva & Associates:

> The conclusion of this business case analysis . . . is that the PTO should proceed . . . because the agency will incur, over the 20-year lease period, $72,395,278 less in costs.

A Department of Commerce inspector general report with respect to necessity, dated March, 1998:

> Most of PTO's current leased facilities . . . are in need of alterations to comply with fire, safety, and handicapped accessibility laws.
>
> PTO has a growing workload and is currently occupying noncontiguous space that is operationally inefficient.
>
> The new facility should promote the collocation of various working groups, thereby improving efficiency and productivity.

From an independent report by Jefferson Solutions and others, dated May 15, 1998:

> The proposed PTO amenity package is not ''gold plated,'' and is consistent with other recent federal and private sector office projects.

A point that was made earlier by my distinguished senior colleague, it is the customers who pay the fees. And here is what they have to say, the executive director of the Intellectual Property Owners:

> We are at a loss for why anyone would want to keep the PTO in outdated facilities at higher cost . . .

The executive director of the American Intellectual Property Law Association:

> Further delaying the procurement would likely result in an additional loss of interest. The result would be to award, by default, a sole source lease extension to the existing landlord. Moreover, a new competitive process would almost certainly have to open up the area of consideration to a larger geographic territory, with additional costs and dislocations for [current] PTO employees and [their] users.

The bottom line, Mr. President, is that to the extent that there are any excess costs—first of all, I believe that is a worst case scenario.

Second, it can be addressed by the amendment that is going to be offered by Senators from Idaho and Kansas. And I will support that amendment, as the Senator from Idaho has indicated he will support it.

But the bottom line is, this is designed to save $72-plus million. Delay will simply continue the inefficiency and cost more money. If there is a concern—and I would share the concern that the Senator from Arizona expressed about any unnecessary costs—we can address that, but do not stop the process that has been ongoing for years, which simply will increase the costs in a very significant way.

With that, Mr. President, I yield the floor to my distinguished senior Senator. And I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague for his very clear remarks on this. I worked until late last night with Senators BROWNBACK and INHOFE to devise an amendment to which I have now added my name. And I send this amendment to the desk just for the purpose of filing it. And the managers have indicated—both the majority and minority—that it will be eventually accepted as part of the managers' package.

The PRESIDING OFFICER. The amendment will be printed in the RECORD.

(The text of the Amendment (No. 3259) is printed in today's RECORD under ''Amendments submitted'')

Mr. WARNER. But this amendment achieves many of the goals recited by Senator MCCAIN, to crunch this down to a realistic purchase of equipment and not have the items which clearly were excessive in cost, as recited by our distinguished colleague from Arizona.

I credit the distinguished Senator from Arizona. He is a constant watchdog on these various issues. And I responded to one of his points here. This is not taxpayers' dollars. Secondly, the reason we are pursuing this type of an arrangement is simply because there are insufficient taxpayers' dollars in the Treasury for the Government to build the building. And therefore, we have to work on this building lease type of financing to lower the burden of cost, indeed, to the taxpayers for the construction of a building which is absolutely essential.

This vital function of Government, patent and trademark, is now being performed by very loyal, highly skilled Government workers. And they are disbursed in a number of buildings—a number of buildings. And anyone who understands the simple basis of management and trying to do a job knows that if you have your employees, first, in 16 different buildings—I want to repeat that; 16 different buildings—this concept is to bring it into a central concept financed under a lease arrangement, not by taxpayers' dollars, but by the payment of fees.

So I say to my colleagues, this is a matter which both sides of the aisle have addressed in terms of cost containment. Both sides of the aisle have addressed in terms of its need and the propriety of a process that started in

1995 in the Senate Environment Committee which has overall oversight of this type of work.

I have today a letter addressed to me from the General Services Administration which, once again, reiterates in absolute clarity the fact that they have reviewed this process, they have reviewed the proposals, and it is their conclusion that it is in the public interest.

This is the Government agency in which we have reposed the trust and the confidence to make the vast number of technical decisions which are required for a very expensive contract, or in this instance a lease arrangement build.

Mr. President, I ask unanimous consent to have the General Services Administration letter and a letter from the IPO printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GENERAL SERVICES ADMINISTRATION,
Washington, DC, July 22, 1998.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: The purpose of this letter is to express my strong support for continuing the ongoing procurement of leased space for the Patent and Trademark Office (PTO) in Northern Virginia. After studying the various alternatives for providing this space; new federal construction, leasing, lease purchase and other alternatives, we concluded that leasing was the most advantageous given the resources available for such activities.

Since 1993 the PTO and the General Services Administration (GSA) have worked together to meet the requirements stipulated in the authorization provided by the Congress. As a result of this joint effort, we have initiated a procurement which has been both fair to the competitors and efficient in the way it has been accomplished.

This action has been reviewed by the Inspector General of the Department of Commerce, an independent set of procurement experts hired by the Secretary of Commerce and other independent experts. In each case it has been determined that the proposed action is cost effective and in the best long term interest of the PTO. These studies have shown that a $72,000,000 savings will occur over the term of this action when compared to the current situation.

Furthermore, this action has the full support of the intellectual property community that the PTO serves.

Sincerely,

DAVID J. BARRAM,
Administrator.

INTELLECTUAL PROPERTY OWNERS,
Washington, DC, July 22, 1998.

Re IPO's opposition to your proposed amendment to the Commerce, Justice, State appropriations bill (S. 2260) that would delay the competitive procurement of new office space by the PTO.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: We are writing to urge you not to offer your proposed amendment to the appropriations bill that would have the effect of stopping or delaying the procurement of office space for the U.S. Patent and Trademark Office (PTO).

Intellectual Property Owners (IPO) is an association that represents companies and individuals who own patents, trademarks, copyrights, and trade secrets. Our members obtain about 30 percent of the U.S. patents that are granted to U.S. residents and pay more than $100 million a year in user fees to the PTO.

We have followed the plan for procurement of office space by the PTO for the past year, received several briefings, and examined several documents and reports. We are confident that the current procurement of new office space for the PTO on a competitive basis is in the best interest of IPO members. The latest information available to us indicates that the PTO will save $72.4 million over the 20-year term of the projected lease under the competitive procurement, compared with the cost of remaining in existing space. The study on which this conclusion is based prepared by the consulting firm of Deva and Associates, P.C. We understand it has been reviewed by numerous authorities, including a consulting firm hired by Commerce Secretary Daley, the Commerce Inspector General, the PTO, the GSA, and the OMB. Allegations that the PTO is proposing extravagant above-standard fit-out costs, or that the competitive bidding procedure has been mismanaged, are unsupported by any facts, as far as we can determine.

We have been briefed on the very high costs listed in the Deva report for certain furnishing. We are satisfied that these number do not yet reflect savings that the PTO will realize through mass purchases, standardization, and competition. We hope Congress will not delay the procurement simply because of these cost estimates for furnishing. Congress, with the benefit of advice from PTO users, will have the opportunity to control the costs of PTO furnishing when it approves annual appropriations requests.

Sincerely,

HERBERT C. WAMSLEY,
Executive Director.

Mr. WARNER. Mr. President, to reiterate, I rise today in opposition to the McCain amendment which seeks to delay the procurement of space for the U.S. Patent & Trademark Office pending an evaluation by the U.S. General Services Administration (GSA). It should be noted that I have agreed to accept an amendment offered by my colleagues Senator BROWNBACK and Senator INHOFE regarding cost containment measures for the PTO consolidation in the Commerce-State-Justice appropriations bill.

The Government's prospectus process provided thorough answers to all questions raised by the McCain amendment. Through the prospectus process, authorized by the Public Buildings Act, as amended, the Government submitted to the Congress detailed justification for procuring a new consolidated space for PTO.

The Senate Environment and Public Works Committee Subcommittee on Transportation and Infrastructure, which I chair, in addition to the House Transportation and Infrastructure Committee held extensive hearings on this prospectus and approved the prospectus in the Fall of 1995. Both committees concurred that in light of the limited funds available for capital investment, an operating lease for the PTO is in the best interest of the PTO fee paying customers.

Mr. President, during these hearings, the government testified and the House and Senate committees of jurisdiction agreed, that procuring consolidated space for the PTO would achieve greater efficiency as well as cost-savings to the taxpayer while providing a more effective work environment for the PTO to perform its mission.

Pursuant to the language in the supplemental appropriations bill, the Department of Commerce performed a review of these same issues and found conclusively that the PTO consolidation is in the best interest of the United States and the procurement should proceed.

This project has been studied and studied and studied. These studies include: the Department of Commerce's Inspector General; an independent consultant to the Secretary of Commerce (Jefferson Solutions; headed by the ex Directors of OMB's Office of Procurement Policy in the Reagan & Carter administrations), both of which agree that the competitive lease procurement should proceed, so that the PTO can obtain the benefits of competition.

Mr. President, it should further be noted that GSA, the Department of Commerce and OMB thoroughly evaluated the benefits of leasing versus purchase, Federal construction and other housing alternatives, such as lease purchase, before submitting the lease prospectus for congressional approval in the first place.

The PTO procurement does not involve expenditure of taxpayer money. PTO and all its operations and procurement are supported entirely by fees paid by its customers. The PTO does not, and will not, receive any taxpayer money.

In a colloquy between myself and the distinguished floor manager of this bill, Senator GREGG during the Senate debate on the supplemental appropriations bill H.R. 3579, P.L. 105–174, Senator GREGG agreed that no funds will be available in the foreseeable future to purchase or construct a facility to house the PTO.

P.L. 105–174 already required the Secretary of Commerce to review the project and submit a report to Congress by March 1998. That report, conducted by Jefferson Solutions, and the cost benefit analysis report, referred to as the DEVA Report that accompanied it, show that the PTO will save $72 million over the 20-year life of the lease by consolidating.

Mr. President, this $72 million is a conservative estimate of the savings that will be achieved. For example, if the PTO were to purchase less expensive furnishings than are reflected in the DEVA Report, the cost savings would be greater.

While Senator MCCAIN and others may charge that the furniture estimate used in the DEVA Report is high, I would indicate that the DEVA Report shows the ''worst case'' costs. These costs are used to calculate the potential savings of consolidation, and are certainly not the actual costs that the PTO will spend on furniture.

The actual furniture costs will be lower, because they will include economies that will be achieved through competition, mass purchase and standardization. Therefore, the savings from consolidation will likely be higher than $72 million.

The PTO intends to conduct a furniture inventory and will use existing furniture where practicable.

In conclusion Mr. President, PTO is not contracting for a new $1.3 billion building. It is contracting for a new competitive 20-year lease. It would cost at least $1.3 billion for the PTO to remain where it is for the same 20-year period. The offerors in the prospectus have the option of building, renovating or consolidating to meet the PTO's space needs.

The Senate Committee on Environment and Public Works carefully considered the need for the facility, various alternatives, and the costs of each approach before authorizing the lease procurement to be conducted by the GSA for the PTO.

PTO will only move if it is economic and efficient to do so under the current competition. It is not a foregone conclusion that PTO will relocate. Crystal City, the current site of the PTO, is one of the three sites competing in the procurement.

Taxpayer protections include the following:

The rental rate ceiling of $28.50 per square foot contained in the approval resolutions are at or below the rates that PTO is currently paying, and current market rates in Northern Virginia; the build out allowances for the interior space are fixed in the procurement documents at less than $45.00 per square foot; an amount that is comparable to most government facilities; PTO currently leases 1.9 million rentable square feet of office space in 16 separate buildings in Arlington, Virginia. The prospectus calls for 2.17 million to 2.39 million square feet of space, which is between 15% to 25% more than currently exists, due to a projected increase in PTO's work from the now 5,200 employees to 7,100 employees by 2002. This is overall a 37% increase in the work force of PTO, which accounts for the increase in space needed to house this growing agency.

PTO will only move if it is economic and efficient to do so under the current competition in which the incumbent lessor is one of the four finalists.

I have seen the PTO study that compares costs of consolidation to remaining in existing buildings. Even with all these costs, the bottom line is that the PTO will save $72 million over the life of the new lease.

Senator MCCAIN said he would yield back his time. So I say to the distinguished manager, the time allocated for debate on this side, indeed, with my fellow colleague from Virginia has been completed. And Mr. MCCAIN asked me to inform you he would yield back his time.

Mr. GREGG. I thank the Senators from Virginia for their prompt and concise debate. I appreciate it very much.

Mr. WARNER. We wish to accommodate our distinguished colleagues, the managers of our bill.

Have the yeas and nays been ordered?

Mr. CRAIG. The yeas and nays have not been ordered.

Mr. WARNER. I do not know of a request. I imagine the manager can proceed with the vote.

Mr. GREGG. Do you wish to have the yeas and nays?

Mr. WARNER. I do not ask for the yeas and nays.

Mr. GREGG. I think we will wait for Senator MCCAIN to return to determine whether or not we need that.

Mr. WARNER. Fine. I think we should accommodate my colleague and friend from Arizona. I just wished to raise the fact that a recorded vote had not been sought yet.

Mr. GREGG. That is absolutely correct. We will now proceed to the Durbin amendment.

I ask unanimous consent that the debate on the Durbin amendment and second-degrees—I will reserve my unanimous-consent request.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. I ask unanimous consent that the Senator from Illinois be allowed to lay down his first-degree amendment, that that then be laid aside and the Senator from Idaho be immediately recognized to offer a first-degree amendment relative to firearms enforcement. Further, I ask there be 40 minutes for debate on both the Durbin and Craig amendments combined, to be equally divided between Senator CRAIG and Senator DURBIN, with no second-degree amendments in order to either amendment, and following the conclusion or the yielding back of time, pursuant to our previous unanimous consent request, a vote will occur at or about 9:30 in relation to the Craig amendment, to be followed immediately by a vote on or in relation to the Durbin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3260

(Purpose: To prevent children from injuring themselves and others with firearms)

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mr. CHAFEE, Ms. MOSELEY-BRAUN, Mr. LAUTENBERG and Mrs. FEINSTEIN proposes an amendment numbered 3260.

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

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

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. ___. CHILDREN AND FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, prevents the firearm from being operated without first deactivating or removing the device;

''(B) a device incorporated into the design of the firearm that prevents the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that can be unlocked only by means of a key, a combination, or other similar means.''.

(b) PROHIBITION AND PENALTIES.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) 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), any person that—

''(A) keeps 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; and

''(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the lawful permission of the parent or legal guardian of the juvenile;

shall, if a juvenile 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 subsection (q), be imprisoned not more than 1 year, fined not more than $10,000, or both.

''(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 1 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 to the premises by any person.''.

(c) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Secretary shall ensure that a copy of section 922(y) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.''.

(d) 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 children from injuring themselves or others with firearms.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 3261

(Purpose: To require increased efforts for the prosecution of offenses in connection with the unlawful possession, transfer and use of firearms, particularly in connection with a serious drug offense or violent felony)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3261.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

"SEC. . INTENSIVE FIREARMS ENFORCEMENT INITIATIVES.

(a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative, as enhanced in this section, (and referred hereafter to as ''YCG11/Exile'') to 50 cities or counties by October 1, 2000, to 75 cities or counties by October 1, 2002, and to 150 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCG11/Exile shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials. Not later than February 1, 1999, the Secretary shall deliver to the Congress, through the Chairman of each Committee on Appropriations, a full report, empirically based, explaining the impact of the program before the enhancements set out in section on the firearms related offenses, as well as detailing the plans by the Secretary to implement this section.

(b)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCG11/Exile, facilitate the identification and prosecution of individuals—

(A) illegally transferring firearms to individuals, particularly to those who have not attained 24 years of age, or in violation of the Youth Handgun Safety Act; and

(B) illegally possessing firearms, particularly in violation of 18 U.S.C. §922 (g)(1)–(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section.

(2) The Secretary of the Treasury shall, commencing October 1, 1998, and in consultation with the Attorney General, the United States Attorney for the Eastern District of Pennsylvania, the State of Pennsylvania, the City of Philadelphia and other local government for such District, establish a demonstration program, the objective of which shall be the intensive identification, apprehension, and prosecution of persons in possession of firearm in violation of 18 U.S.C. §922 (g)(1)–(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section. The program shall be at least two years in duration, and the Secretary shall report to Congress on an annual basis on the results of these efforts, including any empirically observed effects on gun related crime in the District.

(3) The Attorney General, and the United States Attorneys, shall give the highest possible prosecution priority to the offense stated in this subsection.

(4) The Secretary of the Treasury shall share information derived from the YCG11/Exile with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCG11/Exile.

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement personnel for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b): and

(B) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.''.

Mr. DURBIN. Mr. President, it is my understanding under the unanimous consent request we have 40 minutes equally divided between the Senator from Idaho and myself.

I say by way of introduction, it is interesting we have two amendments that I don't believe are in conflict. I believe they are complementary. They both relate to guns. As I understand the amendment of the Senator from Idaho, he is seeking to reduce gun crime. I believe I will be able to support him. It appears to be consistent with my view, that those who misuse guns in the commission of a crime shall be accountable, regardless of their age. If that is what the Senator from Idaho seeks to do, I fully support it.

The amendment which I offer is complementary and very important because it addresses an issue which all of us, unfortunately, know too well. On the floor of the U.S. Senate a few weeks ago, my colleague from California, Senator FEINSTEIN, came up and said to me, ''There's just been a wire story report that two children in Jonesboro, AR, have taken guns and shot classmates and a teacher.'' We couldn't believe that horrible story. Then it turned out to be true—four children killed, and a teacher, who put her life on the line to protect another student, also died.

As the information started coming in about Jonesboro, AR, we heard a story similar to what had happened in Pearl, MS, and what would later occur in Springfield, OR. The curious thing about the situation in Arkansas was that an 11-year-old child and a 13-year-old child took 10 lethal weapons and a reported 3,000 rounds of ammunition, went to the woods behind the school, activated the fire alarm, and shot away at the classmates.

Where did an 11-year-old child and a 13-year-old child come up with 10 lethal weapons and thousands of rounds of ammunition? That question stuck with me as I considered this legislation. The story goes, now, that one of the kids went to the parents' home to pick up the guns and go about this violent, grizzly business and found out that the parent had locked the guns up under lock and key. The kids tried to break open the storage locker. They failed. They went to a grandfather's house, where they picked up the guns and ammunition and went out in the woods and went about their deadly task.

How many times have we heard this story or versions of it? How many variations have we heard? The next day, in Dale City, CA, a high school student turns up at school with a semiautomatic pistol. You can bet that high school student didn't legally purchase it at a gun dealer. And that same day in Cleveland, OH, a 5-year-old turns up at a day care center with a loaded handgun.

The point of my amendment is to say let's get down to the bottom line here. We are as concerned about troubled children and violent behavior as anyone can be. Let us focus our attention on all that we can do to stop that. Make no mistake, a troubled child is a sad reality. A troubled child with a gun is a tragedy about to happen, not just to himself but to other innocent people.

This amendment which I am offering, called the Child Access Prevention Law, sets to establish a national standard which says that every gun owner in America has a responsibility to store his gun safely. An adult who has a gun in the house and knows, or should know, that a child could gain access to the gun, and a child does gain access and thereby causes death or injury or exhibits the gun in a public place, is subject to a Federal misdemeanor penalty of up to 1 year in prison, with up to $10,000 in fines.

But the exceptions are important as well. If that adult has stored the gun with a trigger lock, with another safety device, or under lock and key, then they are not bound by this law; they have met the standard of care.

If the juvenile uses the gun in a lawful act of self-defense, this provision does not apply either.

If the juvenile takes the gun off the person of a law enforcement official, the gun law that I have suggested here does not apply either.

If the owner has no reasonable expectation that children will be on the premises, then this law does not apply either.

Finally—and this is a point I want to make clear—we specifically say if the juvenile, the child, came up with the gun as a result of a burglary, stealing the gun out of premises where they did not have a legal right to enter, then there is no liability on the part of the gun owner.

We are talking about a situation where a gun owner owns guns, knows that children are present, and doesn't store them safely. Fifteen States have

already addressed this. Ten years ago, the State of Florida passed the first law. They said: ''There are too many children being killed with guns accidentally and intentionally. We want gun owners to accept the responsibility of storing them safely.'' In the first year after the Florida law was passed, gun accidents involving children went down 50 percent. Fourteen other States have passed this law. Nationally, there has been a reduction of 20 percent in the gun accidents that have occurred in those States that have already passed a similar law to this one.

What we are talking about here is establishing a national standard but not preempting any State law. If your State has a child access prevention law, then that will be the controlling law in every circumstance, and not this Federal law.

But I tell you this, you need only sit and talk to parents who have been through this to understand how important it is for us to have a standard of care for gun owners across America. A woman from my hometown sent me a handwritten letter about her little boy going to play next door, and another playmate pulls out a gun that his parents left unattended. It was loaded. He fired the gun. She wrote:

> That little bullet went through my little boy's heart, and mine too.

And mine, too.

Susan Wilson who came here just a few weeks ago, the mother of a little girl that she sent off to school, gave her a kiss goodbye and sent her off to school in Jonesboro, AR, never to see her alive again.

This suggestion for a change in law is not about taking anybody's guns away, it is about taking guns seriously. It says to every gun owner: You not only have the right to own a gun and the right to use it legally and safely, you have a responsibility—a responsibility—to store it safely and keep it away from children.

One of the experts on the Senate floor when it comes to guns is the Senator who is engaged in this debate with me, the Senator from Idaho, Senator CRAIG. Yesterday, during the course of a debate on trigger locks, Senator CRAIG said:

> Proper storage of firearms is the responsibility of every gun owner.

And then Senator CRAIG said:

> A general firearm safety rule that must be applied to all conditions is that a firearm should be stored so that it is not accessible to untrained or unauthorized people.

And, in Senator CRAIG's words:

> That is the right rule. That is the one that really fits. That is the one that really works well and then you don't have the accidents to talk about.

I think that is as strong an endorsement of the bill that I am offering as any language I could offer as part of this record.

I will tell you what I have found as I have traveled around and talked about establishing this standard of care so kids don't have access to guns. What I have found is overwhelming support from law enforcement. These are the men and women who answer the calls after there has been a terrible accident or a child has taken a gun out and shot someone intentionally. There has been solid support on this proposal from teachers. Can you imagine, a teacher who goes into a classroom, prepared to teach children, wonders if one of those kids has brought a gun to school. In my home State of Illinois, last school year—not this last one, the one before—144 kids were expelled for bringing weapons to school. It is, unfortunately, a growing trend in America.

In most instances, those weapons came from homes where the guns had not been safely stored. Mark my words, a child will always find Christmas gifts and a gun, no matter where you hide them. If you put it in the back of the drawer, behind the T-shirts, or up on the shelf in the closet, it is not good enough. We are a nation of 265 million people. We are a nation of 300 million guns, or more—300 million. At this moment, it is estimated that half of those guns are readily accessible to children, and a third of all guns are loaded. That is a tragic accident about to occur.

My goal in introducing this is not to send people to jail. My goal is to initiate a national conversation raising the level of awareness and saying to gun owners nationwide: Accept your responsibility to store your guns safely. If you want to own a gun, if you want to exercise your right, exercise your right responsibly. Save the children from these tragedies. Save the parents from this grief. Save innocent victims from what might occur.

I reserve the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I send a modification of my amendment to the desk.

Mr. DURBIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator has that right. The amendment will be so modified.

The amendment (No. 3261), as modified, is as follows:

At the appropriate place, insert the following:

''—. INTENSIVE FIREARMS ENFORCEMENT INITIATIVES.

(a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative, as enhanced in this section, (and referred hereafter to as ''YCGII/Exile'') to 50 cities or counties by October 1, 2000, to 75 cities or counties by October 1, 2002, and to 150 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII/Exile shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials. Not later than February 1, 1999, the Secretary shall deliver to the Congress, through the Chairman of each Committee on Appropriations, a full report, empirically based, explaining the impact of the pre-existing youth crime gun interdiction initiative on federal firearms related offenses. The report shall also state in detail the plans by the Secretary to implement this section and the establishment of YCGII/Exile program.

(b)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII/Exile, facilitate the identification and prosecution of individuals—

(A) illegally transferring firearms to individuals, particularly to those who have not attained 24 years of age, or in violation of the Youth Handgun Safety Act; and

(B) illegally possessing firearms, particularly in violation of 18 U.S.C. §922(g)(1)–(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section.

(d) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant U.S. attorney and investigators in the City of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of federal law.

(3) The Attorney General, and the United States Attorneys, shall give the highest possible prosecution priority to the offenses stated in this subsection.

(4) The Secretary of the Treasury shall share information derived from the YCGII/Exile with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII/Exile.

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement personnel for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b); and

(B) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.''.

Mr. CRAIG. Mr. President, in section (2) of my original amendment, this was the same language with the same intent. Senator SPECTER, who has this initial program in Philadelphia, had some concerns about the language. I will be happy to provide you with a copy. It doesn't change the intent of the amendment at all.

Mr. President, the Senator from Illinois, in all respects, I am sure, approaches this Senate with the right intent, an intent that I think all of us would honor—that is, to try to make the world a safer place, to try to make people more responsible. There is a problem, a very real problem. Our bills are different, and I think they are very incompatible in that regard. I hope the Senator from Illinois can support my legislation. I wish I could support his, but I cannot.

Mr. President, here is the reason I cannot. The Senator from Illinois would like to take a victim and make that individual a criminal. In other words, if an adult owns a gun and a child of that adult, or a friend of that adult who happens to be less than 18 years of age, or a nephew, finds that

gun and that gun is used in an accident or in the commission of a crime, or certainly when a death occurs, the victim—the person who had his or her gun stolen from them—all of a sudden becomes the criminal. That is an interesting juxtapose in our society from which we really have tried to stay away. We have focused on criminals and criminal acts. But a failure to make secure or to abide by what the Senator would say is a safekeeping of all 300 million guns in this society would make a person a criminal.

We know how guns are used. In high crime areas, they are used for self-protection. In high crime areas and urban housing—not the nice, suburban household the Senator might envision in his debate—oftentimes a gun is kept loaded. Is that house totally secure? Do children come and go from it? Is it in a high-rise suburban environment, where there might be gang violence, where some members of gangs might have full access to the house because they are cousins or the children of that person using that gun for self-protection? That is very possible. Those exceptions are not provided for here. They must be provided for here if the Senator from Illinois is to have a law with any teeth in it.

The reality is simple. We reverse, for the first time in our society, the kind of a test as it relates to an act of violence. In this case, the person who has the gun stolen from them all of a sudden becomes the criminal. That is an interesting and strange argument that we have never had put before us before. All of us are interested in controlling violent acts and criminal acts that occur in the commission of a crime. My amendment moves very directly to do that.

In fact, my amendment is a movement in a direction that I think is extremely positive and is already underway. It is already underway because what it says is that the Federal firearm laws we have on the books will be implemented and they will be enforced. Judges don't like them. They don't like to play around with them. They don't necessarily like to prosecute them. Yet, where it happens, crime rates go down and life becomes much safer.

What I am talking about and what I wish the Senate to vote on and place into law is the Youth Crime Gun Interdiction Initiative, which is currently a 17-city demonstration project aimed at reducing youth firearm violence and expanding this initiative by putting some real teeth in it, much like the model of the Richmond, VA, program that I will discuss in a few minutes. My idea, although it is not novel, is that when most Federal firearm laws were enacted, the notion was to punish criminals who commit violent firearm crimes, not to go after the innocent victim who might have had their guns stolen from them. This has not happened.

We already heard on the floor yesterday that this administration has cut the prosecution of violent acts where guns are used by nearly half. They simply don't pursue the criminal. Yet, it ought to happen. My amendment suggests that the Bureau of Alcohol, Tobacco and Firearms, in consultation with the attorney general, work with the State of Pennsylvania and the city of Philadelphia to establish a demonstration program where the objective will be to identify, apprehend, and prosecute all persons who commit firearm violations.

Let me tell you about something happening in Richmond, VA. Down there, a Federal prosecutor said to law enforcement officers, ''If you will report to me felons who are arrested in the commission of a crime who are using a firearm, I will prosecute them. Plain and simple. No plea bargaining. We are going to prosecute.'' That Federal officer handed out this little card to every cop in Richmond, VA. This card has a listing of all of the Federal gun possession crimes. It goes on to list them. There is a number to call. An individual officer can call the ATF, and there is a pager number.

Here is the rest of the story. Gun-related homicides dropped from 140 last year to only 34 this year.

Now, what I am saying is what we ought to be doing in Richmond and in Philadelphia, and a lot of other places across the Nation, is incorporating Federal authority along with local authority to go after the criminal who uses the gun. I am sure the Senator from Illinois and I have voted for laws or bills that create laws that say if you do thus and so, and you use a gun, it is a Federal firearms violation. But we don't get the courts to prosecute them, and we don't follow through; we don't insist.

This administration, by their own statistics, has truly been asleep at the switch. Let's incorporate juveniles, education, tracking, gun trafficking, and all of those combinations together, and go after the people who are truly responsible. Guess what happens? The crime rate goes down. Incorporate that with the kind of work that has already been done and you will create a safer place.

The Philadelphia Exile Project—generally called Project Exile all over the country—creates that kind of dynamic. Then I go on to expand it, so that we go from 50 cities to, by October of 2000, 75 cities, and by 2002, to 150 cities and counties across our country. This is the kind of proactive thing that goes directly at the problem. What does it say? It doesn't say to the innocent victim who has had their property stolen and it gets used in a crime, and if you didn't do all of these right things, guess what, you are the criminal.

Now we haven't criminalized a child taking a car and having an accident against the parent—especially if they stole the car, took it without permission. Yet, today we would be doing that with guns. I think that is wrong. I think the Senator from Illinois is right. He should be able to support my amendment because it goes at the root cause. It incorporates all of the agencies, and it makes real the very thing that he and I want done. We want the laws enforced. We want criminals prosecuted. We know that 90 percent of the crime out there is the result of not new action, but old action —people with criminal records. That is what this is all about.

We have taken the concept of going after the criminal, we have incorporated it with the juvenile crime gun interdiction initiative, brought those kind of things into combination, and I think we have a dynamic force here.

What do we do?

We provide new information about illegal firearm activities to communities. We identify differences in adult, juvenile, and youth illegal firearms activities. We extend access to firearm-related enforcement information. We initiate community, State, and national reporting on firearms trafficking. We enable enforcement officers to focus their resources where they are likely to have the greatest impact on illegal trafficking to juveniles and violent youth gang members.

I think for those who were listening yesterday, when we look at the deaths created by juvenile activities with firearms today, the vast majority of the 95 percent are in that higher bracket. The accidental are there—not insignificant, but very, very small.

That is the reality of what I attempt to do. It incorporates demonstration projects today that are working. It makes them Federal law. It expands them across the Nation. It goes after the criminal, and not the innocent victim who has had their property stolen. My colleague from Illinois would like to make them the criminal. That is a strange position to have in Federal law. We ought to leave that alone.

I retain the remainder of my time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask that I might have 7 minutes to speak.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I would appreciate it if the Chair would let me know when the 7 minutes are up.

Mr. DURBIN. Mr. President, I would like to yield to my cosponsor of this legislation, the Senator from Rhode Island, 7 minutes.

I say at the outset that I support the bill offered by the Senator from Idaho. It is a good bill. It tries to establish more care with handguns. But it doesn't address the issue which the Senator from Rhode Island and I seek to address.

I yield to him.

Mr. CHAFEE. Mr. President, I have listened carefully to the Senator from Idaho and his remarks.

He indicated that it was a ''shocking''—if I am quoting him correctly—''shocking'' event to punish the person

whose weapon caused the damage; the person who is careless in the storage of that firearm under this legislation pays a penalty. The Senator from Idaho, as I understood him, thought that was a very strange procedure.

I will say this, Mr. President. I think every one of us know that if you own a pit bull, and you don't keep that pit bull tied up properly, and it mauls some innocent child, that the owner of that pit bull is liable. We have a situation akin to that—not pit bulls, but dangerously loaded weapons that are carelessly strewn about someone's home. A youngster comes in and gets hold of them and uses it for destructive purposes. That person that owns that weapon ought to pay the penalty. The suggestion that this is something strange and unheard of strikes me in itself as being strange.

Mr. President, we have seen, all of us, these horrible incidents that have taken place over the past year in schools where youngsters have obtained weapons frequently because the weapons are not properly stored. They are not properly locked up. They are left around not only carelessly, but they are loaded.

Let's just review these, if we might.

In October, a 16-year-old at Pearl High School in Mississippi went to school with a hunting rifle. He shot and killed a student and a teacher, leaving a second teacher with a bullet wound in the head.

In December, a student at Heath High School in West Paducah, KY, used a pistol to kill three other students.

I mean, this is what is happening in our schools.

The shooter was 14 years old.

In March, two boys in Jonesboro, AR, one 11 years old and the other 13 years old, pulled the fire alarm in their school. As students and teachers left the building, the two boys began shooting. They killed five people: Four young girls, and a teacher.

In April, a 14-year-old boy in Edinboro, PA, went to a school dance with a gun he apparently removed from his father's bureau drawer. He killed a science teacher and injured two students and another teacher.

At Thurston High School in Springfield, OR, a 15-year-old who was suspended for carrying a gun to school returned to school the next day and opened fire in a crowded cafeteria. He killed two students and wounded 19 others—19 others. He killed two, and wounded 19 others. Police suspect he shot and killed his parents as well.

These are terrible, tragic shootings.

According to Handgun Control, 91 percent of handguns involved in unintentional shootings come from the home where the shootings occur.

Mr. President, this is a national disaster. There are 192 million firearms—192 million firearms—in the possession of private citizens in our Nation, and 35 percent of American homes contain at least one gun.

Each year, more than 500 children accidentally shoot themselves or a sibling, a family member, with a family gun.

According to the Centers for Disease Control, the firearms-related death rate for American children under the age of 15—I mean, I think it is important we realize what we are talking about here. These youngsters are under 15. The rate in the United States for the death rate of these children through guns is 12 times higher than that of the other 25 industrialized nations combined.

One thing is certain. It is simply too easy for children to get a gun. At the very least, adults should be encouraged to store their guns in a manner and a place that is inaccessible to children. If they don't, and if the child uses the gun to harm himself or someone else, the adult should be held responsible.

I find it hard to argue with that premise. As I say, if there is a pit bull, no one would argue a bit that the pit bull should be chained up. We have seen incidents—certainly, I have seen them in my State—where they are not chained and they maul some youngster terribly. The owner of that dog, that pit bull, is held responsible. And the owner of a gun that is far more dangerous than that pit bull should likewise be held responsible.

Are we embarking on something radical here, something that is unacceptable by the public?

In April, an NBC/Wall Street Journal poll was taken—a bipartisan poll by Peter Hart and Bob Teeter, whom most of us know. We know Bob Teeter. We have worked with him. Others on the other side have worked with Peter Hart.

This is the question:

> Congress is considering legislation that holds adults criminally responsible if they allow young children to have access to firearms that are used to injure or kill another person. Do you favor or oppose this legislation?

That was the question. You are going to hold adults criminally responsible if young children have access to firearms that are used to injure or kill another.

The answer was 75 percent said they favored this type of legislation; 21 percent said they opposed it, and 4 percent were undecided.

It seems to me that it is time that we in Congress caught up with the American people on this issue. Here is an opportunity to encourage gun owners to act responsibly by keeping their weapons out of the reach of children.

This amendment does not prevent anybody from owning a gun. That is a red herring, if anybody suggests that. It says if you are a gun owner who has reason to expect a child to be on the premises, you must store your gun safely. I don't think the National Rifle Association would object to that. Certainly, it seems to me, they would encourage people to store their weapons safely. If they failed to store them safely, and a child uses it to harm himself, or someone else, the gun owner can be held criminally liable. That makes total common sense to me.

I urge my colleagues to vote in favor of this commonsense approach to gun safety.

I thank my cosponsor who worked so hard on this, and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. Three minutes thirteen seconds.

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

Mr. CRAIG. Mr. President, let me only make a few comments as it relates to what Senator CHAFEE has said, because I think it is important that we understand the reality of some of what he has portrayed. The pit-bull argument sounds not only exciting, it sounds horrifying. Now, there is a little thing in law called, in this instance, the first bite. In other words, if it is known that the dog is dangerous, then there is a responsibility. If it is not known that the dog is dangerous and the dog has never shown dangerous tendencies, then the owner is not liable, and that has stood up in court. But if the dog is known to be dangerous, and the dog is chained in the backyard, and the backyard is fenced, and the gates are locked, and a child crawls in the range of the dog that is chained and is injured, the owner is not liable.

But what the Senator is saying is, if you have a gun in your house and your house is gained access to by someone, oh, yes, if the door is open and a child invites another child in, and that child finds a gun and misuses it, then, of course, the owner of the gun is liable.

I don't believe that is the pit-bull argument. And I don't think it can be, because the owner may have put the gun away, and did in this instance.

What if the owner had it locked up but the child of the owner knew where the key was? Now, who is liable there? A lot of definitions go on wanting and my argument still holds, I do believe, that the victim in this instance, the owner of the gun, who has had the gun stolen from him, all of a sudden becomes the criminal.

The pit-bull argument cannot and does not hold in this instance, nor should it. We understand those kinds of arguments. You can store your gun in safety, and all of a sudden it is taken and used and you are liable. The victim should not be the criminal.

I retain the remainder of my time.

Mr. KENNEDY. Mr. President, I would like to offer my support of the Durbin Amendment to the Commerce, Justice, and State Department Appropriations Bill. The recent tragedies in Arkansas and Pennsylvania call our attention once again to the youth violence facing our nation: the pointless injury and loss of life, the families that are ripped apart, the classmates who witness the horror or lose a friend, and the communities consumed in fear. No one can calculate the direct and indirect costs flowing from any one of the 14 times every day in which a child dies

from a gunshot wound. National response to this death toll has been minimal, and little has changed in our approach to regulating guns since 1973. Although no one can replace what was lost, we can at least take steps to prevent future tragedies.

But as we know from harsh experience, you can't arrest your way out of these problems. We must be equally credible on enforcement and prevention to have an impact. And we have to keep guns out of the reach of our children. We need to keep children away from guns. And it means adoption of the Durbin amendment, which requires adults to lock up their guns. The guns used in school shootings in Arkansas and Pennsylvania belonged to adult relatives of the children who used them. Fifteen states already have child access prevention laws, and those laws work.

What we are talking about here today is taking responsibility for the safety of our children. That means all of us taking responsibility to change the culture of violence, and taking sensible steps to keep children safe. The Durbin amendment takes such a step and it deserves to be enacted this year by this Congress. How much longer must we endure the horrors of juvenile violence before we respond with measures that we already know are effective?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I yield 1 minute of the 3 remaining to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

I compliment both Senators for this legislation. I think it is common sense. I think it is long overdue.

I most profoundly disagree with the Senator from Idaho. If the gun is under lock and key, the owner is exempt from criminal liability. Let me repeat that. If the gun is under lock and key, the owner is exempt from criminal liability.

On Monday, a 4-year-old boy in Maryland was shot with his grandfather's .22 caliber handgun. The gun was loaded. It was not equipped with a trigger lock. The children were playing with the gun. The gun discharged and struck the 4-year-old in the face. Fortunately, the boy was not seriously injured and is expected to recover.

On Tuesday, unfortunately, 61 Senators voted against a common-sense requirement to require handgun manufacturers to include childproof trigger locks with every handgun they sell. A simply safety requirement that would help to stop the growing number of accidental gun-related injuries and deaths that involve children every year.

In my view, the sharp contrast between these two events is striking. One day, a child is shot in the face because the gun he and his playmates find does not have a trigger lock. The next day, the Senate votes against requiring all guns to be sold with trigger locks.

What is the matter when we cannot fulfill our basic responsibility to keep children safe from the dangers of irresponsible gun ownership?

I believe that the legislation currently before us authored by Senators DURBIN and CHAFEE, offers an excellent avenue for ensuring that gun owners who allow children access to their guns are held liable when their negligence leads to death or injury.

The bipartisan Child Firearm Access Prevention Act will keep kids from taking guns owned by adults and, either purposely or accidentally, killing or injuring themselves or another person.

The legislation puts the burden on the adults who own the guns to store their guns in a safe and secure manner—with a trigger lock, a combination lock, in a gun safe, or in a lock box.

If an adult who owns a gun chooses to store the firearm in a loaded condition—unlocked and unsafe—and a child uses that gun to kill or injure someone or exhibits that firearm in a public place, then that adult can be imprisoned for 1 year and fined as much as $10,000.

The need for this legislation should be entirely obvious. I would wager that there is not a single Senator who hasn't heard of the parade of senseless violence that has plagued our nation's schools.

Some recent incidents include:

Barry Loukaitas, 14, February 2, 1996, Moses Lake, Washington: Allegedly shot and killed two students and a teacher at his school. In his confession Barry said he got two of his guns from an unlocked cabinet in his house and one from the family car.

Evan Ramsey, 17, February 19, 1997, Bethel, Alaska: Shot and killed a student and a principal, and wounded two other students, at his high school. According to police, the gun Evan used was kept unlocked at the foot of the stairs in his house.

Luke Woodham, 16, October 1, 1997, Pearl, Mississippi: Allegedly stabbed his mother and then shot nine students, killing two, at his high school.

Michael Carneal, 14, December 1, 1997, West Paducah, Kentucky: Accused of killing three students and wounding five students who were participating in a high school prayer circle.

Andrew Golden, 11, and Mitchell Johnson, 13, March 24, 1998, Jonesboro, Arkansas: Accused of shooting to death four girls and a teacher, and wounding ten, at his school. The boys took the guns they used in the crime from Andrew's grandfather who said he usually kept his guns unlocked in the house.

Andrew Wurst, 14, April 24, 1998, Edinboro, Pennsylvania: Shot a teacher to death at a school dance.

Jacob Davis, 18, Fayetteville, Tennessee, May 19, 1998: Allegedly shot and killed a high school classmate.

Kipland "Kip" Kinkel, 15, Springfield, Oregon, May 21, 1998: Shooting spree at both home and school which left four dead and twenty-two injured.

In all, these tragedies total 20 deaths and 48 injuries.

Other non-fatal incidents include:

A 5-year-old kindergarten student in Memphis who took a loaded .25-caliber pistol to school because he wanted to kill his teacher for putting him in a "timeout",

A police officer's 10-year-old son who was arrested when he took an unloaded, semi-automatic pistol to school in his bookbag,

A 15-year-old high school student who was arrested when authorities confiscated 20 pistols, rifles, and shotguns from his home after the boy threatened his 9th grade teacher,

And a 16-year-old boy, suspended from school for vandalism, who was caught by authorities on campus with a .22-caliber revolver in his front pocket.

Indeed, the scope of this problem is reaching epic proportions.

The National School Safety Center indicates that, during the 1997–1998 school year, there were 41 school-associated violent deaths in the United States. That's nearly a 61 percent increase from the year before when there were 25 such incidents.

And it's no wonder the incidents of school violence are increasing. A 1998 study by the National Center for Education Statistics and the Bureau of Justice showed that, of 10,000 students surveyed, 1,200 students knew someone who had taken a gun to school. It is amazing to me that, given the large number of students who have taken guns to school, there haven't been even more gun related deaths in our schools.

Since the National School Safety Center began keeping track of school-associated violent deaths in July 1992, there have been 227 students who have died on campus. 53 of them—nearly 1 out of every 4—were from my home state of California.

In fact, the problem of gun fire on campuses has gotten so bad that students in some California schools practice "duck and cover" drills much in the same way that students in the 1950's and 1960's practiced taking cover during nuclear air-raid drills.

An article in the Los Angeles Times last August detailed how the threat of gun fire has become like the new nuclear threat looming over today's elementary, middle, and high school students.

The article reads: "They're called drop drills, crisis drills, and even bullet drills. In many schools, a special alarm sounds, as it would during an actual nearby shooting. Teachers shout "Drop!" and students duck under their desks or sprawl on the ground, covering their heads. Many schools also immediately initiate a lock-down during the drill, as they would with a shooting, sealing the campus off from the violence outside."

And it continues: "The drop procedure was used by students at Figueroa Street Elementary School in February 1996 when teacher Alfredo Perez was hit by a stray bullet. Perez's fifth-graders ducked when the bullet flew through the window, and then they crawled out of the room and stayed on the floor until teachers told them they could get up.

Principal Rosemary Lucente credits the drop bill, which they practice at least once a month, with keeping the students out of further danger."

And so it has come to this. Our students are forced to practice duck and cover drills because their schools have gotten too hazardous for them to focus on what they're there for in the first place which is to learn.

When the situation has gotten that bad it is my view that it is our responsibility to try and help provide some sanity in our schools and protect children from guns.

We can do that by holding adults who own guns responsible if their careless storage of dangerous firearms results in the threat of death or injury. What's more, we must also encourage parents to spend more time with their children, to reconnect with them, to teach them that guns are not toys, and to teach them the difference between right and wrong.

Opponents of this bill will argue that it won't solve all the problems of kids with guns, that it won't stop kids from getting killed or injured by firearms. Frankly, I don't know if that's true or not. But I do know that one thing this legislation will do is it will force adults to be more safe and more responsible with their guns and that will save lives.

I support this legislation wholeheartedly and I encourage my colleagues in the Senate to do the same.

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

Mrs. FEINSTEIN. I thank the Chair.

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

The PRESIDING OFFICER. The Senator from Idaho has 6 minutes 43 seconds remaining. The Senator from Illinois has 2 minutes 4 seconds remaining.

Mr. CRAIG. Mr. President, let's talk about that tragic situation in Jonesboro, AR. What the Senator from Illinois is proposing would not have solved the problem in Jonesboro, AR, even though that young child obtained his gun from a grandfather who had locked his house and the child entered the home without permission and the gun was locked in a case. I don't know how we legislate against that. My guess is, we do not, not very successfully. All of a sudden grandpa becomes the criminal, and you are going to go after grandpa at a time when his grandchild has done that onerous act?

Now, the Senator mentioned 15 States that have similar laws and yet the courts very seldom use them and juries very seldom give decisions because we know the parent is in a horrible situation at the time that kind of accident occurs. They are the victim, and they become the criminal. We all know that underage children in our care who act as those children do, we are every bit as much the victim.

Why don't we pass the legislation that I have proposed that incorporates the forces of the Federal Government, the State government, and local government, and goes after criminals who use guns and criminal acts and bring down our crime rates and work to take the guns out of the hands of the juveniles where the killings are really going on in this country?

No, it isn't as dramatic; it doesn't make for the political speech in the Chamber, but it sure makes the streets a lot safer. It doesn't take law-abiding citizens and make them criminals. That is what this Senate ought to be doing, and I hope the Senate will do that tonight. It is the right and the responsible approach.

Let me, once again, briefly go through my proposal. It is patterned after the Youth Crime Gun Interdiction Initiative that is working right now in Philadelphia. It incorporates the Project Exile in Richmond, VA, where a Federal prosecutor says, ''Report to me felons who are using a gun in the commission of a crime, and I will prosecute them, and I will put them away.'' He has, and the crime rate has plummeted. Bring those two forces together and we make this world a safer place. And we take guns out of the hands of juveniles.

No, we don't deal with the accident. I am not sure I know how to do that. I don't think we can do that here. I don't think we can make parents criminals. We have chosen not to do that in the past for a variety of reasons. We have argued safety. We have educated safety. We hope parents and adults will be responsible with their rights. In this instance there is a clear division. It is an important division. Our institutions have to recognize that juveniles in our society today are more violent than they have ever been, and we are searching for answers to that. We do not know all of the answers, but we do know we have a problem. Our problem is to penalize the parent who has tried to act responsibly? I don't think so. It is certainly our job to encourage greater parental responsibility, and we all know that a person who owns a gun in a law-abiding way has a responsibility for his or her right in this society. And we encourage that. But we say a $10,000 fine and a Federal offense and you are a criminal if somebody misuses the gun? I hope not. I hope that is not the case.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I believe I have 2 minutes remaining.

The PRESIDING OFFICER. Two minutes 3 seconds.

Mr. DURBIN. Mr. President, with every right in America, there is a responsibility, even with the second amendment right to bear arms. Every gun owner has a responsibility to store his gun safely.

What I find interesting about the argument from the Senator from Idaho is that when I speak to responsible gun owners across America, the first thing they tell me is, ''Senator, I do not want any of my guns to harm any of my children or anyone else's children or any innocent person. I understand I have a responsibility to store them safely.''

The Senator from Idaho is arguing that gun owners have no responsibility and should have no responsibility under the law to store their guns safely.

That is not a fair standard. The overwhelming majority of the American people may support an individual's right to own a gun, but the overwhelming majority of the American people also understand that right carries a responsibility to protect innocent children. The fact that there has not been an enforcement action in 15 States where the laws are on the books should be heartening to the Senator from Idaho, and not discouraging, because in those same States that have passed laws just like this, the number of accidents involving firearms with children have gone down over 20 percent.

We can save children's lives with this amendment by saying to gun owners: ''Take this issue responsibly.'' Let us send America's kids back to school safely, schools that are gun free and violence free, and let the parents of those kids realize they have a responsibility, if they are gun owners, to store their guns safely so their children cannot get their hands on them and hurt themselves or others.

I yield the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. The Senator from Illinois can say a good many things on this floor, but he cannot say something I did not say and attribute it to me. I did not say there was not a responsibility to manage and handle your guns in a law-abiding and safe way.

I yield the remainder of my time to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I agree with the arguments made both by the Senator from Idaho and the Senator from Illinois that it is very useful to have a Federal crackdown on those who violate the law with guns. When I was district attorney in Philadelphia, I sought to have the Board of Judges impose a standard rule that there be at least some jail time for those who violate the law with guns, and was unsuccessful in that effort.

One of the first pieces of legislation I introduced on coming to the Senate provided for the armed career criminal bill, which mandates a sentence of 15 years to life for a career criminal who has been found in possession of a firearm.

I am pleased the legislation offered by the Senator from Idaho will encompass the City of Philadelphia on a Federal crackdown.

Let me say, parenthetically, this is the first opportunity I have had to take the Senate floor. I thank my colleagues for the standing ovation which I received when I returned and thank them for the very many good wishes.

I wish I had longer to talk about this issue. But I do believe the Federal jurisdiction, with the speedy trial rules and the tougher sentencing and the avoidance, at least in my experience, in the Philadelphia State courts of judge shopping and plea bargaining, will be a great boon to cracking down on those who violate the law with guns.

Just a word or two about a couple of earlier votes. I supported the proposition to allow counsel into the grand jury room. That is sort of an onerous proceeding, where the prosecutor is present with the witness and up to 23 grand jurors. It is a little anomalous, given the right to counsel, that the witness must appear alone in the grand jury room, which is a closed Star Chamber proceeding, but I think the orderly administration of criminal justice will be served better if a witness' counsel is permitted to be present.

An earlier vote, too, occurred on an effort by the Senator from Alabama,

Senator SESSIONS, to allocate more funds to law enforcement as opposed to rehabilitation. I supported the motion to table Senator SESSIONS' amendment because I believe there ought to be more on the seamless web for rehabilitation.

The PRESIDING OFFICER. All time has expired. The Senator from South Carolina.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Mr. President, I ask unanimous consent a legislative fellow in the office of Senator WYDEN of Oregon, Martin Kodis, be permitted the privilege of the floor during consideration of this bill.

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

The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent, on both the Craig amendment and the Durbin amendment, the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays en bloc at this time?

Without objection, it is in order.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, so my colleagues know where we stand—and I certainly thank the Senator from Illinois and the Senator from Idaho for their timely discussion of what was a fairly complicated issue; both Senator HOLLINGS and I greatly appreciate their courtesy in moving debate along—we are now waiting for Senator THOMPSON, who I understand is on the way to the floor to offer his amendment. Then we will go to Senator BUMPERS. We will probably be skipping over the amendment by Senator NICKLES. As I understand it, he is not available until probably 9 or 9:15. So we will go to Senator FEINGOLD after Senator BUMPERS.

That is the order we are proceeding under, under the previous unanimous consent. As soon as Senator THOMPSON arrives, we shall take up his amendment.

I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3256, AS MODIFIED

(Purpose: To reinstate certain principles, criteria, and policies relating to Federalism, and for other purposes)

Mr. THOMPSON. Mr. President, I call up my amendment No. 3256 and I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for himself, Mr. LOTT and Mr. NICKLES, proposes an amendment numbered 3256, as modified.

Mr. THOMPSON. 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 amendment, as modified, is as follows:

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

SEC. . POLICIES RELATING TO FEDERALISM.

It is the sense of the Senate that the President should repeal Executive Order No. 13083, issued May 14, 1998 and should reissue Executive Order No. 12612, issued October 26, 1987, and Executive Order No. 12875, issued October 26, 1993.

Mr. THOMPSON. Mr. President, this amendment is offered to protect and preserve federalism. If there is one concept in recent years that has gained in credence, it is the concept of federalism. We have seen a lot of innovation happen in this country that has started at the State and local level. We have paid credence to it with regard to welfare reform and other measures.

The Supreme Court, in recent years, has struck down cases based upon the tenth amendment. The tenth amendment has been reinvigorated, and I think we have come together as a nation in many respects in our belief that many of our problems need to be addressed at the State and local level, and that is what our original framers of the Constitution had in mind. Not only is it constitutionally sound but it has worked in practice.

Mr. President, I ask unanimous consent that Majority Leader LOTT and Assistant Leader NICKLES be added as cosponsors. They have long fought for the principles of federalism.

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

Mr. THOMPSON. Mr. President, in May the President issued Executive Order 13803 which purported to set out a new definition of ''federalism.'' However, it explicitly replaced President Reagan's Executive order on federalism and, in reality, the new order undermines federalism.

Furthermore, it was written in secret without even any consultation with State and local officials. Every major State and local government group opposes this so-called federalism order, and they have asked the President to withdraw it.

My amendment expresses the sense of the Senate that the President revoke his May 14th order and help restore the proper respect for State and local government and in our Federal system by reinstating both President Reagan's and his own prior orders on this subject.

The Founding Fathers believed that the Federal Government had limited powers. The tenth amendment states that the powers not delegated to the States are reserved to the States or to the people. The public clearly wants important decisions to be made closer to home and not dictated from Washington, DC.

Unfortunately, President Clinton's order will undermine federalism and promote Federal meddling into local affairs. President Clinton's order revokes President Reagan's Executive Order 12612 which was a clear commitment to the tenth amendment principles of a limited Federal Government. The new Clinton order shifts the Reagan presumption against Federal involvement in State and local matters to a presumption for Federal intervention. President Clinton's new order also revokes his own 1993 Executive Order 12875 which directed the Federal Government to avoid unfunded mandates.

To add insult to injury, the White House never talked with State or local governments while the new order was being developed. Ironically, it was issued from England. More ironically, White House officials did not consult with local officials on an Executive order which itself calls for more consultation with local officials. In a recent Washington Post article, one anonymous White House official admitted, ''This was a mistake. We screwed up.'' Mr. President, I agree.

The White House belatedly has offered to delay the order and take comments from State and local officials, but the Clinton administration has shown no willingness to rescind this order, as State and local officials have requested.

State and local officials were understandably irritated that the White House shut them out of this process. But more importantly, they immediately saw through the rhetoric that was coming out on this matter and saw the real purpose of the Executive order. State and local officials know that the order is basically a Government power grab at the Federal level that will undercut their ability to serve the public, and that is why they are so exercised about it.

President Clinton was asked to rescind the order by the ''big seven,'' as they are called—big seven State and local government groups. They include the National Governors Association, the National Conference of State Legislature, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities, and the International City/County Management Association.

Mr. President, this order will promote Federal intrusion into local decisionmaking, and it shows contempt for the ability of State and local officials to manage their own affairs. We don't want that. That is not the message that has been coming out of this Congress. That is not even the message that has been coming out from prior Executive orders by this administration, as late as 1993.

Even though, as I say, it was promoted as a concept that would enhance federalism, and it has a lot of good language in there about the principles of federalism, when you get right down to it, it rescinds the basic presumption that when Federal agencies look at a

matter, it basically presumes, unless it is very clear, that the matters should be resolved at the State and local level. That is a presumption that has worked very well for us, and I urge the adoption of this amendment.

I ask unanimous consent that a letter from the seven state and local organizations, an article from the Washington Post, and a letter from Governor Voinovich of Ohio be printed in the RECORD.

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

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC July 17, 1998.

DEAR MR. PRESIDENT: We are writing on behalf of the nation's elected state and local government leaders to request that you withdraw Executive Order 13083. We urge this action to provide for meaningful consultations with state and local officials not on E.O. 13083, but on whether any changes ought to be considered with respect to Executive Orders 12875 (Enhancing the Intergovernmental Partnership) and 12612 (Federalism). No state and local government official was consulted in the drafting of E.O. 13083. In contrast, this administration fully engaged state and local officials and their associations in the drafting of your E.O. 12875.

While we appreciate the offer by your administration to extend the comment period by 90 days, we feel that Executive Order 13083 so seriously erodes federalism that we must request its withdrawal.

Because we all have imminent meetings of our elected leaders, we believe it especially critical for you to consider and act upon our request to withdraw the order as quickly as possible.

Sincerely,

GOVERNOR GEORGE V. VOINOVICH,
Chairman National Governors' Association.

SENATOR RICHARD FINAN,
Senate President, President, National Conference of State Legislatures.

COMMISSIONER RANDY JOHNSON,
Hennepin County, Minnesota, President, National Association of Counties.

DEEDEE CORRADINI,
Mayor of Salt Lake City, President, The U.S. Conference of Mayors.

REPRESENTATIVE CHARLIE WILLIAMS,
Chairman, Council of State Governments, Mississippi.

BRIAN O'NEILL,
Council Member, City of Philadelphia President, National League of Cities.

GARY GWYN, CITY MANAGER,
Grand Prairie, Texas, President International City/County Management Association.

[From the Washington Post, July 16, 1998]

EXECUTIVE ORDER URGED CONSULTING, BUT DIDN'T; STATE, LOCAL OFFICIALS WANT FEDERALISM SAY

(By David S. Broder)

Two months ago, while attending the economic summit of industrial nations in Birmingham, England, President Clinton signed Executive Order 13083 on federalism. After setting forth nine conditions for when federal intervention and preemption is justified, it required every executive agency to "have an effective process to permit elected officials and other representatives of state and local governments to provide meaningful and timely input in the development of regulatory policies that have federalism implications."

On Tuesday, two months to the day after Clinton signed the order, the Washington representatives of the "Big Seven" organizations of state and local government had a stormy meeting with Mickey Ibarra, the chief of White House intergovernmental relations, and then drafted a letter to Clinton demanding that he withdraw the executive order.

The reason: No state or local government official was consulted in the drafting of the executive order, a directive the Big Seven officials said in the draft "calls into question fundamental principles of federalism."

Because the new order revokes the previous federalism guidelines signed by former President Ronald Reagan and by Clinton himself in 1993, the draft letter said "we are concerned that all references to the Tenth Amendment, identification of new costs or burdens, preemption and reduction of unfunded mandates are revoked. . . . We believe the changes in the order and the manner in which they were made raise serious questions" about the administration's commitment to partnership with state and local governments.

White House officials yesterday denied the order signaled any change of policy and scrambled to appease the Big Seven, knowing that almost all the groups will be meeting in the next few weeks and that congressional Republicans are on the trail of the controversy. Indeed, yesterday afternoon, Barry J. Toiv, a White House spokesman, said administration officials had decided to recommend to the president that he issue another order delaying implementation of the first one so officials would have the opportunity to meet and discuss the issues with state and local authorities.

"We thought there were no real substantive changes . . . but in retrospect, it wouldn't have hurt" to review the new language with the state and local officials, Toiv said. The first executive order was not scheduled to go into effect until Aug. 14.

Another Clinton aide, who did not want to be identified, said of the lack of consultation, "This was a mistake. We screwed up."

William T. Pound, executive director of the National Conference of State Legislatures, welcomed the news of the planned delay.

"It's a first step. A second step is—we clearly want substantive changes," Pound said.

Officials said the staff work on the executive order had been done by Sally Katzen, who supervised regulatory work at the Office of Management and Budget until recently becoming deputy director of the White House National Economic Council, and by lawyers in the White House counsel's office.

After the meeting with Ibarra and White House lawyers, Pound said, "They gave us no good reason why this was done without consultation. They order everyone else to consult, but then do exactly the opposite. It's a slap in the face, really."

The other groups that attended the meeting were the National Governors Association, the Council of State Governments, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties and the International City/County Management Association.

The long delay in the group's explosive reaction came about, Pound said, "because none of us knew they were going to do this, and none of us knew they had done its. It was a stealth executive order.

The first official to raise the alarm was Rep. David M. McIntosh (R-Ind.), a subcommittee chairman on the House Committee on Government Reform and Oversight and a man who had occupied the same OMB position as Katzen during the Reagan administration. He wrote Clinton saying that in revoking the previous orders, "you stripped the most basic protection accorded the states, the preparation of a Federal Assessment," which required agencies to analyze the burdens any new regulation imposes on state and local governments.

Instead of requiring federal agencies to "refrain to the maximum extent possible from establishing uniform national standards for programs," as the previous orders did, McIntosh wrote, "your order requires no restraint or deference to the states."

In a July 1 letter of reply, White House counsel Charles F.C. Ruff said the Unfunded Mandates Relief Act, passed in 1995, requires the same kind of assessments the old orders did. But McIntosh said yesterday the administration does not practice what it preaches, pointing to the recent administration directive—that states said was done without adequate consultation—that states must pay for Viagra prescriptions for Medicaid patients no matter what the cost.

GEORGE V. VOINOVICH,
OFFICE OF THE GOVERNOR
Columbus, OH, July 22, 1998.

Hon. FRED THOMPSON,
Chairman, Governmental Affairs Committee,
Washington, DC.

DEAR CHAIRMAN THOMPSON: I am writing in strong support of your amendment to repeal President Clinton's Executive Order 13083 (Federalism).

Executive Order 13083 undermines and replaces previous Executive Orders 12875 (Enhancing the Intergovernmental Partnership) and 12612 (Federalism), which recognized and guaranteed the division of governmental responsibilities embodied in the Constitution.

Executive Order 13083 was promulgated without any consultation with state and local elected officials. I strongly oppose Executive Order 13083 because it fundamentally contradicts the 10th Amendment to the Constitution and the basic principles of federalism.

Previously, the leaders of the seven bipartisan organizations representing state and local elected officials wrote to the President stating, "Executive Order 13083 so seriously erodes federalism that we must request its withdrawal." I appreciate your efforts to repeal this unfortunate attempt to justify and broaden federal preemption of state and local governments.

Thank you again for your leadership on this critical issue.

Sincerely,

GEORGE V. VOINOVICH,
Governor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am still nonplused as to the particular content of those Executive orders. I say nonplused. I know the President,

and if there is one group he really yields to, it is local and State governments, having been a Governor, having come to office as a new, whatever they call this thing—leadership, Democrat, or whatever else. He hadn't been necessarily on the side of the Federal Government but on the side of State and local governments.

I understand the misgivings of the Senator from Tennessee, and I understand what he said, that the Governors have asked and yet, apparently, the White House has declined. That is why I am nonplused, because I would like to know a little bit more about it, and I am checking right now those Executive orders and with members of our Governmental Affairs Committee, which does have jurisdiction on this particular matter.

In short, in other words, Executive Order 12612 and Executive Order 12875, the Senator from Tennessee says they change a basic presumption from federalism—local and State levels to be employed and approached, before we take over at the Federal level—with which I agree. I happen to think that the President agrees, too. That is why I want a little time to check this out.

Mr. GREGG. Will the Senator yield?

Mr. HOLLINGS. I will be delighted to yield.

Mr. GREGG. I suggest it might be acceptable to the Senator from Tennessee, because the Senator from South Carolina does have concerns that haven't been addressed and he has to get information, maybe we can set this amendment aside and move on to the Bumpers amendment. We are going to have votes at 9:30. Prior to the 9:30 period, if the Senator from South Carolina feels he needs to come back for further debate, we can go to it at that time.

Mr. THOMPSON. If the Senator will yield, I will be most happy to proceed in that direction. I suggest perhaps I consult with the Senator from South Carolina. I have the Executive orders here.

Mr. HOLLINGS. I appreciate that. I am sort of ready to go along with what the Senator from Tennessee said. Let me look at those Executive orders.

Mr. THOMPSON. Very well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3257

Mr. McCAIN. Mr. President, I ask for the yeas and nays on amendment No. 3257.

The PRESIDING OFFICER. Without objection, it is in order to ask for the yeas and nays.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. I suggest at this time we turn to the amendment from Senator BUMPERS. I ask unanimous consent that he be recognized on his amendment, that there be 40 minutes, equally divided, on the Bumpers amendment, and that at the conclusion of that, that we turn back to the Thompson amendment.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Would the Senator be willing to add a requirement that no second-degree amendments be in order? I do not anticipate any. I am just thinking we could save some time.

Mr. GREGG. If the Senator will yield, the unanimous consent agreement did not preclude second-degrees. At this time I am not in a position to preclude second-degrees. I do not expect one. I am not aware of one, but I am not in a position to agree to that.

Mr. BUMPERS. I was thinking, in exchange for a time agreement I thought we could agree that there will be no second-degree amendments. Is that not the case?

Mr. GREGG. That was not my understanding.

Mr. BUMPERS. I ask unanimous consent that no second-degree amendments be in order on the Bumpers amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Would the Senator yield?

Mr. BUMPERS. Yes.

Mr. GREGG. I ask unanimous consent that there also be no second-degrees on the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3262

(Purpose: To require a report by the Judicial Conference of the United States concerning whether the Federal Rules of Criminal Procedure should be amended to provide for the presence of witness' counsel in the grand jury room)

Mr. BUMPERS. Mr. President, I ask unanimous consent, in order to expedite the passage of this bill, that an amendment that has been cleared on both sides and offered by Senator HATCH and me—that we dispose of that now before I offer the other amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. HATCH, proposes an amendment No. 3262.

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

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

The amendment is as follows:

At the appropriate place add the following:

"SEC. . REPORT BY THE JUDICIAL CONFERENCE.

"(a) Not later than September 1, 1999, the Judicial Conference of the United States shall prepare and submit to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating whether an amendment to Rule 6 of the Federal Rules of Criminal Procedure permitting the presence in the grand jury room of counsel for a witness who is testifying before the grand jury would further the interests of justice and law enforcement.

(b) In preparing the report referred to in paragraph (a) of this section the Judicial Conference shall consider the views of the Department of Justice, the organized Bar, the academic legal community, and other interested parties.

(c) Nothing in this section shall require the Judicial Conference to submit recommendations to the Congress in accordance with the Rules Enabling Act, nor prohibit the Conference from doing so.

Mr. BUMPERS. This is the amendment that Senator HATCH and I agreed to this morning which would modify the grand jury amendment that I lost. This morning, Senator HATCH and I agreed to a plan that recommended that the issue be submitted to the Judicial Conference for study and a report back to Congress.

I have talked to the floor managers who have agreed to it.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3262) was agreed to.

AMENDMENT NO. 3263

(Purpose: To make it illegal, in most cases, to tape a phone conversation without the consent of all parties)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3263.

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

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

The amendment is as follows:

At the appropriate place add the following:

SEC. —. Subsection 2(d) of Section 2511 of title 18, United States Code, is amended to read as follows:

"2(d)(i) Except as prohibited by subsection (ii), it shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to

the communication or where one of the parties to the communication has give prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

''(ii) It shall be unlawful under this chapter for a person not acting under color of law to intercept a telephone communication unless

''(A) all parties to the communication have given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or toritous act in violation of the Constitution or laws of the United States; or

''(B) such person is an employer, or the officer or agent of an employer, engaged in lawful electronic monitoring of its employees' communication made in the course of the employees' duties; or

''(C) such person is a party to the communication and the communication conveys threats of physical harm, harassment or intimidation.''

Mr. BUMPERS. Mr. President, I hope that we can probably yield time back on this amendment. Senator HOLLINGS is a cosponsor of the bill which this amendment is based on, as are several other Senators. It is a very simple amendment.

I first brought this issue to the Senate's attention in 1984 when it was determined that Charles Wick, who at that time was head of the U.S. Information Agency, had been tape recording conversations with just about everybody he talked to, including President Reagan and President Carter, without their knowledge or consent.

He revealed that he had recorded over 80 conversations—Cabinet members, Presidents, everybody. They did not even know it. I do not mind telling you, while I knew that that was legal, I was deeply offended by it. And I am still offended by it. This is an area, that is so often the case, where the States are way ahead of the Senate.

Recently, Attorney General Janet Reno testified before our Appropriations Committee, and I asked her, ''General Reno, I have a bill pending in the Congress that would make it a crime to tape record conversations where only one party knew it was being tape recorded; namely, the person doing the recording, and the other person didn't know it. How do you feel about that, General Reno?''

''Well,'' she said, ''you know, that came up in the Florida State legislature back in the early 1970s. And we passed a law in Florida that made it a crime to tape record telephone conversations where only one party knew about it.'' And I said, ''Well, let me ask you this: What were you doing at the time?'' I guess she was district attorney or whatever they describe that position in Dade County, FL. And finally I said, ''Well, General Reno, how did you feel about the Florida legislation?'' She said, ''I favored it.'' Well, I favor it, too.

And Charles Wick is not the first, and he certainly will not be the last, to have ever recorded telephone conversations without telling people.

I have introduced this legislation three times—1984, 1993 and 1998. I will never understand—as those of us who lose never seem to—how, on God's green Earth, anybody would vote against prohibiting and outlawing such an outrageous invasion of people's privacy.

Sometimes I am sitting in my office and talking on the telephone to people back home that are wanting me to support legislation, and sometimes I am sort of hanging foot loose and fancy free, saying things that I would not say publicly. And do not be offended; that applies to every single Member of this body. Every one of them have done it.

Sometimes I say things, and later on I get to thinking, ''You know what? If that guy was tape recording that''—he had a perfect right to—''I wouldn't have to know about it.'' And you know something else? Approximately fifteen States have done exactly what Florida did; they have outlawed this.

The Congress is the last one to ever get the word. On that grand jury amendment I offered this morning, 28 States allow a witness' attorney in a grand jury room. And Congress is still dithering and ringing its hands and saying—''Well, I don't know. We need to study it.'' And here we are with one of the most egregious abuses known—and we continue to tolerate it.

What if you called from Maryland to Virginia? Let's just assume the Governor of Maryland calls the Governor of Virginia. Now, the Governor of Maryland assumes that he is protected because Maryland has a law against recording a telephone conversation when both parties are not privy to it. But the Governor in Virginia can tape-record the conversation and he hasn't violated Maryland law because he isn't in Maryland, he is in Virginia, where it is legal to tape-record such conversations. If for no other reason, we should have a Federal law to make the matter consistent.

Now, in 1984, when I joined with Senator Metzenbaum on a floor amendment on this subject, I listened to the arguments over and over again that this would impede law enforcement. I want to tell you, so there will be no misunderstanding about this, I don't want any Senator coming on this floor and asking me, ''How about law enforcement?'' I have exempted intelligence gathering; CIA, DEA, everybody else is exempt; I have exempted the FBI, every sheriff, every police department. I have exempted anybody who even professes to know anything about law enforcement or intelligence gathering. I have exempted telemarketers, whose bosses have a right to monitor their conversations to see how effectively they are doing on the telephone.

We have made this provision as palatable as we can possibly make it, and we have done it in a sensible way. Colleagues, you will never get a chance to vote for an amendment that has been thought out any better than this one has. It has now been 14 years since I first gave the Senate an opportunity to pass such an amendment as this. As I say, it is very narrowly tailored.

All I could do, if I wanted to use up the entire 40 minutes, is to stand here and repeat over and over again how offended I am at the thought of somebody tape-recording a conversation with me and not telling me about it, and the first thing you know, I see it on the front page of the Washington Post.

This amendment has nothing to do with Linda Tripp. This is not a partisan, political amendment. I am telling you, I introduced a bill on this subject in the Senate in 1984, and I introduced a similar bill in 1993, and I am offering it to this body in 1998. Linda Tripp played no part. You make up your own mind about that case, whatever it may be. I am just telling you, as a general principle and as a citizen of the Nation that values the privacy of its citizens above all, please support this amendment and let's put this one to rest once and for all.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent the call of the quorum be rescinded.

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

Mr. BUMPERS. Mr. President, I want to make one other point that was brought to my attention by the floor managers which I failed to mention a moment ago. That is that my amendment also provides an exemption for anybody, male or female, who is threatened by a stalker. They would be exempt if they tape-recorded a conversation.

I wanted to make that clear so everybody would understand that is also covered as an exemption under this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BUMPERS. Mr. President, we have been in a quorum call. Who is the time being charged against under the order?

The PRESIDING OFFICER. We have had 2 quorum calls in place. One was charged against Senator GREGG who asked it be charged against his time, and the other was charged against the Senator from Arkansas.

Mr. BUMPERS. So under the order, a quorum is charged against whoever asked for the quorum call?

The PRESIDING OFFICER. That's correct.

Mr. BUMPERS. I won't be asking for a quorum call.

The PRESIDING OFFICER. Time will be charged equally.

Mr. BUMPERS. Mr. President, is the time being charged equally now?

The PRESIDING OFFICER. It is.

Mr. GREGG. Mr. President, I suggest that for the next 5 minutes the time be charged to my time.

The PRESIDING OFFICER. The next 5 minutes of time will be allocated to the time of the Senator from New Hampshire.

Mr. BUMPERS. How much time do the opponents of the amendment have?

The PRESIDING OFFICER. The Senator from New Hampshire has 14 minutes 49 seconds. The Senator from Arkansas has 2 minutes 16 seconds.

The PRESIDING OFFICER. The Chair will inform the Senator from New Hampshire that the 5 minutes allotted to him have now expired.

Mr. GREGG. I ask unanimous consent that the next 5 minutes also be allocated to me.

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

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent at this time that all time be yielded.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. All time is yielded.

Mr. GREGG. Mr. President, we will now move on to the Feingold amendment. For Members' notice, the next item in order will be Senator Feingold's amendment dealing with the cable issue. I presume he will be here at any time to start that. Those Members wishing to speak on that amendment should be on the floor as I assume there will also be a time limit on this amendment. In fact, I ask unanimous consent that debate on the Feingold amendment be limited to 40 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Is the Senator propounding a unanimous consent agreement with regard to my amendment?

Mr. GREGG. Mr. President, I just asked that there be a time limit of 40 minutes equally divided on the amendment.

Mr. FEINGOLD. Does that include the understanding that there will be no second-degree amendment?

Mr. GREGG. At this time I can't agree with that. I am not aware of a second-degree amendment.

Mr. FEINGOLD. Mr. President, I object, momentarily.

The PRESIDING OFFICER. The consent order has already been agreed to. The Senator would have to ask unanimous consent.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the previous order be vitiated pending a few moments to talk with the Senator from New Hampshire.

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

Mr. FEINGOLD. Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. 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. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 3264

(Purpose: To require a report from the Federal Communications Commission with respect to cable television rates)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin (Mr. FEINGOLD) proposes an amendment numbered 3264.

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

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

The amendment is as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) FINDINGS.—Congress makes the following findings:

(1) Since the adoption by the Federal Communication Commission of the so-called ''Going Forward Rules'' to relax regulation of cable television rates in 1994, cable television rates have increased by 6.3 percent per year. Since the enactment of the Telecommunications Act of 1996 (Public Law 104–104), such rates have increased by approximately 8.2 percent per year.

(2) The rate of increase in cable television rates has exceeded the rate of increase in inflation by more than 3 times since the enactment of the Telecommunications Act of 1996. The increase in such rates is faster than when such rates were not regulated between 1986 and 1992. Such rates are rising 50 percent faster than the Commission predicted when it adopted the so-called ''Going Forward Rules''.

(3) In 1996, many United States cities experienced increases in cable television rates that exceeded 20 percent. Overall, according to the Bureau of Labor Statistics, cable television rates increased at an annual pace of 10.4 percent in 1996, compared with 3.5 percent for all consumer goods.

(4) The Nation's largest cable television company boosted its rates approximately 13.5 percent in 1996. In Denver alone, it raised rates by 19 percent in the summer of 1996, then another 8 percent in June 1997. The Nation's second largest cable television company increased its average rates 12 percent in the New York City area in 1996.

(5) The cable television industry continues to hold the dominant position in the market for multichannel video programming distribution (MVPD) with 87 percent of MVPD subscribers receiving service from their local franchised cable television operator.

(6) Certain factors place alternatives to cable television at a competitive disadvantage. For example, direct broadcast satellite (DBS) service is widely available and constitutes the most significant alternative to cable television. However, barriers to both the entry and expansion of DBS include—

(A) the lack of availability of local broadcast signals;

(B) up front equipment and installation costs; and

(C) the need to purchase additional equipment to receive service on additional television sets.

(7) Telephone company entry into the video programming distribution business has been limited.

(8) With the increased concentration of cable television systems at the national level, the percentage of cable television subscribers served by the 4 largest cable television companies rose to 61.4 percent in 1996.

(9) Recent agreements in the cable television industry have given TCI and Time Warner/Turner Broadcasting ownership of cable television systems serving approximately one-half of the Nation's cable television subscribers.

(10) Financial analysts report that cable television industry revenue for 1995 was $24,898,000,000 and grew 8.9 percent to $27,120,000,000 in 1996. For 1996, revenue per subscriber grew 5.6 percent to reach $431.85 per subscriber. Analysts estimate 1997 year-end-total revenue for the industry was approximately $30,000,000,000, an increase of 9.9 percent from 1996 year-end revenue.

(b) REPORT.—(1) Not later than 30 days after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report setting forth the assessment of the Commission whether or not the findings under subsection (a) are consistent with the Commission's fulfillment of its responsibilities under the Cable Television Consumer Protection and Competition Act of 1992 (Public Law 102–385) and the Telecommunications Act of 1996 to promote competition in the cable television industry and ensure reasonable rates for cable television services.

(2) If the Commission determines under paragraph (1) that the findings under subsection (a) are consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a detailed justification of that determination.

(3) If the Commission determines under paragraph (1) that the findings under subsection (a) are not consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a statement of the actions to be undertaken by the Commission to fulfill the responsibilities.

Mr. FEINGOLD. Mr. President, the amendment I offer today is prompted by the continuous rise in cable rates across this country over the past few years. You will remember when Congress passed the Telecommunications Act of 1996, we were promised that competition would bring lower cable rates for consumers. Well, it hasn't happened. In fact, rates have gone up—alot—in many communities around the country.

About two-thirds of the households in this country now rely on cable for their television programming. More

and more, cable is part of the monthly budget for the average consumer. It is not a frill or a luxury. We rely on cable for information and for entertainment. And instead of the cost going down because so many people now use the service, the cost just keeps rising.

In my home state of Wisconsin, the cable company in the Madison area raised its rates by 9% in June. That's on top of a 7% increase just a year ago, and an 18.8% increase in 1996. According to the Federal Communications Commission, average cable rates across the country rose 8.5% from July 1996 to July 1997, three to four times faster than the rate of inflation.

Now, Mr. President, I voted against the Telecommunications Act in part because I was concerned that it would not really promote competition in the cable industry. And look what has happened. The top two cable companies now have over 50% of the market in this country, and the top four cable companies have over 60% of the market.

And the biggest problem, of course, is that despite the promises of those who promoted the new telecommunications law, there is no competition at all in the vast majority of cable markets. In all but a handful of communities in this country, consumers still have no choice in buying cable service. Alternatives to cable, such as satellite services, are not readily available to most consumers, or they are too expensive to offer much competition. The number of areas where consumers have a choice between cable operators is very small indeed. Only five million homes out of the 94 million that are capable of receiving cable programming can now choose between two cable operators.

Now here's a shocking statistic from the FCC's most recent annual study of competition in the video programming market: Cable rates have gone up more slowly in areas where there is competition!

Mr. President, in a truly competitive market, the cable companies would try to keep their rates as low as possible to retain their customers. Companies could charge higher rates based on new investment in facilities or programming only if they could convince their customers to accept those increases rather than take their business elsewhere to a competitor in the same town.

Just think about it. You get a notice that your cable bill or a bill for any other crucial service is going to go up significantly. What is the first thing you would do? The first thing you would do in a competitive situation is check out the competitor's rate, of course. But without competition, cable companies are able to increase rates with very little fear of losing their customers. Most people will endure a pretty big increase before they decide to give up their cable service. But even a minor increase might prompt a call to the competitor down the street, if only such a competitor actually existed.

The FCC has made it very clear that notwithstanding the fact that its authority to regulate cable rates does not expire until March 1999, it does not intend to take any action this year to hold down cable rates. I am concerned that when the power expires next year we will see even greater rate increases than we have seen since the Act passed in 1996. And those have already been dramatic increases.

Earlier this year, I wrote to the Chairman of the FCC, asking him to give serious consideration to a request that had been filed by Consumers Union to freeze cable rates until the FCC could investigate the reasons for the recent increases and also determine whether current cable TV rates are reasonable.

In response, FCC's Chairman William Kennard indicated that he believes a rate freeze would be unfair to cable companies that have acted responsibly, and that it would hurt small independent cable operators. With all due respect, I don't think this is an adequate response. The FCC has essentially said that it does not know why cable rates are going up. If that is the case, then it has no idea whether cable companies are acting responsibly or not. And it certainly is in no position to ensure that cable rates are reasonable for consumers. Furthermore, the Telecommunications Act has already deregulated the small operators who serve rural communities. So that is not particularly relevant or a justification for not examining what is happening with these cable companies.

At the same time, Mr. Kennard told me that the FCC ''continues to aggressively enforce its cable rate regulations to ensure that cable rates are reasonable under the law.''

I'm not sure what the FCC means by aggressive enforcement, but I don't see it, and certainly consumers whose rates have risen at three times the rate of inflation are not seeing the aggressive enforcement either.

Mr. President, I ask unanimous consent that my letter to Chairman Kennard and his response be printed in the RECORD.

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

UNITED STATES SENATE,
Washington, DC, May 18, 1998.

Hon. WILLIAM KENNARD, *Chairman, Federal Communications Commission, Washington, DC.*

DEAR CHAIRMAN KENNARD: I was very disappointed to hear of your decision, conveyed in remarks to the Washington Post last Thursday, that the FCC will take no action this year to hold down cable TV rates. Abdicating the FCC's responsibility in this area is a serious mistake. I urge you to reconsider your position.

Cable television rates across the country have risen by more than 5 times the inflation rate over the past year. In my own state of Wisconsin, the cable franchise operator in Madison recently announced a rate hike of 9 percent that will take effect in June. That follows a 7% increase just a year ago, and an 18.8 percent increase in 1996. Increases of this size are unconscionable, notwithstanding the cable companies dubious argument that they are justified by investment in new equipment and by increased programming costs.

In a truly competitive market, the cable companies would try to keep their rates as low as possible to maintain their customer base. New investment in improved facilities or programming could be reflected in increased rates only insofar as consumers are willing to accept those increases rather than take their business elsewhere. Real competition is still only found in only a handful of communities. In that environment, the cable companies are able to increase rates without fear of losing market share. Only the FCC can step in and demand that rate increases be justified.

Your frank admission to the Washington Post that the FCC does not know why cable rates are going up is disturbing. If that is the case, how can the agency fulfill its statutory obligation to assure that the rates for basic cable service are reasonable and do not exceed the rates that would be charged if there were real competition in the market? Even though the FCC's authority to regulate cable rates does not expire until March 31, 1999, is the Commission now just taking the cable companies' word for it that rate increases are justified?

Despite the promises of those who supported the Telecommunications Act of 1996, competition has not yet arrived in the cable industry. Until it does, or until the FCC's statutory authority expires, the FCC has an obligation to protect consumers from the kind of price gouging that is now going on in the cable industry. I urge you to reconsider your decision to advance the date of complete deregulation in the cable industry by almost a year. Instead, the Commission should give serious consideration to the pending petition to freeze cable rates. Anything less is an abdication of the Commission's statutory responsibility and an abandonment of the consumers that the agency is supposed to serve.

Sincerely,

RUSSELL D. FEINGOLD,
United States Senator.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, DC, July 8, 1998.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for your letter concerning the recent article in The Washington Post discussing the regulation of cable television rates and the sunset of the Federal Communications Commission's authority to regulate the rates charged for cable programming services. I appreciate learning your views on cable regulation and welcome your perspective on this issue.

The Commission is committed to protecting consumers from unreasonable cable television rates and to promoting the development of strong competition in the marketplace for multichannel video programming. Like you, I am concerned about the recent trend in cable television rates. In many communities, cable rates are increasing at a rapid pace. In some cases, cable rates are going up much faster than the general rate of inflation.

Please be assured that the Commission continues to aggressively enforce its cable rate regulations to ensure that cable rates are reasonable under the law. Indeed, since the adoption of the Cable Television Consumer Protection and Competition Act of 1992, the Commission has received more than 17,000 cable programming services tier rate complaints and ordered a total of $84 million

in refunds to more than 58 million cable subscribers. In addition, under the Telecommunications Act of 1996, which modified the rate complaint procedures, the Commission has resolved more than 670 rate complaints and order total refunds of more than $13 million to 9.4 million subscribers.

While I have indicated that I believe some of the Commission's cable rate regulations may need to be reevaluated, I am concerned that we do not have sufficient information nor adequate time to develop and adopt revised regulations before the Commission's authority to regulate the rates charged for cable programming services terminates on March 31, 1999. I believe we need to attain a better understanding of the behavior of cable rates before we undertake any steps to change our rules. Moreover, at this time, with the sunset of cable programming services regulations less that one year away. I am not persuaded that a major reformation of our rules would be the most productive use of the Commission's limited resources. This should not be interpreted to mean that the Commission does not intend to vigorously enforce its current rate regulations.

At the same time, I am not convinced that a freeze of cable television rates is appropriate and in the public interest. A broad rate freeze would arbitrarily penalize cable television system operators who have acted responsibly. A rate freeze also could undermine the important capital investment that the cable industry must make to modernize its networks and bring new services and choices to consumers. I am also concerned that a freeze may have an adverse and disproportionate effect on small independent cable operators which would jeopardize the provision of new services to small towns and communities across the country.

As pointed out in the Washington Post article, the Commission can play an important role in collecting and analyzing the information you and other policymakers will need to determine whether cable rate regulation should be extended beyond March 31, 1999. To begin this effort, I recently directed the Cable Services Bureau to undertake a review of a number of issues related to cable television rate increases, including the sources of programming cost increases. We are interested in learning more about programming costs and the revenues cable operators generate from sources other than monthly subscription charges, such as advertising, commission, and program launch fees. The review also will help us determine if the relationships that have developed between cable system operators and programmers affect the prices charged for programming as well as the availability of the program services to competitive multichannel video programming distributors. As part of this review, the Bureau recently asked several large cable television companies to complete a questionnaire to supplement the information they provided to the Commission for the 1997 Cable Price Survey. I expect the Bureau to complete its work this summer and to report its findings to the Commission soon thereafter.

Because competition is the optimum way to discipline cable television rates, the Commission also continues its work to promote increased competition in the marketplace for multichannel video programming. For example, the Commission's program access rules have been credited as an important factor in the development of both the direct broadcast satellite and the multichannel multipoint distribution industries. Moreover, the Commission has adopted a Notice of Proposed Rulemaking that is designed to strengthen our program access rules and enhance the competitive position of alternative multichannel video providers.

Similarly, the rules the Commission adopted to implement section 207 (Restrictions on Over-the-Air Reception Devices) of the Telecommunications Act of 1996 have helped to bring new choices to consumers and promote competition in the video distribution market. In addition, the Commission recently issued its cable inside wiring rules designed to facilitate competition among video service providers in apartment buildings and other multiple dwelling units.

As important as the Commission's initiatives may be, in some cases, enhanced competitive opportunities in the multichannel video programming distribution market may ultimately depend more upon changes in the law than on additional actions by this Commission. For example, some direct broadcast satellite providers contend that their service had limited consumer appeal because they are generally prohibited by the Satellite Home Viewer Act from providing local television broadcast signals to consumers. These same provider also may be placed at a competitive disadvantage because the current compulsory license regime requires direct broadcast satellite providers to pay substantially higher copyright fees than cable operators pay for the same programming. As Congress considers potential reforms in these and related areas, parity among the various multichannel video programming distributors should be a primary goal.

I appreciate hearing from you on these important issues and hope you will continue to share your thoughts with me on these and other communications matters of concern.

Sincerely,

WILLIAM E. KENNARD,
Chairman.

Mr. FEINGOLD. Mr. President, the amendment I have offered is designed to tell the FCC that this situation is unacceptable. It makes findings to which I have alluded here—that cable rates are rising and there is no competition in the cable market—and asks the FCC to report back to us within 30 days as to whether it believes that these findings are consistent with the FCC having fulfilled its responsibilities under federal law to promote competition and ensure that cable rates are reasonable.

I do not believe that the FCC will be able to tell us in the face of these findings that it has fulfilled its responsibilities. The amendment therefore requires that the FCC inform us of the steps it intends to take to ensure that those responsibilities are fulfilled.

The Telecommunications Act was enacted in early 1996. For over two years, the American people have watched with alarm as cable rates have gone in exactly the wrong direction. It is time for the Congress to tell the FCC that is not what was supposed to happen, and that the Commission has to do something to change it. I urge my colleagues to vote for this amendment. It, of course, will not singlehandedly solve the problem, but it should move the Commission, and I hope cable rates, in the right direction.

Mr. President, I ask unanimous consent that two newspaper articles concerning rising cable rates and the FCC's decision not to take action, one from USA Today, and one from the Washington Post, be printed in the RECORD.

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

[From the USA TODAY, Mar. 16, 1998]

CABLE'S CASH COW OPERATORS PAD CHANNEL LIST TO PAD BILLS

(By David Lieberman)

NEW YORK—For the third year in a row, the nation's 65 million cable subscribers are getting hit with an average 8% hike in their monthly bills.

That's an increase of four times the inflation rate for what has become a staple of the American media diet—channels such as CNN, MTV, Nickelodeon and ESPN.

The typical family now pays more than $31 a month for standard cable fare, up from $28.83 last year. And some households pay nearly twice that amount once the cost of premium channels, such as Showtime and HBO, and services like pay-per-view are added.

Cable operators justify the rate hikes, citing higher programming costs, among other things. But what most consumers don't know—and what the cable industry usually doesn't tell you in their bill stuffers—is that the lion's share of the extra money they're charging you for expanded basic cable pays for new services that few consumers want.

Operators, eager to improve cash flow, are using lax federal rules to raise rates by adding channels that few customers want and that some times cost companies nothing. They're charging consumers for expensive equipment that most can't use yet. And they're making customers subsidize construction of interactive phone and video services that won't be available to most for years. Once they are, some services—such as high-speed Internet—will be so costly that they'll appeal only to affluent videophiles and technophiles.

Cable operators still think their current rates are a good deal and that future services will make cable even more appealing. ''The rate increase that we put in has, by and large, been accepted because it's usually been in the context of a system that is upgrading and providing more services,'' Time Warner CEO Gerald Levin says.

But consumers—unwilling to give up what has become for them must-have TV and weary of the government's failure to rein in cable rates—are quietly seething.

''It's never going to change,'' says cable subscriber Dory DeAngelo, 59, a local historian in Kansas City, Mo. ''I looked into a satellite dish, but I'd still need cable to get the local channels . . . A lot of people are very tired of this.''

A GOOD DEAL FOR CABLE

When city officials were asked last fall which problems are getting worse in their communities, 72% mentioned cable rates, up from 62% in the 1996 and 47% in 1995. It was the most frequently mentioned growing problem in the annual survey conducted by the National League of Cities.

Members of Congress and the Federal Communications Commission (FCC) have soured on rate regulation. Economists say current federal rules let companies charge as much as they want. Consumers Union telecommunications expert Gene Kimmelman calls the regulations ''worthless.''

During the past two years, medium and large systems with no local competitors have added about six channels, to an average of 51, the FCC says. That wasn't necessarily because most subscribers wanted them. It was because federal rate rules gave cable companies a great deal. They could charge consumers the full cost of carrying up to six new channels—plus tack on a profit of 20 cents per subscriber per month for each channel. Forever.

The FCC found the average cost per channel rose from 57 cents to 60 cents from 1995 to 1997 at the noncompetitive medium and large systems.

''Loading channels on is a nice thing from their perspective,'' says Larry Irving, President Clinton's chief telecommunications adviser. ''But do I get what I'm asking for? With cable, I get to write a check whether or not I want them.''

Even without the 20-cent profit, cable companies have incentives to add channels and raise rates:

Several channels—including Fox News, Animal Planet and Home & Garden TV—paid cable companies to get on the dial.

Others—including MSNBC, TV Food Network and BET on Jazz—give local systems three minutes of ad time to sell each hour, instead of the usual two minutes.

PROFITING TWICE

The arrangement is especially sweet for most large *opeators* because they also own, or invest in, cable programming.

For example, Time Warner owns CNN, TNT and Cartoon Network. Tele-Communications Inc. has stakes in Discovery, Fox Sports and Odyssey. MediaOne, Comcast, Cox and Cablevision Systems also have major investments in cable channels.

''It creates an odd paradigm,'' says Bruce Leichtman of The Yankee Group, a research and consulting firm. ''It's kind of a shifting from one pocket to the next.''

Operators say they're giving the public what it wants by adding services such as Animal Planet, MSNBC, FX, ESPN2 and ESPNews.

''Every one of those channels gets a good rating,'' Comcast President Brian Roberts says.

But FCC Commissioner Gloria Tristani, for one, is concerned that cable operators will continue to add unwanted programming just to rake in more money from subscribers.

''This may not have been a significant problem in a 30- or 40-channel universe,'' she said recently. ''But in a 70-, 80- or 100-channel universe, these unwanted channels can have a dramatic effect.''

FUTURE SHOCK

Operators are getting more flexibility to add channels as they upgrade equipment. Yet state-of-the-art digital cable boxes—which most companies may eventually offer—also could deliver huge profits. Systems plan to sell a new tier of channels, including lots of premium services and pay-per-view, that consumers who have those boxes could order.

But in a coup for the cable industry, the law allows operators to pass the costs of those units on to all subscribers—not just the people who have them installed in their homes. A system with 10 million subscribers that bought 100,000 boxes for $400 apiece could raise everyone's rates by 33 cents a month, according to an example prepared by Paine Webber.

Fees add up quickly. The typical subscriber pays about 67 cents a month in 1998 to compensate operators who buy upgraded boxes. That will rise to $1.47 in 1999, $2.59 in 2000 and $3.04 in 2001, Donaldson, Lufkin & Jenrette estimates.

The arrangement benefits the few customers who get the latest equipment but does nothing for others—including the nearly 50% of today's subscribers who don't use any decoder box at all.

Cable operators, however, are thrilled. An estimated 37 million subscribers will pay $7.2 billion for digital programming in 2005.

What's more, the digital services could slow the growth of satellite services such as DirecTv and Echostar. Their ability to offer up to 175 channels has been a big selling point with the 6.6 million satellite subscribers.

If you build it . . .

The average cable customer is paying other fees, too. An estimated $1.75 per month goes to help operators upgrade their systems and offer a host of other interactive services—including high-speed Internet access and telephone services.

The major operators, Morgan Stanley forecasts, will spend about $46.7 billion between 1996 and 2004 to replace old wires with high-capacity fiber-optic cables and buy sophisticated technologies capable of handling two-way digital communications.

''I raise the rates so that we can fulfill the promise of this network to be digitally capable by the year 2000,'' Time Warner's President Richard Parsons says. ''Most of the money we get goes right back into the system in terms of upgrades.''

Operators say consumers will benefit from cable's investment in local telephone service. That will introduce competition, possibly lowering prices. Some systems, for example, plan package deals for customers who buy cable and phone service. ''Doesn't everybody have a telephone?'' says Cablevision Systems CEO James Dolan, whose company is far ahead of most operators in preparing for telephony. ''We're going to offer those discounts to everybody.''

Yet critics say it's unfair to ask all subscribers to help pay for upgrades largely designed to help operators enter new businesses—not to improve existing cable service. And lots of today's subscribers won't want the new products. For example, only about 5% of all adults say they are willing to buy high-speed Internet service at the expected price of about $40 a month, according to a survey by The Yankee Group.

And it will take years before most subscribers get a cable-provided dial tone. Only about 3.4 million will subscribe to a cable system's telephone service by 2002, Montgomery Securities estimates.

That projection might be optimistic at a time when technology and the economy are changing so fast. AT&T recently observed that wireless services may become potent competitors to local phone providers. ''Companies say, 'We're building for the future,' '' Harvard Business School Associate Professor William Emmons says. ''Well, that's a little dicey. What if they're building huge systems that will be obsolete? Or what if nobody wants them?''

CABLE'S EDGE

For now, cable companies assume that lots of people—particularly those who are well-to-do—will want the new array of services. Although all subscribers, rich and poor alike, are paying for the upgrades, the most advanced systems tend to be in affluent communities, including Orange County and Fremont, Calif.; Long Island, N.Y.; Arlington Heights, Ill.; and West Hartford, Conn.

The cable industry also believes that it has a big lead over other businesses—including phone companies—in delivering advanced video and communications services.

''The surprise to most has been how slow the competition is developing,'' former Continental Cablevision CEO Amos Hostetter says. ''All that talk about (phone companies) getting into the video business has been hollow.''

That's one reason most Wall Street analysts say basic cable rates will rise—albeit at a more moderate pace—even after *operators* are through making big expenditures for their upgrades. They anticipate that operating cash flow for most companies will grow an average of nearly 13% a year over the next five years, vs. about 7% growth now.

The assumption contributed to the 87% appreciation in cable stocks in 1997, a year when the Standard & Poor's 500 grew 31%.

''The market decided that government policies were a failure, and competition presents no risk to cable now and in the foreseeable future,'' Sanford C. Bernstein analyst Tom Wolzien says.

That's good for cable, but it isn't the way things were supposed to turn out when the federal government in 1992 tried to crack down on soaring cable prices and then pulled back in an attempt to encourage competition.

''There are going to be people paying for things they don't want,'' says Michael Katz, a professor of economics at the University of California at Berkeley and a key architect of the cable rules as the FCC's chief economist in 1994 and 1995. ''It's one of the unintended consequences of regulation.''

[From the Washington Post, May 15, 1998]

FCC CHIEF DECLINES TO CURB CABLE PRICES; KENNARD TO AWAIT DEREGULATION IN MARCH

(By Paul Farhi)

Consumers looking for relief from rising cable TV bills won't be getting it any time soon from federal regulators.

Though he declared earlier this year that ''cable rates are rising too fast,'' the head of the Federal Communications Commission said yesterday that his agency won't step in to freeze or roll back cable prices before a congressionally ordered deregulation of cable prices kicks in next March.

FCC Chairman William E. Kennard says his agency will continue to study the problem, with an eye toward influencing debate in Congress. Cable prices have been rising at more than five times the rate of inflation.

''We're running out of time'' to enact new regulations, Kennard said. Besides, he added, ''it doesn't make a whole lot of sense for us to try and create a whole new regulatory regime only to have [deregulation] in March of 1999.''

In December and January, Kennard had raised the possibility of putting new controls on the rates.

Kennard's statements yesterday, made in an interview with The Washington Post, amount to a major victory for the cable industry, which has been fighting efforts at tougher regulation for months. It is also a political victory for Republicans in Congress, who have pressed the FCC to avoid more regulation.

''This is good to hear,'' said Torie Clarke, spokeswoman for the National Cable Television Association in Washington. ''It means the FCC is paying attention to what the industry is doing, and that it won't get into micromanagement and regulation that will stall everything.''

Added Clarke, ''We're spending a lot of time and effort trying hard to deliver on our promise to customers. We're fulfilling a lot of those promises, and we think the government should stay out of our business.''

But consumer advocates were seething. ''The FCC has reached a new low,'' said Gene Kimmelman, co-director of Consumers Union's Washington office. ''The agency . . . won't lift a finger to stop spiraling cable rates. This is irresponsible. They're thumbing their noses at the American public.''

Consumers Union and the Consumer Federation of America asked the FCC in September to freeze rates, but the commission has not yet acted on that petition.

Cable TV prices rose an average of 7.9 percent in the 12-month period that ended March 31, according to the Bureau of Labor Statistics. That is more than five times the general inflation rate of 1.4 percent during the same period.

In the early 1990s, with price hikes running at only three times inflation, a Congress controlled by Democrats enacted a law designed to bring cable prices back to a ''reasonable'' level.

The FCC subsequently wrote regulations that succeeded in restraining—and in some cases reducing—the average monthly bill. But the FCC liberalized its rules in 1995, after the cable industry complained that the price controls were smothering innovation. There followed another price spiral. In 1996, the Republican-dominated Congress agreed to phase out most of the price rules by early 1999.

Rep. W.J. ''Billy'' Tauzin (R-La.), who chairs the House Subcommittee on Telecommunications, accused the FCC of ''ignoring'' vigorous enforcement of its price rules. But Tauzin and other Republicans have repeatedly inveighed against tougher regulations, such as a rate freeze or an extension of the current rate rules, saying incentives to help other companies be more competitive with cable are preferable.

Only a handful of the nation's 11,000 cable systems have a direct competitor, despite years of efforts to ignite competition by phone, cable, satellite and other TV providers. Earlier this week, Joel I. Klein, the Justice Department's top antitrust enforcer, said the cable industry held ''a significant, durable monopoly'' over subscription TV services.

Kennard said he isn't exactly sure why rates are rising so fast and has directed his agency to gather information from the cable industry about the potential causes. Without drawing conclusions, he said the problem probably has several facets, including the rising cost of producing programs. He added that the regulations themselves may be to blame because they gave the industry too much latitude to raise prices.

''We don't have a firm comprehensive analytic study as to why rates are going up,'' said Kennard. ''We hope to have a definitive answer'' in time to effect debate in Congress next year about possibly extending the current rules.

Rep. Edward Markey (D-Mass.) has proposed an extension of the regulations past March, and Rep. Peter DeFazio (D-Ore.) has proposed an immediate freeze.

Mr. DASCHLE. Mr. President, I certainly appreciate the concern expressed by consumers about rising cable rates, and share the desire of the distinguished Senator from Wisconsin [Mr. FEINGOLD] to better understanding the reasons for this trend. While further attention to this matter is warranted, I am not persuaded that the amendment before us will substantially further that worthy goal.

The amendment is intended to compel the FCC to tell us how it plans to address cable rates. But the FCC is already required to report on competition in the cable industry at the end of this year. The 1992 Cable Act requires the FCC to conduct an annual study on the status of competition in the cable industry, and our focus should be on ensuring that that study sheds new light on this issue.

The FCC has done little about cable rates, and the agency's track record raises doubt that yet another study by that agency, the very one that the Senator from Wisconsin faults for inaction, will add to public understanding of this matter. In addition, the amendment requires a report within 30 days, which is woefully inadequate to achieve any real information about an issue of this scope.

There are initiatives under way which should add to the policy debate. The senator from North Dakota [Mr. DORGAN] and I have asked the independent General Accounting Office to conduct a study of the causes of increasing cable rates. It is my expectation that this review will provide new evidence about steps we need to take to help control cable rate increases.

In addition, as the distinguished Ranking Member of both the Commerce Committee and the Subcommittee on Commerce-Justice-State [Mr. HOLLINGS] has said, the Senate Commerce Committee is holding a hearing on cable rates next week. As noted by the Senator from South Carolina, the Senate need not prejudge that hearing and the findings of the committee of jurisdiction with a premature amendment.

Indeed, the Commerce Committee is fully capable of ensuring that the existing statutory requirement to study this issue is fulfilled in a manner that answers the concerns raised by the Senator from Wisconsin and other members of the Senate. I encourage my colleagues on that committee to vigorously exercise their oversight responsibility in this area.

Mr. President, this amendment, while well-intentioned, is not the answer to our constituents' frustration about their cable rates. Hopefully, the FCC study currently underway and required by year's end, and the GAO review, will shed new light on this issue.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, at this time I ask unanimous consent that all debate on the Feingold amendment be completed at 8 o'clock, the time between now and 8 o'clock be divided between Senator FEINGOLD and Members or a Member in opposition, and that no second-degree amendments to the Feingold amendment be in order.

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

Mr. HOLLINGS. Mr. President, on this particular amendment, I talked previously with the distinguished Senator from Wisconsin. I thought it was in conformance with the actions of the committee with respect to the cable rates. When we passed the 1996 Telecommunications Act, we mandated that cable rates would not increase, under that particular act, until March of 1999. Thereafter, of course, rates did increase in accordance with the 1992 act.

The 1992 act allowed increases with respect to additional channels and additional services and costs incurred in expanding and in competing. That, generally speaking, is as I understood it with the cable companies. Because we have had complaints I, myself, looked at it earlier this year. The FCC has been monitoring it. We discussed this with Chairman Kennard and the other Commissioners as they came on in their confirmation hearings. They have been monitoring it.

As I understand, the distinguished chairman of our Commerce Committee, Senator MCCAIN of Arizona, is headed to the floor. Because I have been engaged in other matters, I didn't even realize we had a hearing scheduled for Tuesday of next week on this same thing, to hear from the Commissioners on what has occurred. So I would not favor this particular resolution. It is not just a matter of 30 days, it sort of preempts the committee in its action with respect to listening to the Commission and finding out.

I know, good and well, we are all familiar with the 1996 Telecommunications Act provision against increase in rates through March of 1999. Of course, then we relate back in all of these percentages. It sounds, in the resolution of the distinguished Senator from Wisconsin itself, that all you need to do is look at the percentages and they are in excess of the inflation rate and everything else. The inflation rate is not the question. It is the question of the services, the channels, and the programming itself, and the costs of expanding and competing.

I think perhaps this would have a disruptive effect on that particular trend at this time. The committee has yet to have heard from the Commission itself and from those engaged in this particular business.

So I just comment that the chairman of the committee and the chairman of the subcommittee, Senator BURNS of Montana, are on their way, as I understand it, to the floor. I didn't want to just waste this time and let it go past on the premise: Wait a minute, in 30 days——

Incidentally, the Federal Communications Commission is just like a tenth-round boxer. They have more mergers, more rulings, and everything else like that, trying to implement all the petitions that they have before them. You could not find fault if they could not find out in 30 days, 60 days, or 90 days.

So I do not think this is well taken, with respect to what the Congress has asked the FCC to do. They have had one backup of time, trying to make findings here, after their particular investigations. Mind you me, if there are 60,000 lawyers registered to practice in the District of Columbia, 59,000 are communications lawyers. They have more appeals and petitions and reviews and everything else of that kind. So the work at the FCC is not necessarily the most prompt, or what we would wish to have, but it has to be understood. The committee itself is working.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate the remarks of the ranking member, the Senator from South Carolina, about the amendment. I simply want to point out that, in fact, this 30-day period is not 30 days from today that the FCC would have to complete this report, it is 30 days from the time of enactment of this bill, if the amendment were successful, and that is obviously some weeks, if not months, down the road, to the point where the President would actually sign it.

All we are asking here is that a report be issued, not that actions be taken to change the cable rates during this period, but that the Commission actually give us a sense of whether they agree with the findings we have in this report or not and what they intend to do about the problem. I don't think that is an unreasonable request for a 30-day period, or even realistically what it is more likely to be, which is a 60-day to 90-day period.

Just to illustrate why we are concerned, why we think it is appropriate that Congress agree to this amendment and make this statement, it is because, in fact, the studies the FCC is doing now I don't think are getting done in a timely manner to answer the questions that have to be answered.

For example, Chairman Kennard recognized that there was a problem with regard to its annual assessment of competition in the video-programming market when he said in his statement:

> Less than 15 months away from the sunset of most cable rate regulation, it is clear that broad-based, widespread competition to the cable industry has not developed and is not imminent.

He also noted that perhaps the Commission ought to do something to address the problem. He said:

> When confronted with allegations of price gouging, cable operators reflexively point to additional programming costs. The Commission's own rules and policies may be a source of this problem. We need to examine whether there are targeted adjustments that should be made to our rate rules. For example, our rules allow programming cost increases to be passed on to subscribers. But is this right?

The Chairman went on to say that the FCC was going to look at the problem of programming costs, and that is the study that has been referred to. He said about this:

> I am therefore directing the Cable Services Bureau to commence a focused inquiry into programming costs to determine the sources of these increases, the variance in costs among various distributors, whether existing relationships impact the prices charged, and if programmers restrict consumer choice. This inquiry will require the cooperation and forthrightness of the industry.

I don't know if the FCC got the cooperation of the industry. What I do know, and what is in response to the comments of the Senator from South Carolina, is that it is now July and there is still no report or result from that inquiry.

I also know, as I have indicated before, that rates have continued to go up, with many increases taking effect at midyear. I also know that in May the Chairman told the world that the FCC was not going to take any further action to address rising cable rates.

So, this amendment is not duplicative of what is going on at the FCC. It has a deadline and a requirement the FCC outline a specific action plan to address the problem of the lack of competition in the cable industry.

Based upon the track record that I have just described with respect to the narrower issue that there was supposed to be a study on, it is not getting done. I think we need to follow up on previous congressional directives and have the entire Senate and the other body direct that a more specific study and plan of action result within the timeframe that this amendment calls for.

Mr. President, I think this is a reasonable amendment. It is not too much to ask this agency to take a look at the dramatic increases, whether they are reasonable and what they intend to do about it.

I urge my colleagues to back the amendment. I yield the floor.

Mr. GREGG addressed the Chair.

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

Mr. GREGG. Mr. President, I will simply note for my colleagues that we are making pretty good progress through these amendments that have been lined up. We lined up seven amendments to do before 9:30. We are making excellent progress. If there are Members who have other amendments, it is possible we can work them in. If they can come down to the floor and discuss them, that will be helpful. We are going to stay on the bill until it gets done, if I have my option. The sooner we can wrap up these amendments, the better.

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

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, with respect to the amendments pending, I know the Senator from Iowa, Senator HARKIN, the Senator from Oregon, Senator WYDEN—I think that one can be worked out or I think it perhaps may have already been worked out—Senator LEAHY from Vermont, Senator DORGAN from North Dakota, and Senator JOHN KERRY of Massachusetts have amendments, if they are within the view and sound of the action on the floor, please be alerted. We want to bring up those amendments. I am asking the staff to contact them.

Mr. President, with respect to this particular study, there is an action required here, as I read it. In other words, it is not just a study, but a report. The purpose is to require a report from the Federal Communications Commission, but the report really is a resolution requiring action, because the very last paragraph, Mr. President, reads as follows:

> (3) If the Commission determines under paragraph (1) that the findings under subsection (a) are not consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a statement of the actions to be undertaken by the Commission to fulfill the responsibilities.

I think that is just a little too mandatory; an unfunded mandate, I think we call that here in the U.S. Senate. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I always enjoy debating with the Senator from South Carolina. I have to differ, though, with the characterization of the words that are in this amendment. It says:

> . . . the report shall include a statement of the actions to be undertaken by the Commission to fulfill the responsibilities.

If the Commission determines it doesn't need to take any action, this doesn't require them to do anything. There is no mandate at all. We just want to know what they are planning to do. That is all this calls for, a statement of the actions to be undertaken by the Commission.

There is simply nothing mandatory about that language at all. We are just asking for a statement of the ideas they have about what to do about the increases in cable rates, if anything.

I differ with the Senator from South Carolina that there is no language in here that asks for anything other than a report as to what the Commission may plan to do in the future about the problem of cable rates.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent to amend the previous consent agreement dealing with disposition of this bill after final passage.

I ask unanimous consent that S. 2260, as passed, be held at the desk and not engrossed, and that after Senate passage of H.R. 4276, the House companion measure, that the vote on S. 2260 be vitiated and S. 2260 be indefinitely postponed.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent that all time be

yielded back on the Feingold amendment and all debate on that amendment be concluded.

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

Mr. GREGG. Mr. President, for the information of our Membership, we are waiting for two Members who have amendments on the list to go before 9:30: One dealing with gaming, Senator KYL; and one dealing with defenders, Senator NICKLES. As soon as they arrive we will begin those amendments and begin debate on those amendments.

As I mentioned earlier, if there is a Member who wishes to bring forward an amendment at this time, it appears we have some time to do that. We will welcome their attendance on the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3265

(Purpose: To amend section 505 of the Incentive Grants for Local Delinquency Prevention Programs Act relating to the illegal possession of firearms by juveniles)

Mr. WYDEN. Mr. President, I offer a bipartisan amendment that has been authored by Senator SMITH of my State and myself and a number of other Senators.

Mr. GREGG. Will the Senator yield? Is the Senator willing to enter into a time agreement on this amendment?

Mr. WYDEN. I certainly am. The chairman of the subcommittee has been very gracious. I do not anticipate going more than 15 minutes myself, and I think Senator SMITH will be coming shortly. I know he would probably want 15 minutes or less, as well.

Mr. GREGG. I ask that all debate on this amendment be completed by 8:25.

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

Mr. WYDEN. Mr. President, I now send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. SMITH of Oregon, proposes an amendment numbered 3265.

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

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

The amendment is as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. Section 505 of the Incentive Grants for Local Delinquency Prevention Programs Act (42 U.S.C. 5784) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) court supervised initiatives that address the illegal possession of firearms by juveniles.''; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''demonstrate ability in'';

(B) in paragraph (1), by inserting ''have in effect'' after ''(1)'';

(C) in paragraph (2)—

(i) by inserting ''have developed'' after ''(2)''; and

(ii) by striking ''and'' at the end;

(D) in paragraph (3)—

(i) by inserting ''are actively'' after ''(3)''; and

(ii) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(4) have in effect a policy or practice that requires State and local law enforcement agencies to detain for not less than 24 hours any juvenile who unlawfully possesses a firearm in a school, upon a finding by a judicial officer that the juvenile may be a danger to himself or herself, or to the community.''.

Mr. WYDEN. Mr. President and colleagues, Senator SMITH and I, having visited with our constituents at home and in Springfield, OR, after the terrible tragedy at Thurston High School, believe it is absolutely critical that concrete steps be taken between now and the beginning of the school year to increase the safety for our young people in schools across the land.

We believe this legislation, which has now been agreed to by both the majority and the minority, can be the first concrete step that will be taken to ensure that this fall our young people and their families can have an added measure of safety when they attend our Nation's schools. We believe that when a young person brings a gun to school, that ought to set off a five-alarm warning that there are problems for our society.

Our colleagues on several occasions have mentioned today that in a number of States it has been documented that in several hundred instances a year young people bring a gun to school, disciplinary action is taken, but then it is essentially at the discretion of law enforcement officials and others as to what additional steps will be taken.

Law enforcement officials across our State and across the country have made it very clear that they don't believe it is appropriate to put that discretion in their hands. They would like to make sure that government sets out a policy that would stipulate that when a young person brings a gun to school, that that young person will be detained for an adequate period of time to have a mental health assessment, to have law enforcement officials involved, to have health policymakers participate in what action should then be taken to best promote safety in our society. If my home State of Oregon had this policy in effect at the time of the tragedy at Thurston High School, Kip Kinkel, who is alleged to have perpetrated these crimes, would have been before a judge and held, and, in my view, unquestionably, would have been detained rather than sent home, where he allegedly killed his parents and then came back, literally, within a relatively short time, and shot and injured more than 20 young people at Thurston High School in Springfield.

What our legislation does is ensure that States that have put in place a policy of detaining a student caught with bringing a gun—that States with that policy would be accorded a priority for title V funding, the prevention and delinquency funding program, under this legislation. That way, we would ensure that, on an ongoing basis, every State in our country would have an incentive to ensure that when young people bring guns to school, as was done in the case of the Springfield tragedy, rather than simply leave to fate what happens next, there would be a finding of what was the most appropriate step to take to ensure the safety of the community.

Mr. President, I think we all agree that our schools ought to be places of learning, not of tragedy and violence. One lesson that has been learned from the tragic shootings in Oregon and Arkansas and other States is that clearly there is something wrong today with the policies for dealing with young people and guns. The policies today aren't working. Young people are falling through the cracks, and some of them are shooting other children. Bringing a gun to school ought to be a warning signal, an early sign, that there is a serious potential threat for our society. When that act takes place, it is important to get the student out of the classroom, off the streets, and in front of a professional who can make a determination of how much of a threat that student is to the community.

I think most legislators would agree we don't have all the answers, but we do know that keeping an angry student with a gun out of the classroom and off the schoolyard ought to be part of the solution. That is why the amendment that I sponsor today, with Senator GORDON SMITH of my home State, focuses on two tracks. First, Senator SMITH and I seek to remove the threat of violence from our schools as soon as it is identified. Second, we help our communities find the resources they need to identify and serve at-risk students so it is possible to prevent a potential health and safety problem from becoming the sort of tragedy that was seen at Thurston High School.

This amendment provides concrete incentives to States to immediately remove any student who brings a gun to school and to get that student before a judge and other qualified professionals. If the judge determines that student is a threat to the community or to the individual themselves, the State must hold that student for a period of time that would allow for an appropriate placement that protects our society.

If a State has in place this sort of policy to protect the community, families, and students, our legislation will give that State priority when it comes to funding juvenile justice grants. That

means they will be in a position to devote more resources to make sure that at-risk students don't follow that path of crime and delinquency, and it will be possible with these grants to target high-risk young people for aggressive and early intervention so these young people can be reached with appropriate treatment before they fall through the cracks.

What has been learned in Springfield and the other communities across this country is that expelling a student for bringing a gun to school may adequately punish the student's behavior, but it is not enough to protect the community and our society.

It is important to ensure that the appropriate steps are taken at that time—at that time when the student is apprehended by school officials, so that that student has every opportunity to work through potential problems they may be having at home, or with their peers, and our society can find a balance between preventing these crimes from occurring and punishing them when they actually take place.

There isn't a Member of this U.S. Senate who is not deeply concerned about this set of incidents across our country—literally across our Nation—where young people have been taken from us by school violence. In Springfield, OR, where Senator SMITH and I visited with the President—who deserves great credit, in my view, for supporting our bipartisan legislation—the community promised Senator SMITH and I that they wanted to let the violence end here.

It is our hope that this legislation will give States the incentive they need to enact tough detention statutes to ensure that what happened in Thurston doesn't happen across this country. My friend and colleague, Senator SMITH, is here and I want to yield the floor in just a moment. I want to thank him for the bipartisan effort that has been made on this legislation and on so many other issues that have been important to the people of Oregon. The people of Oregon and the people of our country do not see these as bipartisan issues. There is not a Democratic approach to preventing school violence and a Republican approach to preventing school violence. I tell our colleagues that the approach Senator SMITH and I bring before the U.S. Senate tonight has been supported by those who oppose gun control and those who are for gun control because they see this as commonsense Government that will be good for our students and our families.

I will close by saying that when the Senate acts tonight, this can be the first concrete step that actually protects students and families when school starts this fall. So we are very grateful to our colleagues for helping us, including our friends Senator HOLLINGS, Senator GREGG, and Senator LEAHY, who is not on the floor, and Senator HATCH has been so helpful. Senator SESSIONS has added an innovative approach with respect to establishing a court supervisory initiative to addressing unlawful juvenile gun use. This is a bipartisan step forward in making our schools safe across this land.

I yield the floor at this time.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Oregon, Mr. SMITH, is recognized.

Mr. SMITH of Oregon. Mr. President, I want to publicly thank my colleague, Senator WYDEN, for his leadership on this issue. He and I recently faced a tragedy in our State that, frankly, left us speechless and groping for a way to respond to an unspeakable tragedy—that of a young person, troubled, from a good family, but in possession of weapons and willing to use them on his parents and his fellow students.

In the face of that kind of violence—a young man who would violate four gun control laws to do what he did—Senator WYDEN and I, frankly, struggled to find out how we can respond to this, how we can, as public servants, lay down a new marker, provide a new barrier for stopping this kind of violence. Also, how can we do it in a way that doesn't impose the Federal will upon the States, but provides a carrot, and not a club, for them to enact laws that would have captured this young man and prevented a horrible tragedy from being visited upon our State and the city of Springfield.

We are not alone in this. Arkansas, Mississippi, and Pennsylvania have also suffered these kinds of tragedies. So it is a growing national concern. The reason I commend this legislation so strongly to my colleagues is because it is, in fact, bipartisan because it does enjoy the support of gun control advocates and antigun control defenders. As my colleague described, what this does is simply put in place a new safety net, so that if a young person does bring a gun to school, they will be detained—not to be just released to their parent's custody, but actually to undergo an evaluation in terms of their psychological health and their safety to the community at large.

It is unfortunate that this has to occur, but it has to occur because, at the end of the day, no other communities should suffer this consequence again. So I commend my colleague for his leadership. I also want to thank Senator HATCH, the Chairman of the Judiciary Committee, and Senator SESSIONS, for their input into this amendment; it was considerable. We worked it out with them. I think we have, in the end, an amendment that doesn't fix the situation entirely, but it goes a long way toward accomplishing that very thing.

I thank all my colleagues for indulging us. I ask for their support.

Mr. President, I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent that this amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is agreed to.

The amendment (No. 3265) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, we are now in order to go to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3266

(Purpose: To prohibit Internet gambling)

Mr. KYL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself and Mr. BRYAN, proposes an amendment numbered 3266.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 3267 TO AMENDMENT NO. 3266

(Purpose: To provide an exception for ''fantasy'' sports games and contests)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] proposes an amendment numbered 3267 to amendment No. 3266.

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

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

The amendment is as follows:

On page 3, strike lines 9 through 12, and insert the following:

''(iii) a contract of indemnity or guarantee;

''(iv) a contract for life, health, or accident insurance; or

''(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

''(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

''(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

''(III) in which the winner or winners may receive a prize or award;

(otherwise know as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

Mr. KYL. Mr. President, let me briefly describe what this amendment does and indicate the degree of support that exists for it. Before I do that, let me say that this amendment passed out of the Judiciary Committee with one dissenting vote several months ago. It had been our intention to bring the amendment to the floor as a separate, free-standing bill, but because there was not floor time available to do that, we have had to resort to the amendment process under this bill. I regret that we have to do that, but that is the only way we would get this important piece of legislation before the full Senate.

Frankly, Mr. President, it has been good because, during the interim, we have been able to work with parties who had concerns about the bill, and I think, for the most part, we have worked the concerns out. I know that one matter remains to be dealt with later. But except for that, we have been able to improve on the bill since it passed out of the Judiciary Committee.

As a result of that, I report to my colleagues that some of the groups and organizations that support this legislation—to give you an idea of the breadth of support we have, it came up because of the Attorneys General of the United States; all 50 attorneys general from our States approve of this and support this legislation and, frankly, they are the ones that asked the Judiciary Committee to move forward with the legislation.

Jim Doyle, the Democrat attorney general from Wisconsin, testified two times before our committee strongly in support of this legislation. One of the things he said was—I will quote it; I will find the quote.

But, in effect, what he said was ordinarily attorneys general don't come to the Federal Government and ask for statutes to be federalized; they like their own jurisdiction. But in this case they had to come before the Congress. The individual attorneys general simply cannot enforce their own State prohibitions. Why is that so? Because, if the State of South Carolina, for example, has made a public determination, as it has done, that this kind of gambling is illegal and ought to be illegal, and a neighboring State—let's say North Carolina—should allow people to broadcast into South Carolina these virtual casino games that people can now find on the Internet, or let's say that comes even from outside the country, which is where these actually emanate from for the most part, then the people of South Carolina cannot be protected even though their State policy is that their people not be subjected to this kind of gambling. That is why all 50 State attorneys general got together and came to us, and said, ''Would you please help us solve this problem?''

We have to be able to have a Federal law that is enforceable through the Federal courts as well as the State courts to prohibit this kind of activity. That was why we introduced the legislation and moved forward with it. But what we soon found was that the support for the legislation was much broader than that. You might expect that Louis Freeh, Director of the FBI, has expressed strong support for it.

But we have also had strong support coming from amateur and professional sports organizations. You can understand why, because the integrity of sports depends upon people knowing that the outcome of any sporting event is not determined by someone gaming the system.

Unfortunately, we have seen these kinds of stories about point shaving and the like. I will give you an example from my own State of Arizona where a student got deeply into debt. He played basketball and ended up pleading guilty to shaving points and trying to throw games in order to pay off his gambling debt. Neither amateur nor professional athletics can stand that kind of attack on the integrity of sports, and as a result they came to us.

We have strong support for this legislation from the NCAA, the Amateur Athletic Association, from the National Football League, the National Collegiate Athletic Association, the National Hockey League, the National Basketball Association, major league baseball, and a lot of different organizations that understand how insidious gambling can be when it is conducted in a medium such as the Internet, and as a result they strongly support this legislation.

We also like to say until he moved on that, this legislation is supported all the way from Ralph Reed to Ralph Nader. Ralph Reed has moved on, but the Christian Coalition still supports the legislation; as does Ralph Nader, the Public Citizen organization which he represents, the National Coalition Against Gambling Expansion, the National Coalition Against Legalized Gambling, Focus on the Family, Family Research Council, and many other organizations.

The reason I wanted to mention this at the very outset is simply to illustrate the fact that this legislation has broad, widespread support from a variety of organizations and interests around the country.

In the meantime, from the time it passed out of the Judiciary Committee, we have been able to work with the so-called horse industry and the pari-mutuel betting to assuage concerns that they had originally expressed.

We have also worked with the Internet providers who will be an integral part of the enforcement of this legislation. We have a letter from the main Internet providers indicating that they have no objection to this legislation passing in the form that it has passed.

Mr. President, I have kind of given you an idea of the kind of support that we have for it.

It is opposed, frankly, by two groups. One you will hear from—at least one Indian tribe. And perhaps some other Indians would like to have a carve-out; they would like to be excepted from this. Second, naturally the gambling interests offshore who stand to make billions of dollars from this illegal activity do not like it. So that is who is against it.

Mr. President, I said this ''illegal activity,'' and I did that with a reason. The activity that we are largely prohibiting tonight is already illegal. The Wire Act, so-called, Telephone and Wire Act of 1961, makes it illegal to conduct sports gambling over the telephone, or a wire. So much of what is being prohibited in this legislation is already illegal.

For those people who say, ''Well, we would like to be able to conduct this activity,'' their beef is not with our bill. Their beef is with existing law. One of these days wires are not going to be the means of electronic transmission. It is going to be fiber-optic cable or microwave transmission through satellites. We are not at all sure that when that happens that the Telephone and Wire Act will be able to be used by prosecutors in their prosecutions.

Just a couple of months ago, the district attorney for the district of New York indicted 14 people for conducting this kind of illegal activity under the Telephone and Wire Act. But, Mr. President, that might not be possible in the future. That is why we want to update the Telephone and Wire Act.

In addition to that, the second thing that this bill does is to ensure that, whether it is sports betting or not, the activity is illegal on the Internet because what has cropped up in recent months is something called the ''virtual casino.'' It looks a lot like a casino that you would go to that is perfectly legitimate such as Las Vegas or Atlantic City. It is on the Internet, and it comes outside of the country, because, of course, it is not illegal outside the United States—at least in some countries. But that is being, in effect, sent to American citizens in our country.

The attorneys general of Florida, South Carolina, Arizona, and other States have no way to stop it under existing law. Our bill ensures that kind of ''virtual casino'' over the Internet is illegal, and that it is enforced through not only the usual means of enforcement but also with the ability of the prosecutors to go to the court and after a finding that this activity is being conducted over the Internet, to enjoin its further conduct by bringing in the Internet service provider, in most cases, and asking the Internet service provider to cut off the service, to pull the plug on the service from that particular web site. In some cases it will be very easy to do. In other cases, it is more complicated. We provided for that in the legislation.

As I said, the Internet service providers—at least some of the largest groups, and I can provide the names if anyone is interested—are satisfied that the language that we have worked out in the bill for this purpose is at least not objectionable to them.

Let me indicate that this is a relatively new phenomenon, but it is pretty clear that we need to stop it now because it is quickly becoming, or will become, a multibillion-dollar activity.

A recent ''Nightline'' piece, which was devoted to Internet gambling, reported that there are now an estimated 140 gambling sites online. Two years ago, Internet gambling was a $60 million business. Last year it grew to $700 million, and some believe that by the year 2000 the figure will be $10 billion.

Mr. President, if we don't stop this activity now, the money that is generated by this kind of illegal activity is going to, I am afraid, become so influential in our political process that we will never get it stopped. That is why we have to act this year.

I might add, Mr. President—and I am so delighted to have the expertise and the support of the Senator from Nevada, Senator BRYAN—that one of the reasons why the legitimate gaming organizations and activities in our country are also in support of this legislation is because they understand. They don't want gambling to get a bad name. A lot of money is made, and a lot of people are employed in the gaming industry in these States. They are highly regulated.

When you go to a gaming activity in Las Vegas, you know that you are going to be treated fairly. If you win, you will get the money. You know exactly what the odds are. And there is a regulation commission that ensures that the rules are abided by. But that is not the case on the Internet.

Here is the problem.

Young children are getting really good at logging onto the Internet. They can log on in the morning. You have to put down a deposit of $100 or $500—whatever it might be. You do that with a credit card, frequently. And this child, in the privacy of the home, without any supervision, can simply gamble away whatever fortune the family had tied up in that particular credit card with no supervision.

The kind of gaming that we have legalized in this country is the kind of thing where you have to go to that site. You have to engage in the activity there. It is highly regulated.

One of the reasons this kind of activity is so dangerous is because there is nobody there to check the activity. It occurs in the privacy of your own home with nobody there to say, ''Wait a minute. Haven't you done this long enough? Haven't you lost enough money?''

Dr. Howard Schaeffer of the Harvard Center for Addictive Studies predicts that within 10 years youth gambling will be more a problem to society than drug use. And the youth of our society are the most at risk for conducting Internet gambling. First of all, they are the most adept at using the Internet. Secondly, they are in college and school, and this is where a lot of the computers are that our kids start on today. And on every major campus today there is organized gambling activity, according to law enforcement officials. Sports is the preferred subject of the gambling.

So it doesn't take any imagination to appreciate that our Nation's children are at risk. And there is much more risk in this Internet gambling activity than in any of the other kinds of legalized gaming, highly regulated gaming, that is authorized in our country today.

I won't go into all of the details about bankruptcies and suicide and that kind of thing except just to cite a couple of things here that ought to cause us pause. We know that about 5 percent of the people who gamble will become addicted. It is an addiction. Of those, about 80 percent will contemplate suicide, and about 17 percent of those will commit suicide. Bankruptcies are huge and growing. As a matter of fact, Ted Koppel noted that in his ''Nightline'' program, that last year 1,333,000 American consumers filed for bankruptcy, thereby eliminating about $40 billion in debt. And he talked about the percentage of that which is attributable to gambling, going into some of the statistics about a large percentage of that—in fact, something like 60 percent of people will get gambling debts that they can't pay.

In fact, up to 90 percent of pathological gamblers commit crimes to pay off their wagering debts. That is the testimony before our committee. So suicides, bankruptcies, crimes committed to pay off debts, and the effect, of course, on the families.

What does this have to do with our bill? This is the kind of activity that, by definition, is not regulated and is susceptible to addiction because there is nobody there. There is no inhibition in your own home; you just log on and you go do it. Of course, these virtual casinos are really good-looking things when you look at them on the screen. You can pull them up tonight, as a matter of fact.

So, as I say, what we have done in the Judiciary Committee is to focus on this specific kind of activity as (A) needing to be updated because wire may no longer be the method of transmission of data and (B) because of these virtual casinos offshore.

Let me describe a couple of the problems that we have dealt with in the legislation. One of the concerns was that the service providers would have difficulty in stopping the activity. Remember, what we have done here is to say that this activity is illegal, just like the Wire Act does. Theoretically, you could even prosecute the bettor, although that has never been done, and I don't anticipate it being done.

What we are after here are the people running these gambling operations. The U.S. attorney in New York has indicted some people, some of whom were in the United States. So they have actually acquired personal jurisdiction over those people. They might be able to prosecute them, fine them, and send them to jail. But for the most part, these activities are going to be abroad, because the activity is illegal in all 50 States. As a result, you are not going to be able to get personal jurisdiction over the offender.

How do we, therefore, stop the activity? That is where the service providers come in. And after, as I say, a finding of illegality has occurred, they will be brought in to appear before the court and be asked to pull the plug on a service that they are providing or, through them, is being provided to people on the net here in the United States.

As I said, in the case of a direct provider, it is a little more technical than this but almost as easy as pulling the plug, because each of these sites has an identifier, an identifying number for billing purposes. Of course, you know that and you can simply cut off that particular service. In other cases, it will be more complicated than that.

So what we have done is to provide a complex series of protections for the Internet provider to ensure, for example, that if they are asked to participate in this law enforcement activity, first of all, there won't be any injunction issue against them if it is not technically feasible; and, secondly, that they can demonstrate, if it is the case, it is not economically feasible for them. Then the injunction could not issue. This isn't a matter of what they are permitted to argue; these are actually conditions for the imposition of the injunction.

I want to make it perfectly clear to my colleagues, up until a few days ago, you may have been contacted by various Internet providers, people like America Online, for example, or U.S. West. Their representatives, who are all over this town, may have told you that there were certain problems with this language. But they are among the organizations that have bought off on the language that I have painstakingly negotiated with them to ensure that, while they are helping law enforcement, we are not imposing an impossible burden on them. They are not going to have to do something that is not technically feasible, and they are not going to have to face unreasonable costs in complying with law enforcement.

I know some people say they are part of the problem because they are actually transmitting this illegal information. But I don't think it is fair to ask them to monitor this activity or to stop it unless law enforcement deems it sufficiently serious to stop. And that is why we have only provided for them to be involved in this process in that eventuality. I think that is very, very fair.

A second group that we have had discussions with is the virtual casino networks and operators. I know that Senator BRYAN is going to talk to that because that is a part of his amendment. I must say that I totally support the amendment of Senator BRYAN to add the protections in this legislation to

those who are providing the games involving, for example, baseball where you get together with other people and you create your own baseball team and you then are judged by how well those teams and players do in the future. Sometimes there are prizes awarded, and sometimes there are not. But in any case, you usually pay a fee to do that, and if you win, you can win the prize.

Now, the people who operate these kinds of activities on the Internet have variously claimed that it is not gambling or that no prizes are awarded. And if that is the case, then they have nothing to worry about under this legislation because both of those are requirements for it to be considered gambling. We also make it clear, if they charge administrative fees rather than collecting money to pay off bets, they would be exempt.

I indicated before that we had solved the problems of the horse-racing industry. We essentially said with respect to that industry that this legislation does nothing to take away from any of the activity that they can do today, and, in fact, given the fact they are going to be using computers in their operation, and also in their advertising in the future, we make sure that activity is not prohibited. So, as I said, they are supportive of the legislation.

I want to make it clear to anybody who has heard from anybody with respect to first amendment rights that the first amendment is totally protected here. All advertising is permitted. Any kind of advertising of legal activity is absolutely legal, and it would not even be constitutional for us to try to prohibit it. We have not done that.

That leads me, Mr. President, to the last point which has to do with the treatment of the Native Americans. Now, under the IGRA, the Indian Gaming Regulatory Act, Native Americans are permitted to enter into compacts with States to conduct the same kind of gambling or gaming that is legal in those States. They can't do any more than what is legal in the States, but they can compact to do that which is legal. We have provided in this legislation an explicit recognition of the Indian tribes to conduct that kind of activity on their reservations. We have also made it clear that they can engage in the kind of pooling arrangements that many of them will engage in and that that would not be illegal.

So everything that is done by every tribe except one, which may be violating the law today and that you will hear more about here—everything that is currently being done and can be done legally is treated as legal in this legislation and would be permitted to continue.

To the extent that the tribes were also concerned about enforcement by States attorneys general, we have made it clear that the States attorneys general are not to enforce this law against Indian tribes; that the only time a State attorney general could be involved is if the tribe itself compacted for that, so the tribe would have had to have agreed to it in the first instance.

So we have satisfied all of the concerns of the tribes except one, and what you will hear is that they want to be able to do anything that is so-called legal or lawful under IGRA.

But the problem with that is this. This legislation, just like the Wire Act that is still the law today, makes it illegal to conduct these kinds of activities. So since the Wire Act exists, a tribe could not conduct this activity claiming it to be legal under IGRA, because IGRA says you cannot do it if you do not have a compact, and you cannot have a compact unless it is legal.

So, because this legislation and the Telephone and Wire Act both make it illegal to conduct this kind of activity, or continue to make it illegal, then, by definition, it would not be possible for a tribe to conduct this activity.

What I am concerned about is that trying to add any other language that suggests that, if it is lawful under IGRA it would still be OK, would very much confuse and complicate the issue and raise a question about what the basic intent of this legislation is. And, at worst, it would actually permit the Native Americans or Indian tribes who wish to do so, to do something that nobody else in the country would be able to do, that would be illegal for every other American. What we have done is to treat the Native Americans fairly, to treat them like everybody else—no better, no worse. It would be, I think, a grave injustice to everyone else to allow a special exception for the Indians that nobody else in the country would have.

Mr. President, I will have some more to say about a couple of the details of what we do, especially if there are questions, and also to further talk about the kind of testimony that was presented to the Judiciary Committee in support of this legislation. As you might imagine, there was a wide variety of testimony provided by law enforcement officials, people familiar with gaming and with addiction, people who understood the Internet and wanted to advise us about that. Frankly, we just had a lot of great testimony that supports this.

I will just close with this one comment that I think helps to make the point. I mentioned the attorney general from Wisconsin—I was going to quote this before—James Doyle. He is the head of the Attorneys General Association. He said:

> Gambling on the Internet is a very dumb bet because it is unregulated. Odds can be easily manipulated and there is no guarantee that fair payouts will occur. Internet gambling threatens to disrupt the system. It crosses State or national borders with little or no regulatory control. Federal authorities must take the lead in this area.

I close where I began. For State attorneys general to urge the Federal Government to take Federal jurisdiction over something like this is almost unprecedented. They wouldn't do it if they didn't feel that the problem societally justified it and, from a law enforcement standpoint, that it was the only way to ensure that this illegal activity could not be continued.

So, as a result of that, we have adopted this legislation out of the committee and brought it to the floor under this mechanism because, as I said, it is really the only way we could bring it to the floor. I urge my colleagues to support the legislation and to support the amendment offered by the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I would like to preface my comment, before I say anything specific about the legislation, commending the Senator from Arizona for his untiring and unflagging efforts, trying to perfect an amendment which I am pleased to cosponsor. The junior Senator from Arizona has spent the better part of this past year working with various groups, specifically the States' attorneys general who are the prime movers in this amendment. I believe the amendment which he has offered, and the underlying amendment which I have offered as a second-degree amendment, accomplishes the purposes that we intend.

This amendment is supported by a wide spectrum of interest. I am aware that within this Chamber there is a broad diversity of perspectives and viewpoints on gaming. Some States, such as my own, have adopted for decades open and regulated casino gaming. Other States, such as the States of Utah and Hawaii, by their public policy pronouncements through their legislative actions, permit no gaming at all. But I think it is indicative of the broad spectrum of support that this Internet gaming prohibition amendment enjoys, that from Ralph Reed to Ralph Nader, all of the groups that may represent the spectrum in between, have joined with Senator KYL and me in supporting this amendment: The Christian Coalition, the National Association of Attorneys General, from public citizen to the National Football League, and other groups as well.

Let me cite, if I may, a couple of reasons for that. The National Collegiate Athletic Association, the National Football League, the National Hockey League, Baseball, Office of the Commissioner, National Basketball Association, major league soccer, are in strong support of the Internet gaming prohibition amendment that we are debating this evening. In a letter received by my office on March 25:

> We are writing to urge you to support the passage of S. 474, [that is in effect the amendment that we have before us] the Internet Gaming Prohibition Act of 1998. As amateur and professional sports organizations, we believe that S. 474 would strengthen existing enforcement tools to combat a growing national problem—illegal sports gambling conducted over the Internet.

I ask unanimous consent the letter I have identified be printed in the RECORD.

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

MARCH 25, 1998.

Hon. RICHARD BRYAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: We are writing to urge you to support the passage of S. 474, the Internet Gambling Prohibition Act of 1998. As amateur and professional sports organizations, we believe S. 474 would strengthen existing enforcement tools to combat a growing national problem—illegal sports gambling conducted over the Internet.

Sports gambling tarnishes the integrity of athletic competition. It taints the way fans view sports contests. It creates suspicion and cynicism about game and performance outcomes and degrades players in the eyes of fans. The amateur and professional sports organizations have long understood this problem and have aggressively policed the relationship between gambling and sports.

Congress has also long recognized that gambling has no place in amateur and professional sports. For example, under the Interstate Wire Act of 1961 (18 U.S.C. 1084), it is a federal crime to use wire communication facilities in interstate or foreign commerce for purposes of sports gambling. Faced with efforts to establish sports lotteries and other forms of legalized sports betting in the late 1980s, Congress enacted the Professional and Amateur Sports Protection Act (28 U.S.C. 3701 et seq.) in 1992, prohibiting any further legalization of sports betting by states or other governmental entities.

Despite existing federal and state laws prohibiting gambling on professional and college sports, sports gambling over the Internet has become a serious—and growing—national problem. Many Internet gambling operations originate from offshore locations outside the U.S. The number of offshore Internet gambling websites has grown from two in 1996 to over 70 today. It is estimated that Internet sites will book over $600 million in sports bets in 1998, up from $60 million just two years ago. These websites not only permit offshore gambling operations to solicit and take bets from the United States in defiance of Federal and state law but also enable gamblers and would-be gamblers in the U.S. to place illegal sports wagers over the Internet from the privacy of their own home or office.

S. 474 would strengthen the tools currently available to enforce existing federal and state laws prohibiting sports gambling. If enacted, this legislation would make it more difficult for Internet gambling operators as well as the individuals who gamble to evade the law. S. 474 would extend criminal penalties to include individuals who gamble on the Internet, not just those who operate Internet gambling sites. Most importantly, S. 474 would provide law enforcement officials with an effective and much-needed civil enforcement mechanism to keep the Internet or any other interactive computer service from being used to place, receive or otherwise make a sports bet or wager.

S. 474 makes it clear that a new communications medium, the Internet, cannot be used to circumvent existing federal and state laws that prohibit sports gambling in this country. We strongly urge you to vote in favor of S. 474 when it is considered on the Senate floor.

Sincerely,

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION.
NATIONAL FOOTBALL LEAGUE.
NATIONAL HOCKEY LEAGUE.
BASEBALL, OFFICE OF THE COMMISSIONER.
NATIONAL BASKETBALL ASSOCIATION.
MAJOR LEAGUE SOCCER.

Mr. BRYAN. Mr. President, as I indicated, the National Association of Attorneys General have been the prime mover of this legislation. The distinguished occupant of the Chair has served as an attorney general from his State and, indeed, headed the National Association of Attorneys General. As the distinguished occupant of the Chair and others know, States' attorneys general do not frequently come to the Congress of the United States and ask for legislation unless they are of the opinion that State action is insufficient and incapable of addressing the problem. That is the view of the National Association of Attorneys General in urging Senator KYL and me and others to move forward with the legislation that bears the S. 474 designation, and which, in essence, is the amendment we are debating on the floor this evening.

The attorneys general make a very important point. They say, in part, in a letter which was sent to me on March 20 of this year, and signed by a number of States' attorneys general that:

The potential problems cautioned by the availability of games worldwide through the Internet are exacerbated because of the current inability of Internet technology to address many of the policy considerations that have caused states to create such widely disparate legal and regulatory schemes.

Then they go on to say in this letter:

Additionally, there is currently no [I want to emphasize ''no'' effective technological means to verify the physical location of players and proprietors in order to ensure the participants and businesses are operating under the laws of the individual jurisdictions where they are physically located.

That is the view of the Nation's attorneys general as they have come to the Congress and asked us to support this legislation.

Again, I ask unanimous consent that the letter sent to me dated March 20, 1998, from the National Association of Attorneys General, be printed in the RECORD.

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

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, DC, March 20, 1998.

Hon. RICHARD H. BRYAN,
Senate Office Building, Washington, DC.

DEAR SENATOR BRYAN:

As the members of the Internet Working Group of the National Association of Attorneys General, we write to express our support for S. 474, the Internet Gambling Prohibition Act. As introduced by Senator Kyl in March of 1997, the bill closely modeled the changes in federal law suggested by a resolution adopted by the National Association of Attorneys General in June, 1996. Although the bill has undergone several substantive changes prior to reaching the Senate floor, it continues to be the most appropriate measure to address the growing problem of gambling via the Internet.

Gambling laws and regulations have more state-to-state variety than almost any other area of law. Each state's gambling policy is carefully crafted to meet its own moral, law enforcement, consumer protection and revenue concerns. Most states believe they have crafted the perfect combinations of law and policy to address their own populations' needs. The Internet threatens to disrupt this. As recently noted by the U.S. District Court for the Western District of Wisconsin, ''[The State] has a powerful interest in enforcing its anti-gambling laws which would be substantially undermined if defendant could evade enforcement through Internet gambling.''

The threat of technology provides the only exception to the preeminent role of the states to regulate gambling and control gambling policy formulation. Today, the federal government's only role in gambling policy formulation relates to specific instances where technology threatens to disrupt the individual states' carefully balanced policy choices in this area. For example, the Interstate Horseracing Act, 15 U.S.C. §1301 *et seq.*, addresses the use of wires and satellites to facilitate the combination of parimutuel wagering on horse races and prevent different pools from endangering the integrity of the horse racing industry. The Lottery Act, 18 U.S.C. §1301 *et seq.*, allows states to limit import of out-of-state lottery tickets via mail and other forms of transportation. The Johnson Act, 15 U.S.C. §1171 *et seq.*, places limits on the interstate transportation of slot machines, using our national transportation infrastructure, allowing states to make their own determinations on whether they will allow those machines in their states. Finally, the Wire Act, 18 U.S.C. §1081 *et seq.*, prohibits the use of the wires to transmit wagering information.

The proposed Internet Gambling Prohibition Act would provide the same appropriate degree of federal involvement for the Internet. The Internet represents the latest form of technology that threatens to disrupt state policies: almost anything that can be done on a computer, like gambling, can be done via the Internet anyplace in the world where a connection is available. A wide variety of card, dice and other games of chance can be entertainingly simulated on a computer screen via the Internet. In addition, traditional forms of horse and race betting are well-suited to computerized participation. All of these activities can be conducted on a computer, and the Internet allows this conduct to be made available worldwide and across state lines, regardless of any state's carefully crafted and explicitly stated gaming policy, laws and regulations.

The potential problems caused by the availability of games worldwide through the Internet are exacerbated because of the current inability of Internet technology to address many of the same policy considerations that have caused the states to create such widely disparate legal and regulatory schemes. These crucial policy concerns include general moral attitudes towards gambling, basic issues of game integrity, effective customer dispute resolution procedures, underage gambling, cash controls to hinder money laundering and other criminal activity, as well as efforts to recognize and treat problem gamblers. Additionally, there is currently no effective technological means to verify the physical location of players and proprietors in order to ensure that participants and businesses are operating under the laws of the individual jurisdictions where they are physically located.

The proposed Internet Gaming Prohibition Act, in its current form, continues to address the important policy concerns we first expressed in the summer of 1996. We urge your

continued efforts in making this bill the law of the land.

Sincerely yours,

James E. Doyle, Attorney General of Wisconsin, Co-Chair, NAAG Internet Working Group, Hubert H. Humphrey, III, Attorney General of Minnesota, Co-Chair, NAAG Internet Working Group, Daniel E. Lungren, Attorney General of California, Co-Chair, NAAG Internet Working Group, Peter Verniero, Attorney General of New Jersey, Dennis C. Vacco, Attorney General of New York, Heidi Heitkamp, Attorney General of North Dakota, Betty D. Montgomery, Attorney General of Ohio, Hardy Myers, Attorney General of Oregon, Mike Fisher, Attorney General of Pennsylvania, Jeffrey B. Pine, Attorney General of Rhode Island, John Knox Walkup, Attorney General of Tennessee, William Sorrell, Attorney General of Vermont, William U. Hill, Attorney General of Wyoming, Christine O. Gregoier, Attorney General of Washington,

Mr. BRYAN. Mr. President, I think my colleague has done an extraordinarily good job and given a very clear explanation of what we are seeking to create in this amendment. This simply represents an update to reflect the change of technology. Under current law, it is illegal to wager over mail and telephone communications. We simply intend, by this amendment, to bring current technology into compliance with the technology that was covered previously by this prohibition. Internet gambling is spreading exponentially. It approaches nearly $1 billion of annual revenue; 140 web sites currently operate on the Internet. It will be, as my colleague from Arizona indicated in his comments, a multibillion-dollar industry by the turn of the century.

Why have the States' attorneys general approached us and asked us to enact this legislation? What vice exists with respect to Internet gambling that does not exist with respect to regulated gaming in the various forms the States have chosen to adopt?

First of all is access. Whether one favors gaming or one has a strong religious or moral view opposed to gaming, I believe that all would acknowledge that gaming ought to be an adult recreational activity—underscoring the word ''adult.'' When one accesses the Internet and the various web sites that are currently on the Internet, there is no means—no means to enforce the age of that individual who is accessing the Internet. We all know from our children and grandchildren that today's youngsters enjoy a proficiency and sophistication, if you will, in terms of their ability to surf the net, to understand the world of computers. It is very easy—very easy for very young children to gain access to the Internet and thereby to participate in Internet gambling.

I repeat, whether one supports the open casino style of gaming that Nevada has legalized for more than six decades, or takes the more restrictive view that the policymakers of the States of Hawaii and Utah have adopted, and that is to permit none, no one can justify access to a gaming experience to young children who may be 12, 13, or 14 years of age. And there is no way to enforce limited access to the Internet and to limit it to only those who are adults.

Second, let me make the point that in those States that have chosen to adopt, and those tribes that have adopted forms of gaming pursuant to the Indian Gaming Regulatory Act, there is or ought to be mechanisms in place that make sure that the individuals who are licensed to operate those games have been carefully screened for both integrity, in terms of their records, and suitability. Nobody is permitted, in the State of Nevada, for example, to operate a gaming activity unless he or she, or its corporate officers, have been carefully screened by the State Gaming Control Board and ultimately approved by the State Gaming Commission.

When you participate in a gaming experience in States that permit some form of gaming, it is regulated. You know the individual operators of the game. In the world of cyberspace, you know not with whom you are communicating. Nobody, Mr. President—I repeat, nobody—has screened those individuals in terms of background, who they are, in terms of their track record, their integrity or their suitability. You are, in effect, participating in a gaming experience in which you do not know who the people are who are running that particular web site.

No. 3: the actual virtual gaming experience itself. Every gaming device that is made available in my own State for customers to participate in has been approved by the Nevada Gaming Control Board and the Gaming Commission to make sure that the device provides a reasonable and fair opportunity for the player to win, so that the game is not rigged, so that under no circumstances could the player win. None of us is naive enough not to recognize that the odds clearly favor the house. That is not my point. But the game of chance is an honest one. Participants, players, have an opportunity to win, and, indeed, many of them do.

In the world of cyberspace, no one, but no one, has regulated that particular device that is being offered. There is no way for the player to know whether that virtual game is rigged in such a way that it is impossible for him or her to win under any circumstance.

Finally, assuming for the sake of argument that one does participate and does win, how do you know whether anybody is going to be around when you come to collect the money?

Mr. President, the Internet and the e-mail system is filled with dozens and dozens of people who have had experiences that highlight the point I am seeking to make this evening. I will not impose upon the patience of this Chamber to cite all of them, but a couple of them, I think, are illustrative and make the point.

This is in a communication dated April 1 of this year by an individual who had participated in Internet gambling. I quote from his letter:

> I tried both of the above online casinos, and I'm beginning to notice a strange trend. When I played the games offline just for practice, the odds seemed to conform, but when I played online for real money, the win-loss ratio seemed very disproportionate compared to what they were when I was playing offline. Of course, I may have been just very unlucky playing online, but I'm strongly suspicious. I suspect that the odds for real play and the practice are quite different. I think these guys cheat somehow, and I've given up on them and online gambling altogether. Of course, I can't prove that they cheat. Who can?

Mr. President, the point being, there is no regulator who, first of all, makes a determination as to who ought to have a web site for gaming activity, no regulator to determine whether or not the game of chance itself is a fair and honest one, and no regulator to make sure that, indeed, if the player prevails, he or she is able to collect.

Let me cite one other which I think is illustrative, and this is a letter dated April 30 of this year. The writer goes on to observe:

> This is what you find at the bottom of the barrel—

Referring to the individual letter writer's experience on the Internet with his or her gambling experience.

> Presumably from New Hampshire, these guys set up an online bingo site that went belly up in a hurry. The most popular theory is that they had fewer players than anticipated and couldn't afford to pay off the winners, so they pulled off a disappearing act that would turn David Copperfield green with envy.

That is the point that I am seeking to make.

The point needs to be made that Internet gambling is a bad bet. It is an unregulated activity in which children have access to the gaming experience, and it is not an enterprise that is subject to regulation. That is why the States' attorneys general have asked us to impose this.

Let me simply say that I believe that the prohibition needs to be across the board. My amendment makes one exception—and perhaps some of my colleagues have participated—and that is in the so-called fantasy sports leagues or educational games that operate over the Internet. Some have estimated that nearly 1 million Americans participate in fantasy or rotisserie sports teams on the Internet ranging from baseball to golf to auto racing.

The second-degree amendment which I have offered to the first-degree amendment of the Senator from Arizona will simply indicate that that kind of activity which exists will not be prohibited under the provisions of this legislation.

Finally, let me say that Internet gambling currently is in violation of the law. States' attorneys general and U.S. attorneys are trying to combat it, but, Mr. President, they need our help,

and the enforcement tool or mechanism that they need is in the legislation offered by the junior Senator from Arizona and the Senator from Nevada. I hope that all of my colleagues will support this, irrespective of their own personal views toward gaming itself.

I thank the Chair and yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the second-degree amendment offered by the Senator from Nevada be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3267) was agreed to.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 3268 TO AMENDMENT NO. 3266

(Purpose: To clarify that Indian gaming is subject to Federal jurisdiction)

Mr. CRAIG. Mr. President, I send a second-degree amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. INOUYE and Mr. DOMENICI, proposes an amendment numbered 3268 to amendment No. 3266.

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

Mr. FORD. Reserving the right to object, I want to see what is in this amendment. Do you mind?

Mr. CRAIG. Not at all. I am about ready to explain it, but you can have it read if you wish.

Mr. FORD. I won't object, but I want to be sure about it.

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

The amendment is as follows:

On page 3 of the amendment, strike lines 9 through 12 and insert the following before line 13:

''(iii) a contract of indemnity or guarantee;

''(iv) a contract for life, health, or accident insurance;

''(v) lawful gaming conducted pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.); or''.

Beginning on page 13 of the amendment, strike line 4 and all that follows through page 14, line 25, and insert the following:

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—

(i) IN GENERAL.—The United States may institute proceedings under this paragraph. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(ii) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by this section, that is alleged to have occurred, or may occur, in whole or in part, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the United States shall have the authority to enforce that section.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by this section, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this paragraph. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I stand on the floor this evening in support of the concept of the Kyl bill, and I support the second-degree amendment that the Senator from Nevada has just successfully placed on it.

I believe that unregulated Internet gaming is and can be dangerous. It must be monitored closely and restricted to adults.

To date, the only form of gaming regulated at the Federal level is Indian gaming. I am not a big fan of most Indian gaming. We have struggled with it in my State for some time. However, through the Indian Gaming Regulatory Act, known as IGRA, Congress established clear and precise laws governing all forms of Indian gaming.

Authority to regulate Indian gaming was given by Congress to the National Indian Gaming Regulatory Commission. In addition, developments in Indian gaming are followed closely by the Senate Committee on Indian Affairs and its counterparts in the House. In fact, it is my understanding that the committee has held a series of hearings this year on examining the possible changes in IGRA.

Mr. CRAIG. What I want to point out is that there is an established procedure in dealing with laws which impact Indian gaming.

Mr. President, the Kyl bill ignores this procedure and changes IGRA without the input of the Indian Affairs Committee or the National Indian Gaming Regulatory Commission. The Kyl bill does this in a number of ways, including placing new restrictions on tribal gaming operations, overrides and nullifies existing State tribunal pacts, makes illegal some forms of Indian gaming determined by the courts to be authorized under IGRA.

Those who would support the bill claim that it does not impact IGRA. I cannot agree with that argument. If it, in fact, sought no change in IGRA, why do they then oppose the amendment that would guarantee no change? Because that is exactly what my amendment does. The truth of the matter is that the bill severely limits authority granted IGRA.

The Craig amendment does not expand Indian gaming. Let me repeat: The Craig amendment does not expand Indian gaming. And that would be argued by the Federal courts. The amendment would only protect a gaming enterprise if it were already legal under IGRA. The amendment would only protect a gaming enterprise that was already sanctioned by a State-tribal compact, the very kind of thing that this Congress set up in the law that created IGRA.

The amendment would not allow for any form of new Indian gaming. The reason these issues are important—and the Senator from Arizona was exactly right when he spoke in general terms about the possibilities of my amendment, speaking specifically to one Indian tribe. That Indian tribe happens to be in my State, and they have established what is known as the National Indian Lottery.

They have withstood three separate Federal court tests and have argued that they are legal, and the courts have so ruled. Yet, the Internet Gaming Prohibition Act that Senator KYL has just offered amends section 1084 of the so-called Federal Wire Act to include lotteries. Only by his act would they become illegal.

By the current law, and by the current regulatory process, they are legal; and they have been found that. This tribe has been sued. They have taken their issue to court and have successfully won. Lotteries are defined as class III gaming and are governed by the terms of the tribal-State compacts, the rules and the regulations, the National Indian Gaming Commission. Idaho's case is no different. And that is certainly the case that I argue here tonight.

In 1992, the Coeur d'Alene Tribe signed a compact with the State of Idaho which specifically provided for the conduct of these National Indian Lottery games. Article 621 of the compact authorizes the tribe to conduct lotteries, so-called State lotteries to the compact, defined in article 419, to include a variety of things.

The compact was approved by the Secretary of the Interior in February 1993, and, therefore, noticed in the Federal Registry. Since that time it has fallen under regulation. What the Senator from Arizona is doing tonight—and I agree with him—is making illegal that which is unregulated, and provides either an outright prohibition or establishes regulatory effort.

Now, he has exempt a variety of things, exempt very powerful gaming organizations. So I do not think the Senator can argue tonight that there have not been some exemptions. He says he is after the offshore kind of Internet activity. I agree with him. The kind I am trying to protect is onshore, legal and regulated by IGRA and the National Indian Gaming Commission. I could not stand here tonight and argue for an unregulated activity. We expect them to be fair. We expect them to be honest. We expect them to be

controlled and only to be made available to adults. That is exactly what is happening here and why I argue it.

All of the regulations that this Congress has put in place is adhered to by the National Indian Lottery. It is regulated, as I said, at the Federal level. It is regulated at the State level. It is regulated at the separate governmental or tribal level. And that is the way it should be. It is audited regularly by Arthur Andersen. It is protected so that only adults can participate in it. And that is constantly scanned.

My amendment would simply say that these kinds of activities—legally sought—would be regulated under the current regulatory process, because it is Indian gaming; and we have established the IGRA and the National Indian Gaming Commission for that purpose. The amendment of the Senator from Arizona would deny that right and place, by its adoption, this as an illegal activity where the Federal courts have ruled that under current process it is legal.

With that, I yield the floor.

Mr. CAMPBELL. Mr. President, I would like to lend my support to the amendment offered by my friend and colleague from Idaho, Senator CRAIG, for several reasons.

The Internet presents opportunities for education, business, and governance that were unthinkable until recently. Concepts such as ''distance learning'', and ''e-commerce'' are tied to this new and little understood technology.

As a Congress and as a nation, we must come to grips with this technology in a way that encourages development and at the same time provides protection from abuses for our most vulnerable citizens.

So let me start out by saying that I have a healthy respect for the Internet and the possibilities it holds.

Like Senator KYL, however, I am troubled by unregulated gambling and other objectionable material or services being offered on the Internet, particularly when young children and other vulnerable people are involved.

Nonetheless, as chairman of the committee on Indian affairs, I must point out that there are several objectionable provisions in the bill before us, not the least of which is that S. 474 amends the Indian Gaming Regulatory Act in significant ways, without the benefit of committee deliberations, or the input of the many affected tribes.

I firmly believe that any legislation aimed at Internet gambling should be ''technology-neutral'' and not tied to or focused on a specific technology.

Given the creativity and genius of computer and high-tech individuals, such as framework would quickly become obsolete—and require new legislation.

For instance, there are 30 Indian tribes operating games like ''Megabingo'' and ''satellite bingo''; dozens of tribes that operate parimutuel betting and other games that are authorized by and regulated under the Indian Gaming Regulatory Act.

The IGRA provides that bingo games that rely on or use electronic or technological aids, are legal and are explicitly permitted by the IGRA.

In addition to the jurisdictional issues raised, S. 474 would criminalize certain games that are legally played as class II games under the IGRA.

When the IGRA was enacted in 1988, the position of this Congress was to ''provide maximum flexibility'' to tribes in terms of technology or in terms of conducting multi-state operations through the use of such technology.

The Congress' intent included the use of technological aids for bingo and similar games ''on or off of Indian lands.'' The bill before us should provide a categorical exception for these and similar games.

The bill defines ''person'' as including ''other governments'' which may be construed to include tribal governments. Together with section 4, which authorizes state attorneys general and other state officials to bring enforcement actions against Indian tribes for violations that occur on Indian lands, this provision will alter the law regarding jurisdiction in ways that I strongly oppose.

This bill is a serious change in federal Indian law not seen since the enactment of ''P.L. 280'' in 1953, which conferred state jurisdiction over Indian lands without tribal consent.

Section 4 is also in direct conflict with the IGRA, which provides the United States with enforcement authority over Indian gaming activities.

The civil enforcement remedy granted to the states in S. 474 is unnecessary and unwarranted. Current law provides that class II gaming is regulated by the tribes and the federal government; and class III gaming is regulated pursuant to tribal-state compacts. Contrary to the assertions of many, the Indian gaming industry is subject to many layers of regulation.

Federal law already establishes enforcement remedies under the IGRA. These very jurisdictional issues arose when Congress considered the IGRA.

In 1987, the Supreme Court decided the Cabazon case which says that Indian tribes have the right to conduct gaming on Indian lands largely unhindered by state interference. With S. 474, we are re-opening an issue that has been settled for years.

Tribes and states can and often do resolve these issues in negotiations. Tribal-State compacts, and P.L. 280, only allow state enforcement activities with the consent of the affected tribes.

The IGRA established the mechanisms for tribes and states to negotiate and come to agreement on these matters and some tribes and states have freely entered negotiations to resolve these matters—in the form of state-tribal compacts.

Third, this bill amends the IGRA by requiring that any persons who place or receive the wagers involved be ''physically located'' on Indian lands.

As my friend from Idaho knows, there is ongoing litigation to determine the meaning of the term ''on Indian lands'' contained in the IGRA.

One question that is inherent in this debate over S. 474 is determining where the ''transactions'' that will be prohibited will take place?

Recognizing the complexities of Internet commerce and the tax issue, the nation's Governors recently agreed that an enlightened policy requires more information and deferred a decision regarding a ''national Internet sales tax policy''.

The notion that with this or any other bill, the United States can stop the flow of electronic gambling on American modems and computers is just not realistic.

For instance, the Caribbean nations of Antigua and Barbados actively promote what they call their ''on-line casinos'' to players both on the islands and to anyone off the islands with a computer.

So one consequence of this bill if enacted will be the elimination of American-based Internet gaming providers to the benefit of off-shore gaming operators like our friends in the Caribbean. Will this Congress ever stop pursuing policies that send American jobs overseas?

Last, let me say a few things about the ''Craig amendment'' which I believe will eliminate the conflicts between S. 474 and the Indian gaming act and will appropriately provide that those games that are currently authorized and regulated under the IGRA would remain outside the purview of this legislation.

I am in favor of tribes and others being treated similarly as far as Internet gaming goes, and feel very strongly that tribes should not be singled out either for special treatment or for special scrutiny as far as the Indian Gaming Regulatory act goes.

As Chairman of the Committee on Indian Affairs, I know full well the controversy that surrounds gaming activities. I also know that the Indian gaming act represents a complex and delicate balance of competing interests—including state and tribal interests.

The tribes are seeking nothing more than what is already sanctioned under federal law in the form of the IGRA. As is the case with the Coeur d'Alene tribe, there is now pending federal litigation that the Congress ought not upset in the form of this legislation.

I urge my colleagues to join me in supporting the Craig amendment to provide equity and fairness to this Internet gaming legislation.

Mr. DASCHLE. Mr. President, the amendment offered by my colleague, Senator KYL, addresses a serious problem in our society, and I support most of its provisions.

I agree that we should protect children from having the opportunity to gamble on the Internet.

I agree that we should regulate gambling in a responsible manner.

I agree that we should take steps to protect the integrity of our amateur and professional sports.

The amendment offered by Senator KYL will address these problems, which have accompanied the rise of Internet gambling. The problem with the amendment is that it does not address these problems in a manner that treats Native Americans fairly.

To address this situation, I am cosponsoring the amendment offered by Senator CRAIG. This measure will exempt from the Kyl amendment those Indian gaming activities regulated and sanctioned by the Indian Gaming Regulatory Act, thereby retaining the current jurisdictional structure established under IGRA for Indian gaming, a structure that involves the federal courts and the National Indian Gaming Commission.

Mr. President, it would not be fair to Indian tribes to enact the restrictions of the internet gambling prohibition amendment offered by Senator KYL without retaining the regulatory structure of the Indian Gaming Regulatory Act as Senator CRAIG suggests. If Congress wants to modify the Indian Gaming Regulatory Act, it should do so only after serious review that includes the input of those parties affected directly by that change—in this case, the tribes and tribal gaming enterprises.

Therefore, I urge my colleagues to support the Craig amendment.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Kyl Amendment, the Internet Gambling Prohibition Act. I am an original cosponsor of S. 474, on which this amendment is based.

This amendment takes important steps to address the dangerous, billion-dollar-a-year threat to our communities and our laws of Internet gambling.

The Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information, on which I serve as Ranking Member, held hearings on the subject of Internet gambling in March of last year. At that time, I joined Senator KYL in introducing S. 474, on which this amendment is based. The bill passed the Senate Judiciary Committee by voice vote in October of last year.

Since that time, this proposal has been carefully fine-tuned to address concerns raised by various groups.

This proposal enjoys the support of a wide range of groups, including law enforcement, family and consumer advocates, and professional and amateur athletics.

Most importantly, FBI Director Louis Freeh, at a Senate Judiciary Committee hearing, when asked if the FBI supports the Internet Gambling Prohibition Act, Prohibition Act, replied, ''Yes, I think it's a very effective change. We certainly support it.''

Similarly, the National Association of Attorneys General explained why such legislation is important in letters to the Senate Judiciary Committee and to the full Senate. The State Attorneys General wrote:

> [M]ore than any other area of the law, gambling has traditionally been regulated on a state-by-state basis, with little uniformity and minimal federal oversight.

The availability of gambling on the Internet, however, threatens to disrupt each state's careful balancing of its own public welfare and fiscal concerns, by making gambling available across state and national boundaries, with little or no regulatory control.

This amendment brings our laws on gambling up to date with advances in technology. It ensures that the new medium of the Internet will not prove to be the latest frontier of illegal gambling.

I am proud to be an original cosponsor of the Internet Gambling Prohibition Act, and I am proud to support this amendment, to provide law enforcement with the tools it needs to keep the Internet free of the scourge of illegal gambling.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Indiana.

Mr. COATS. I rise in support of the amendment offered by the Senator from Arizona. And I want to, specifically, because it does address a serious growing problem of the utilization of the Internet to provide unregulated gaming activities, but also because there is a broader issue at stake here that I think we need to consider. We will not be voting on it this evening, but it is very much a part of this and it needs to be addressed.

First of all, the amendment offered by the Senator from Arizona is a good one because we clearly are dealing here with a new dimension in gaming, a new means by which gaming is provided to millions of Americans that is not accessible in the same way as it was before.

In 1961 Congress, wisely, I believe, passed the Wire Act. The Wire Act was designed to prohibit the utilization of telephone facilities to receive bets or send gambling information.

I do not have the regulative history in front of me, but I am almost certain Congress did that because it did not want the invasive nature of telephone lines and telephone access, which run into virtually every house in America, to be a means by which Americans could utilize that form of communication to enter into gambling. It did so because I am sure, if you went back and read the record, it understood the social cost, the consequences of gaming, and it wanted gaming to be a restricted activity.

Of course, the advent of the Internet as a communications medium was not anticipated by Congress or even envisioned by Congress at that time, so therefore this Wire Act does not cover that. The Senator's amendment extends pretty much the provisions of the Wire Act to the Internet. I think for that reason, it is legitimate in terms of updating it to comply the law to changes in technology.

The fact that it is supported by the FBI, with strong testimony from the FBI Director, the National Association of Attorneys General—as I understand, all the attorneys general have supported this from each State. Professional, amateur sports groups, including the National Football League, the NCAA, the NHL, NBA, Major League Soccer, Major League Baseball, for obvious reasons, are strongly in endorsement of this.

But then one of the most adverse collections of public interest groups and consumer advocates that have come together on an issue that I have seen for a long, long time—maybe ever—ranging from Ralph Nader's Public Citizen to the Christian Coalition, the National Coalition Against Legalized Gambling, Focus on the Family, Family Research Council, have all endorsed the KYL language which prohibits the Internet gambling. Now, they have not just specifically done so because it only addresses Internet gambling. They have done so because Internet gambling is simply a piece of a much larger program that is having, in my opinion, a dramatically adverse and negative effect on our culture. They see the Kyl amendment as one way of addressing a broader question.

Ultimately, I think, we as Congress, we as representatives of the people, will have to come to grips as to what the impact of gambling is as it proliferates throughout our States and as access to gambling becomes more and more available to our citizens—and not just our adult citizens, but to our young people.

There is a growing concern about pathological aspects of gambling. For decades, our Nation has studied and Congress has struggled with how we deal with drug and alcohol addictions, but the rapid expansion of gambling is injecting a new narcotic into our Nation's bloodstream. The problem of pathological gambling is on the rise. The National Council on Problem Gambling places the number of Americans with serious gaming problems at around 5 percent. Most studies confirm that estimate. However, as gambling becomes more pervasive and as gambling becomes more accessible, this number is increasing dramatically. Some say it has doubled; some say it might have tripled.

As with other addictive behaviors, gambling not only affects the individual who does the gaming but it affects their families, it affects their careers, virtually every aspect of their lives. Separation, divorce, spousal and child abuse, neglect, substance abuse, and suicide have all been linked as side effects of problem gambling.

Studies of high school students which have recently been undertaken have indicated that gambling is spreading into our high schools and spreading into minors' use in dramatic ways. Of course, nothing is more accessible to gaming than the Internet. If you want to bypass the normal restrictions and regulations that are placed on gaming—and those have been loosened dramatically—the quickest and easiest and

most effective way to do so is through the Internet.

I think Senator KYL's amendment is particularly relevant at this particular time to address a part of the gaming problem and the gambling problem that exists in America. It does so in a way that can be utilized to at least make it more difficult, significantly more difficult, for minors to utilize the Internet as a means of gaming. Knowing what the pathological results and the consequences are, as we see a proliferation of individuals entering into gambling, we know that the raw number of individuals who are affected by problem gaming is going to increase dramatically.

I will just say one more word about the second-degree amendment before the Senate. I think the second-degree amendment creates a huge loophole. In a sense, it creates a monopoly. It creates a monopoly for one entity to use the Internet to provide gambling access and therefore totally undermines the intent of the Kyl amendment.

I understand that there is a statute outlining procedures by which these decisions are made. Nevertheless, that doesn't invalidate the amendment of the Senator from Arizona which addresses the broader issue. If we allow a significant exception for one entity, that one entity, obviously, will take advantage of that loophole and we will accomplish virtually nothing that the Senator is attempting to accomplish.

I urge my colleagues to defeat the second-degree amendment and support the underlying amendment by the Senator from Arizona which addresses, as I said, only a part, but a very significant part, of the problem, and particularly because it addresses the infusion and the explosion of gambling that is entering the lives of our children and is becoming accessible to them in ever easier ways, and particularly through the Internet.

I urge my colleagues as we move toward a vote here to support the amendment of the Senator from Arizona.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise in support of Senator CRAIG's second-degree amendment to the amendment proposed by Senator KYL.

Mr. President, I am privileged to represent the State of Hawaii together with Senator AKAKA. The State of Hawaii is one of two States—Utah being the other—where all forms of gaming, gambling, are prohibited. To play bingo in Hawaii would be a crime. I support Hawaii's position.

There have been countless attempts made to introduce gaming into our islands, but in each case I am happy to report that the political leaders of Hawaii have opposed it and we have prevailed. So it may sound strange to some of my colleagues to see me standing here supporting the second-degree amendment of Senator CRAIG.

Eleven years ago, there was a very important decision rendered by the Supreme Court of the United States, the so-called Cabazon case. The decision in the Cabazon case was a most important one, because it once again declared clearly that Indian nations were sovereign. Our Constitution declares that Indian nations are sovereign. The laws of our land and the laws that we have passed in this Chamber have consistently indicated that Indian country is sovereign, whether we like it or not.

The Cabazon decision was a simple one. It said if a State does not prohibit gaming, then it cannot prohibit gaming in Indian reservations. California did not prohibit gaming. Therefore, the Cabazon Tribe had the authority to do that.

Immediately, many of us in this Chamber saw the potential for utter chaos in the United States if all of the Indian reservations rose as one to claim their right under Cabazon to conduct gaming in the various States. There would be no regulation, no supervision. Therefore, we took it upon ourselves to pass the Indian Gaming Regulatory Act, and we did so not by consultation but by advice and by the recommendation of how the law should read, from the States, the Governors, and the AGs of the States, who told us how they wanted this law to be passed.

The law that is now regulating Indian gaming is the creature of the States. We took away a bit of Indian sovereignty to bring this about because, as we all know, the sovereignty of Indian country results in a trust relationship between our Government and an Indian government; it is not a relationship between Indian government and State government.

This Kyl amendment has an ambiguity because, on one hand, it says the Feds will implement the law in Indian country, but there is another provision that says the State government will enforce the provisions of this amendment in Indian country.

What we have tried to do here is to simply carry out the intent of the amendment as set forth by Senator KYL.

I was very encouraged by the statement made in Senator KYL's recent ''Dear Colleague'' letter in which he stated his amendment ''will neither explicitly or implicitly amend the Indian Gaming Regulatory Act.''

Mr. President, Senator CRAIG's amendment is a very simple one. It would simply accomplish what Senator KYL has indicated as being his intention. The amendment will accomplish two objectives: First, make clear that gaming, which is lawful under the Indian Gaming Regulatory Act, would not be rendered unlawful by the Kyl amendment. Secondly, the amendment would conform the enforcement of Federal laws on Indian lands to the Federal regulatory scheme that has been in place for over 100 years; namely, that the United States is, and will continue to be, responsible for the enforcement of Federal criminal laws on Indian lands.

The Craig amendment is necessary because the Kyl amendment will otherwise shift the responsibility for the enforcement of this new Federal criminal statute to the States. Mr. President, I don't think that was the intention on the part of Senator KYL.

Therefore, I urge my colleagues to support the second-degree amendment submitted by Senator CRAIG, because that will assure that there is no unintentional effect of our action on the provisions of the Kyl amendment on the lawful conduct of gaming on Indian lands.

Mr. President, if I had my way, I would recommend that gaming be outlawed. With the Craig amendment, I will be supporting the Kyl amendment to make certain that Internet gaming is not made wild and widespread throughout this whole Nation and world. I urge my colleagues to look upon the Craig amendment with seriousness. We do believe in what our Constitution says and what the Supreme Court decision has so declared.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I have been informed that the second degree I sent to the desk needs a correction. I ask unanimous consent that amendment No. 3268 be corrected as ordered in drafting.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Mr. President, reserving the right to object, and I shall not object. I am a little bit concerned that the hour of 9:30 is approaching and we haven't had time to fully discuss the amendment the Senator from Idaho has offered, the second-degree amendment. This is a very significant amendment. If it passes, I will vote against the amendment Senator KYL and I have cosponsored.

Mr. GREGG. If the Senator will yield, I recognize there is a considerable need for more debate on this. I don't plan to vote on this issue at 9:30. After we finish the votes in order, we will come back to the Kyl amendment, as amended by Craig, and go forward from there.

Mr. BRYAN. Mr. President, I think that would be all right.

Mr. FORD. Reserving the right to object, Mr. President, could you have a unanimous consent that we return to this immediately after the vote on the last amendment? Would that be suitable?

Mr. GREGG. Yes. I ask unanimous consent that, upon completion of the final vote in the series of votes beginning at 9:30, we return to the Kyl amendment, as amended by Craig.

Mr. KYL. Mr. President, reserving the right to object, I want to ask the Senator from Idaho a question. Is that a technical correction or a substantial change? In other words, we need to know what it is that we are talking about if the Senator has submitted a correction.

Mr. CRAIG. It is a technical correction. The intent of the amendment is as originally presented to you.

Mr. KYL. We need to have a copy of that, obviously. I will not object.

Mr. CRAIG. I will be happy to provide that. I made the mistake of amending the Bryan amendment and, as a result, now I have amended your amendment, as amended. That is the appropriate way to do it.

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief. I want to associate myself, as we say, with the remarks of the Senator from Hawaii. I am probably only the second person who is going to rise today who opposes gambling. My State has decided to go that route. I have taken an unpopular position in my State. Fortunately, I am not Governor, I am a Senator, and everybody knows we don't pay attention to Senators back in the State—at least in my case.

I do support the Craig amendment on the grounds stated by the Senator from Hawaii. It seems to me that what the Craig amendment does is exactly what the Senator from Hawaii has stated, which is that it makes it clear that the intention stated by my friend from Arizona is in fact met, that it does not in fact directly, or indirectly, by inference or otherwise, amend IGRA.

It seems to me that, on a larger principle, we are always all too ready, in the 25 years I have been here, to say we believe in the sovereignty of the Indian nations. And we are very ready, whenever they do anything we don't like, to conclude that we in fact do not recognize and should not recognize their sovereignty. Further, we add insult to injury and the only time we treat them as sovereign nations is when we are handing out money, when we have programs. One of the exceptions in the crime bill is that Indian nations can apply for police officers directly, just like the State of Delaware, or the town of Wilmington, or the county of Columbus could do so.

So I find it somewhat interesting when, in fact, we find it in our interest—meaning we are not going to spend money—to recognize the sovereignty of Indian nations—we are ready to do that. But when Indian nations want to do something that somehow is viewed as impinging upon another interest in a State in which the Indian nation happens to be located, we are all ready to say, no, no, no, let's hold up.

I will not take any more time, in light of the hour. We are about to vote. I agree fully with the Senator from Hawaii. I share his view about gambling generally, and I share his view about the Craig amendment specifically.

I yield the floor.

Mr. KYL. Mr. President, I want to make something very clear since the Senator from Delaware is still on the floor.

The Senator from Idaho has proposed an amendment that is a poison pill. I want to make it very clear that if by some chance it should pass, I will urge all of my colleagues to vote against my bill, because what it will do is create a monopoly. Indian tribes will be the only people in the country that will be permitted to engage in Internet gambling. Offshore casinos, virtual casinos, and Indian tribes would be able to do it; no other citizen would be allowed to do it. This is not a violation of IGRA. We do not provide for State enforcement unless an Indian tribe has already agreed by compact to do that.

So I want to make it clear. I will read to you two sentences from a letter from the National Association of Attorneys General. I want the Senator from Delaware to listen to these words and to appreciate that this activity is illegal; it will be illegal for all Americans, and I think the last thing we want to do is create a situation in which one group of Americans can do this and nobody else can. This is a letter to Acting Chairman Deer and Commissioners Foley and Hogen of the National Indian Gaming Commission with respect to this issue:

> We are writing to you to express our strong opposition to and legal analysis regarding the use of the Internet for the purpose of engaging in gaming activity allegedly under the Indian Gaming Regulatory Act of 1988 (IGRA). The undersigned have concluded that such gaming is not authorized by IGRA.

That is signed by all of the attorneys general, including the attorneys general of Hawaii and Idaho and, as I said, all of the other attorneys general.

I have practiced law for 20 years. I am very familiar with the law in this area. I am not misreading the law. With all due respect to our colleagues from Idaho and Hawaii—and I love them both, and they are great and fine Senators—on this matter, in my opinion, they are simply not correct. The effect of their amendment is so bad, as I said, it is a poison pill. It is so bad that I would have to urge all of my colleagues to vote against this amendment that Senator BRYAN and I have proposed.

Mr. GREGG. Mr. President, what is the regular order?

AMENDMENT NO. 3257

The PRESIDING OFFICER. The regular order is that the hour of 9:30 having arrived, under the previous order the pending question is the amendment numbered 3257 offered by the Senator from Arizona, Mr. MCCAIN. Under the previous order, there will now be 2 minutes of debate equally divided.

Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that after the completion of the McCain amendment that votes on further amendments that are in this stacked group be limited to 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object, I don't intend to object. I ask the manager of the bill if he could give us some indication of what his intention is this evening relative to the schedule. How many votes will we have? After this series of votes, it is my understanding that we are going to return to the Kyl amendment for further debate. Does that mean further votes this evening?

Mr. GREGG. It is my expectation that what will occur is we will have maybe a minimum of five votes during this sequence, and potentially six. At the completion of that, we will go back to the Kyl amendment, as amended, by Craig. We will debate that until it is in a position to be voted on. Then we will vote on it. Then we will go on to the next amendment on this bill, and we will vote on that.

Mr. COATS. Is it the Senator's intention that we will stay on this bill this evening until this bill is completed?

Mr. GREGG. It is my hope—I know it is the hope of the ranking member—that we can work out a unanimous consent to be more accommodating to our colleagues. But that unanimous consent has not been agreed to. Our hope would be to get a unanimous consent where all the pending amendments to the bill, of which we have agreements on the list, to be debated tonight and then voted tomorrow. However, as of now there are objections to that unanimous consent. As long as there are objections, it is my intention to proceed on with votes.

Mr. COATS. So we will be here until at least 11 p.m. voting, and maybe not even be voting yet on the Kyl-Craig amendment.

Mr. GREGG. My expectation is that we will be voting until 11 p.m. on this sequence, and further debate on Kyl-Craig, which I presume will take another hour, and we will be voting on that, unless we can get agreement on unanimous consent requests, which the Senator from South Carolina and I have asked both our colleagues to support us on, which would be to allow debate on all pending amendments, of which we have a list, tonight with votes to occur stacked tomorrow morning.

Mr. COATS. Absent that, my last point, as a consequence we will continue this evening?

Mr. GREGG. That is correct. That is my intention.

Mr. COATS. I thank the Senator. I withdraw any objection.

The PRESIDING OFFICER. Has all time been yielded?

Mr. GREGG. Mr. President, I ask unanimous consent that all time be yielded on the McCain amendment.

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

The question is on agreeing to the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—47

Abraham	DeWine	McCain
Allard	Dorgan	Moseley-Braun
Ashcroft	Enzi	Murkowski
Bingaman	Faircloth	Murray
Bond	Feingold	Nickles
Boxer	Frist	Reid
Brownback	Gramm	Roberts
Bryan	Grams	Roth
Burns	Grassley	Sessions
Cleland	Hagel	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Kempthorne	Smith (OR)
Collins	Kohl	Snowe
Conrad	Kyl	Thomas
Coverdell	Lugar	Thompson
Craig	Mack	

NAYS—53

Akaka	Graham	Lieberman
Baucus	Gregg	Lott
Bennett	Harkin	McConnell
Biden	Hatch	Mikulski
Breaux	Helms	Moynihan
Bumpers	Hollings	Reed
Byrd	Hutchison	Robb
Campbell	Inhofe	Rockefeller
Chafee	Inouye	Santorum
D'Amato	Jeffords	Sarbanes
Daschle	Johnson	Specter
Dodd	Kennedy	Stevens
Domenici	Kerrey	Thurmond
Durbin	Kerry	Torricelli
Feinstein	Landrieu	Warner
Ford	Lautenberg	Wellstone
Glenn	Leahy	Wyden
Gorton	Levin	

The amendment (No. 3257) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending question is now on amendment No. 3261, offered by the Senator from Idaho, Mr. CRAIG.

Who yields time?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 3256

Mr. GREGG. I ask unanimous consent the Thompson amendment, No. 3256, be agreed to.

THE PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3256) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate majority leader.

Mr. LOTT. Mr. President, I know the Senators are trying to get some idea of how this will go from here on. I have been working with Senator DASCHLE.

Mr. President, we have four more votes in this stacked sequence, which will take us a good portion of the next hour. We are trying to work an agreement whereby we would then, at the conclusion of this series of votes, go back to the Kyl amendment and have the debate on that concluded tonight, with a vote occurring at 9 in the morning. Then we would get an agreement that all other amendments and final passage occur by noon tomorrow.

I think that is reasonable. Senator DASCHLE is working with me to see if we can get everybody to agree to that. We are trying to find a way to give you some reasonable night tonight and get this to a conclusion. I do not want to prejudge amendments that are being offered, but I really think we have reached a point where we need to get a conclusion. If we do not put an end to it, it will go on and on and on, on this bill. The alternative is to go back to Kyl and vote on that and to have other votes. I still have the luxury of going to the Executive Calendar, if all else fails, and have some votes on that.

We need cooperation so Senators can make progress so the rest of us can get a decent night's sleep and so we can complete this bill tomorrow. I am not going to ask that right now, to give both of us time to work with those who have amendments, but I think that is a very reasonable arrangement, so I hope all of our colleagues will help us by talking to other colleagues who might have amendments, and I hope we can get this worked out by the next vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 3261, AS MODIFIED

Mr. CRAIG. Mr. President, I say to my fellow Senators, they are being asked to vote in just a couple of minutes on what I think is an extremely important amendment. We move the Youth Crime Gun Interdiction Initiative, that is now a demonstration project in Philadelphia, nationwide over a period of 5 years. With the Bureau of Alcohol, Tobacco and Firearms, working with counties, States and local law enforcement agencies, to provide information on the illegal activity of firearms in communities, to create adult, juvenile and youth illegal firearm activities, identify them and control them, to make firearm violations Federal violations prosecutable and move it in that direction.

Mr. President, if this Senate wants to move against youth violence with the misuse of firearms, this is a major initiative and a major step in that direction. I hope my colleagues will work with us as we expand this from 17 demonstration projects to 50 to 75 to 150 across the Nation in high-crime areas going directly at juveniles and the misuse of firearms and prosecuting felons who use firearms in the commission of a crime, which is already a Federal violation of law, but now goes unprosecuted.

I hope my colleagues can join with me in supporting this amendment.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Illinois.

Mr. DURBIN. Mr. President, I started in opposition to this amendment, but I now rise in support of this amendment. I think the Senator from Idaho is right. I think we should adopt this amendment with an overwhelming margin, and I believe he was right yesterday during the course of the debate when he said:

> A general firearm safety rule that must be applied to all conditions is that a firearm should be stored so that it is not accessible to untrained and unauthorized people.

The Senator went on to say:

> Proper storage of firearms is the responsibility of every gun owner.

The next amendment after we adopt the Craig amendment will give us a chance to adopt a children's access prevention law which says to every gun owner in America, you have the right to bear arms; you have the responsibility to store them safely. I urge all my colleagues to vote with Senator CRAIG and then support the Durbin-Chafee amendment.

Mr. GREGG. Mr. President, in light of the Senator's statement, I ask unanimous consent that the yeas and nays on this amendment be vitiated and that the amendment be agreed to my unanimous consent.

Mr. HOLLINGS. No objection.

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

The PRESIDING OFFICER. The question is on agreeing to the Craig amendment No. 3261, as modified.

The amendment (No. 3261), as modified, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3260

The PRESIDING OFFICER. The question now occurs on the amendment by the Senator from Illinois No. 3260. Who yields time?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am going to yield a minute to my colleague and cosponsor, Senator CHAFEE of Rhode Island. I urge my colleagues to understand that 15 States have enacted these laws to protect children. We all read about these horrible situations in Jonesboro, in Springfield, in Pearl, MS. Let us not just lament this situation, let us do something about it.

Gun owners understand their responsibility. That is why the NRA supported this law in its enactment in five different States. We can do this tonight to save children's lives.

I yield my remaining time to my colleague from Rhode Island.

Mr. CHAFEE. Mr. President, may we have order?

The PRESIDING OFFICER. Order in the Senate. Senators will take their conversations off the floor of the Senate.

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, it is clearly recognized that if you own a pit bull and it is recognized as dangerous, you better control that pit bull. And if that pit bull slips away and injures, severely mauls a child, you are liable. So it is with guns. If you leave a gun lying

around that a juvenile gets to and that juvenile causes severe damage with that gun either to himself or to another individual, then you are to be liable, likewise.

If you are liable for a pit bull, you certainly ought to be liable for a dangerous weapon like a rifle or a handgun that is left lying around. If you keep it under lock and key, that is a different matter, you are not liable. I urge everyone to support this amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I say to fellow Senators, don't be fooled by this amendment. For the first time, we take the victim, the person who has had his or her firearm stolen, and we make them the criminal. For the first time, we say you can become a Federal criminal without ever being involved in the crime. That is what this amendment does.

Don't fall for the analogy of the pit bull. If the pit bull is chained in the backyard, and there is a fence around the yard, and the yard is locked and somebody gets in that yard and inside the circle of the pit bull and is injured, it is not the owner's fault. That is the law.

I hope you can join with me in opposing this. Don't make the victim the criminal. Don't say that the person should become a Federal criminal who is not even associated with the crime.

Mr. President, I move to table the amendment and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3260, offered by the Senator from Illinois, Mr. DURBIN. The yeas and nays have been ordered on this question. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—69

Abraham	Craig	Hollings
Allard	D'Amato	Hutchinson
Ashcroft	Daschle	Hutchison
Baucus	Domenici	Inhofe
Bennett	Dorgan	Jeffords
Bingaman	Enzi	Johnson
Bond	Faircloth	Kempthorne
Breaux	Feingold	Kerrey
Brownback	Ford	Kyl
Bryan	Frist	Leahy
Burns	Gorton	Lott
Campbell	Gramm	Lugar
Cleland	Grams	Mack
Coats	Grassley	McCain
Cochran	Gregg	McConnell
Collins	Hagel	Murkowski
Conrad	Hatch	Nickles
Coverdell	Helms	Reid
Roberts	Shelby	Stevens
Rockefeller	Smith (NH)	Thomas
Roth	Smith (OR)	Thompson
Santorum	Snowe	Thurmond
Sessions	Specter	Warner

NAYS—31

Akaka	Graham	Moseley-Braun
Biden	Harkin	Moynihan
Boxer	Inouye	Murray
Bumpers	Kennedy	Reed
Byrd	Kerry	Robb
Chafee	Kohl	Sarbanes
DeWine	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Durbin	Levin	Wyden
Feinstein	Lieberman	
Glenn	Mikulski	

The motion to lay on the table the amendment (No. 3260) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. CRAIG. I move to lay the amendment on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3263

The PRESIDING OFFICER. The next order of business is the Bumpers amendment numbered 3263, with 2 minutes equally divided.

Mr. BUMPERS addressed the Chair.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, if you vote no on this amendment, you should be prepared to go home and say to your constituents that you really don't believe in privacy. When we have a law in this country that allows people to tape-record a conversation with you and only they know it is being taped and you don't and that is quite legal, we no longer have any privacy in this country. How do you explain that to your constituents?

This bill would make it a criminal offense, as Janet Reno said she favored in Florida, as 15 States have already adopted. We overwhelmingly passed a law to make it a criminal offense to intercept a cellular phone call. What I am trying to do is to extend that to the old archaic rule—think of this, think of this. You can be talking to a person who is your best friend; he or she can be tape-recording that conversation and publish it on the front page of the New York Times or the Washington Post, and there isn't a thing you can do about it.

I have exempted law enforcement; I have exempted intelligence agencies; I have exempted everybody who has to make telephone calls in their business; I have exempted people who are threatened or stalked.

Please, let's correct this once and for all.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, usually I have some empathy for what my colleague is saying, but this amendment requires both parties to consent before phone calls are being taped. This hasn't been debated before the Judiciary Committee and involves all kinds of ramifications.

It is setting a Federal standard where one is not needed, because many States now allow taping by one party. It is brought up only after the Linda Tripp situation.

I frankly think it is the wrong thing to do. We are willing to look at this, but we are willing to look into this on the Judiciary Committee, and we certainly will do it. But I think it is the wrong thing to do right now. I don't believe we should federalize this at this point.

Mr. BUMPERS. I ask unanimous consent for 10 seconds.

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

Mr. BUMPERS. Mr. President, I offered this amendment in 1984 when Charles Wick, head of the United States Information Agency, said that he had taped 84 phone calls, including Reagan, Cabinet Members, President Carter. I offered it then, and I got 41 votes. I offered it again in 1993. Linda Tripp has nothing to do with this.

This is plain decency. It is constitutional. It is an invasion of your privacy for somebody to record a conversation of you and you not know it.

It is offensive in the extreme.

Mr. HATCH. Mr. President, I ask unanimous consent for 10 seconds.

The way to do this is not to federalize it. Let's at least not impose something on the States without full committee hearings before the Judiciary Committee and find out what should be done.

I am not necessarily saying I am rejecting what the Senator said, but I have to reject it under these circumstances. I hope we will reject it.

The PRESIDING OFFICER. Time on the amendment has expired.

Mr. GREGG. Mr. President, I remind the Members, this is a 10-minute vote, and the faster we can get it done, the faster we can get out.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

The question is on the amendment of the Senator from Arkansas.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—50

Akaka	Dodd	Kerrey
Baucus	Dorgan	Kerry
Biden	Durbin	Kohl
Bingaman	Feingold	Landrieu
Boxer	Feinstein	Lautenberg
Breaux	Ford	Leahy
Bryan	Glenn	Levin
Bumpers	Graham	Lieberman
Byrd	Harkin	Mikulski
Chafee	Hollings	Moseley-Braun
Cleland	Hutchinson	Murray
Coats	Inouye	Reed
Conrad	Jeffords	Reid
Coverdell	Johnson	Robb
Daschle	Kennedy	

Rockefeller	Snowe	Wellstone
Sarbanes	Torricelli	Wyden

NAYS—50

Abraham	Gorton	Moynihan
Allard	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Roth
Brownback	Hagel	Santorum
Burns	Hatch	Sessions
Campbell	Helms	Shelby
Cochran	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Craig	Kempthorne	Specter
D'Amato	Kyl	Stevens
DeWine	Lott	Thomas
Domenici	Lugar	Thompson
Enzi	Mack	Thurmond
Faircloth	McCain	Warner
Frist	McConnell	

The amendment (No. 3263) was rejected.

MOTION TO TABLE MOTION TO RECONSIDER

Mr. LOTT. Mr. President, I move to reconsider the vote and to lay that motion on the table.

Mr. BUMPERS. Mr. President, is the motion to reconsider debatable?

The PRESIDING OFFICER. The motion to reconsider is not debatable.

Mr. BUMPERS. Has a motion to table been made, Mr. President?

The PRESIDING OFFICER. Yes.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—51

Abraham	Faircloth	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Collins	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Enzi	Mack	Warner

NAYS—49

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Hutchinson	Reed
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Snowe
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	
Feingold	Leahy	

The motion to lay on the table the motion to reconsider was agreed to.

Mr. LOTT. Mr. President, I would like to propound a unanimous consent request now. If we can get this worked out, then we will have one remaining vote tonight.

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

UNANIMOUS CONSENT REQUEST

Mr. LOTT. If we can get this unanimous consent agreement worked out, then there will be one remaining vote tonight and then the first recorded vote will be about 9:20, I believe, in the morning. Then we will go on to other issues with time limits, and we will probably have another series of stacked votes on over in the morning after consultation with the managers, if that would be all right.

I ask unanimous consent that following the next vote, the Senate resume the pending Craig amendment to the Kyl amendment and a vote occur on or in relation to the Craig amendment at 9:15 on Thursday, with 10 minutes equally divided for closing remarks prior to the vote.

I further ask that following the vote in relation to the Craig amendment, the Senate proceed to vote in relation to the Kyl amendment, as amended. I further ask, following the Kyl amendment, the following amendments be the only amendments to be offered to the pending legislation other than the managers' amendment, with no second-degree amendments in order, and limited to the times, where specified, all to be equally divided.

The list is as follows: A Nickles amendment regarding defense attorneys, 10 minutes; a Bingaman amendment regarding trademark and Indian tribes, 20 minutes; a Bumpers amendment regarding immigrant investor program, 20 minutes; a Kerrey of Nebraska amendment regarding copper, 40 minutes; a Kerry of Massachusetts amendment regarding Vietnam, 20 minutes; a Wellstone amendment regarding abuse of immigrant spouses, 30 minutes; a Hatch amendment regarding gun prosecutions, 20 minutes; a Grams amendment regarding criminal court, 10 minutes; a Grams amendment regarding U.S. nationals, 10 minutes; a Grams amendment regarding budget certification, U.N., 10 minutes; a Smith of Oregon amendment regarding guest workers, 10 minutes.

I further ask that following the debate on the above-listed amendments, the Senate proceed to vote in a stacked sequence, with 2 minutes for debate to be equally divided prior to each vote, and following those stacked votes, Senator GREGG be recognized to offer the managers' amendment, and following its disposition, all other provisions of the previous consent agreement with respect to the passage vote then occur.

Before the Chair puts this to a question, I thank Senator DASCHLE for his cooperation in getting reasonable time agreements here. I think maybe some of these amendments would actually require less time than has been identified. But we are trying to make sure that all Senators have the time that they need.

Mr. DASCHLE. If the majority leader will yield——

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, the Senator from California had made a request that she be on that list, as had the Senator from New Jersey. The Senator from California had asked for a half-hour on her amendment. She is continuing to negotiate with the managers. The Senator from New Jersey had asked for an amendment, 10 minutes as well.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, if we could get 20 minutes on the guest worker, with the possibility of a second-degree amendment and 30 minutes evenly divided on the second-degree amendment.

Mr. LOTT. Mr. President, I think I hear additional amendments which would require second-degree amendments beginning to evolve here. The alternative is, we go ahead and keep voting tonight. We have had plenty of debate here. I would like to find a way that we can get this completed at a reasonable hour tomorrow.

Does the Senator from California have something worked out that I could include in this request?

Mrs. FEINSTEIN. Yes. If I could have a half-hour.

Mr. LOTT. The problem with all of these is that if we have them offered, then second degrees would be requested by others. So if we can't get this agreed to, then I think we will just have to go on with this vote and keep going tonight.

Now, we can work during this vote and see if we can work it out. But it is 30 minutes for first degree, 30 minutes for a second degree, and there is no end to it. We have tried to work up a reasonable agreement here.

I would like for Senators to work during this vote. We cannot tell you this is the last vote now. So you are not going to be able to vote and leave unless we can get something worked out very quickly.

Any other reservations we need to be made aware of here?

Mr. BIDEN. Mr. President, as they say, reserving the right to object, I don't think there is a problem; we may be able to work it out. But you mentioned two amendments Senator GRAMS of Minnesota has regarding the United Nations. If we can't work out the second one relating to U.N. arms, I would want a second-degree amendment, or else I would object.

Mr. LOTT. Mr. President, let's proceed to vote.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The request has been withdrawn.

AMENDMENT NO. 3264

The question is on agreeing to the amendment of the Senator from Wisconsin. There is 2 minutes of debate equally divided.

Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment simply states what we all know to be true, and that is that cable rates across the country have risen steadily since the Telecommunications Act of 1996. And there is virtually no competition in the industry. The amendment instructs the FCC to report to us whether this situation is consistent with the FCC's responsibilities, which it still has until March of 1999, to make sure that cable TV rates are reasonable. If not, the amendment asks the FCC to give us an action plan; in other words, what is it going to do to carry out its duties?

This is an amendment designed to hold the FCC accountable. We gave it a mission to promote competition and ensure that the rates are reasonable. The American people deserve to know why the agency has not succeeded. The amendment is supported by the Consumers Union and will be a signal whether this body is content to see cable rates rise as high as three to four times the rate of inflation, as has happened during the past year.

I urge my colleagues to vote in favor of this simple amendment.

The PRESIDING OFFICER (Mr. ENZI). The time of the Senator has expired. Who yields time?

The Senator from Arizona.

Mr. McCAIN. Mr. President, I will take 30 seconds and give the other 30 seconds to the Senator from Montana.

This is not the time or place to take such action which would represent the beginning of cable reregulation. Mr. President, I hope my good friend from Wisconsin will withdraw the amendment and testify before the Commerce Committee next Tuesday, where we are examining the issue of cable rates. This is not the place to have this kind of amendment, which has such profound effects. It requires separate legislation. I understand his problem, but this is not the solution.

Mr. President, I move to table the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I am concerned that the Feingold amendment is an inappropriate attempt to continue excessive government regulation of the cable industry. I believe that additional reports on the industry by the Federal Communications Commission would be an unnecessary waster of taxpayer money. Furthermore, any efforts to deal with cable rates should be dealt with in the upcoming hearing we have scheduled before the Commerce Committee this Tuesday.

The Cable Bureau is largely a product of the 1992 Cable Act. I opposed that Act because I believed it was overly regulatory and heavy handed. I believe that my concerns were proven to be correct. However, in 1996, Congress responded to some of the excesses of the 1992 Act and to the growing competitiveness of the marketplace by adopting several Cable Act reform provisions as part of the Telecommunications Act.

The aim of the Telecommunications Act as it related to cable services was to provide increased choices at lower cost by opening up historically monopolistic, regulated markets to new entrants. In return, cable operators would be allowed to enter new communications markets such as telephone and information services. As we move beyond traditional models of monopolies and excessive regulation to a climate of open competition, exciting new educational and commercial opportunities are beginning to appear.

I am also very concerned about the recent spate of increases in cable rates. However, the answer to increasing rates is not found in ever-increasing government regulation but in providing for increased consumer choice. Rather than engaging in micromanaging the rate-structure of the cable systems, government should create a level playing field where new entrants can compete effectively with incumbent providers.

It was for this reason that I must oppose further misguided efforts to engage the government in regulating cable rates.

Mr. President, this issue has been studied to death. When this Congress decided to deregulate the cable industry, it was to expand services and enhance services of the cable industry. That has happened. If you look at the services and the expanded television coverage that we have now on cable as compared to as near as 5 years ago, you would see a big difference in the services that you receive today.

There is a hearing on next Tuesday. We invite the Senator from Wisconsin to testify. This is no place to deal with this situation.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MACK (when his name was called). Present.

The result was announced, yeas 63, nays 36, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—63

Abraham	Ashcroft	Bingaman
Allard	Bennett	Bond
Breaux	Grassley	Moynihan
Brownback	Gregg	Murkowski
Bryan	Hagel	Nickles
Burns	Hatch	Reed
Campbell	Helms	Reid
Chafee	Hollings	Roberts
Coats	Hutchinson	Roth
Cochran	Hutchison	Santorum
Collins	Inhofe	Sessions
Craig	Inouye	Shelby
Daschle	Kempthorne	Smith (NH)
DeWine	Kerrey	Smith (OR)
Domenici	Kerry	Snowe
Enzi	Kyl	Stevens
Faircloth	Landrieu	Thomas
Ford	Lott	Thompson
Frist	Lugar	Thurmond
Gramm	McCain	Torricelli
Grams	McConnell	Warner

NAYS—36

Akaka	Durbin	Leahy
Baucus	Feingold	Levin
Biden	Feinstein	Lieberman
Boxer	Glenn	Mikulski
Bumpers	Gorton	Moseley-Braun
Byrd	Graham	Murray
Cleland	Harkin	Robb
Conrad	Jeffords	Rockefeller
Coverdell	Johnson	Sarbanes
D'Amato	Kennedy	Specter
Dodd	Kohl	Wellstone
Dorgan	Lautenberg	Wyden

ANSWERED ''PRESENT''—1

Mack

BOYS AND GIRLS CLUB CAPITAL FLAGSHIP CLUB

Mr. HATCH. I would like to engage the distinguished manager of the bill, Senator GREGG, in a colloquy.

Mr. GREGG. I would be pleased to respond to the chairman of the Judiciary Committee on a matter that I know is of great importance to him.

Mr. HATCH. I thank the floor manager and subcommittee chairman.

I was pleased that the Commerce, Justice, State, Judiciary appropriations bill as reported to the Senate included an increase of $20,000,000 over current levels for the Boys and Girls Clubs, bringing total funding for this outstanding organization to $40,000,000 in fiscal year 1999.

As the chairman knows, I support additional funding in his bill to allow the Boys and Girls Club of Greater Washington and the national organization to establish a state-of-the-art national capital flagship Boys and Girls Club facility in Washington, DC, near the Capitol.

Mr. GREGG. I am aware of the Senator's deep interest in this meritorious project and for his longstanding support of the Boys and Girls Clubs.

Mr. HATCH. I thank my colleague.

Although there is no clarifying language contained in the Senate committee report regarding how the additional $20,000,000 over last year's level would be utilized by the Boys and Girls Clubs, I would hope that the committee's intent was that a significant portion of those additional Boys and Girls Clubs appropriations would be used to cover the cost of establishing the national capital flagship club facility in the Nation's Capital at a site to be selected by the Boys and Girls Clubs of Greater Washington in consultation with the national organization.

Mr. GREGG. The Senator and chairman of the Judiciary Committee is absolutely correct. The additional

$20,000,000 provided in our bill for the Boys and Girls Clubs was in part to cover the cost of the proposed national capital flagship club facility in Washington and for other purposes. It is my understanding that at least $6,000,000 will be require for the site, design and construction of the proposed flagship facility and that amount would be covered by these additional funds.

Mr. HATCH. I thank the distinguished chairman of the subcommittee for that clarification and I deeply appreciate his strong support for the national capital flagship club facility in Washington. The flagship club will be run by the Boys and Girls Clubs of Greater Washington in concert with the Boys and Girls Clubs of America and will provide a prototype, technology-based club facility to help troubled youth both here and around the nation.

Mr. GREGG. I look forward to working with the Senator to make sure that this flagship project is fully funded and that the Office of Justice programs carries out this project effectively, beginning in fiscal year 1999.

FUNDING TO IMPLEMENT THE 2000 CENSUS

Mrs. FEINSTEIN. Mr. President, I rise today to commend the bi-partisan leaders of the appropriations subcommittee, Chairman GREGG and Senator HOLLINGS, for providing adequate funding to allow the Census Bureau's census 2000 plan to proceed. The funding will permit the census professionals to continue their plan to guarantee that everyone in every city and rural area will be counted.

I ask that when this Appropriations bill goes to conference with the House that the Senate conferees stand united against any effort to reduce the decennial census funding level or micromanage the professional census gathering process.

I am very concerned about the critical 2000 census, because I believe Senator GREGG and Senator HOLLINGS will face a difficult conference with the House. Contrary to the Senate plan, the House funds the Census Bureau for only six months, crippling the bureau and denying the census professionals the tools they believe will help them conduct the most accurate 2000 census possible.

The House leadership has also challenged the Census Bureau sampling plan in federal court, asserting it violates the United States Constitution. The federal court should proceed with their review, but the Census Bureau professionals need to proceed with their plan, which represents the best efforts of census professionals and academics to measure the population.

Before we look forward to conference, I would like to briefly look back and put the current sampling dispute in its historical context. Regrettably, the public debate over the 2000 census has been dominated by the use of sampling, a simple, statistical method proposed by the Census Bureau to count the historically ''difficult to count'' populations of the nation's urban and rural poor. The Bureau's sampling plan was developed in direct response to the unprecedented census error rates in 1990, the first census in US history to be both more costly and less accurate than the census that preceded it.

Why is an accurate census important for the nation? The decennial census is the basis for distributing funds throughout the country for more than one hundred federal programs.

Is the local police force eligible for federal grants for cops on the beat or drug education programs? Check the census, which sets eligibility for Byrne grants, DARE funds or community policing grants.

How about education funds for schools? The census determines title one or title two education grants.

How about funds for homelessness, mass transit or other transportation funds? Again, the census determines state and local government eligibility for Social Services block grant money, highway and mass transit grants.

What about health care for low-income families? Again, the census helps set state Medicaid reimbursement levels.

The census is instrumental for the effective administration of government at all levels, providing the basis for distributing billions of dollars throughout the country through hundreds of programs. The nation cannot afford the error rates and inaccuracy experienced in the 1990 census.

The General Accounting Office, the investigative arm of Congress, concluded the 1990 census failed to count about 15 million Americans, while an additional 11 million Americans were double-counted. The California population was undercounted by more than 2.7%, representing 20% of the nation's net undercount.

If we squander this opportunity for reform and the 2000 census proves to be equally inaccurate as its 1990 predecessor, between 5 and 6 million individuals, would be ''missed.'' If we do not reform our census plan, 1 to 1.2 million Californians, 3% of the state's population, will fail to be counted. If the census misses 1 million people in California, about 300,000 children will not be counted, depressing state education funding and seriously compromising education in the state.

Mr. President, concerns for undercounting the United States population are as old as the nation itself. Thomas Jefferson, transmitting the first census to President Washington, commented, ''we know in fact that the omissions have been very great.'' However, the Census Bureau sampling plan, which enjoys the support of the National Academy of Sciences, academics and census professionals, is a reasoned response to the unprecedented error rates of the 1990 census. Congress cannot make the same mistake again.

The Census Bureau plan needs to go forward. It's time to allow the census professionals to implement their best plan to improve on the 1990 undercount and deliver the most accurate 2000 census possible.

I thank the chairman, Senator GREGG, and ranking Democrat, Senator HOLLINGS, for their efforts and extend my continuing support.

IRAQ WAR CRIMES TRIBUNAL

Mr. SPECTER. Mr. President, I want to commend my colleagues, Chairman GREGG and Senator HOLLINGS, for including in this legislation $5 million to cover initial costs of establishing a War Crimes Tribunal for prosecution of Saddam Hussein and other Iraqi government officials for crimes committed during the Gulf War and afterward.

I sought these funds in a letter to Chairman GREGG dated April 24, 1998, because I believe it is critical that we have the prosecutorial infrastructure in place to deal with Iraqi war crimes. I also noted in my letter that every effort must be made to obtain contributions from our allies and other U.N. member countries for this vital effort.

I look forward to working with my colleagues as this bill moves forward to ensure that these funds are retained in Conference.

OECD

Mr. LIEBERMAN. Mr. President, I rise today to bring my colleagues attention to the excellent work being done by an important international organization—the Organization for Economic Cooperation and Development (OECD). Since 1961, when it was founded, the OECD has worked to open up and help develop the world economy, not only for its member states but also for those nations outside the OECD area.

We live in an era when the term global economy is redundant. There is one economy, and it is global. And one of the things we need as a nation to keep us competitive is accurate, up-to-date information. We also need a forum in which to work with other nations equally committed to economic openness to achieve the highest sustainable growth and standard of living. That is what the OECD is all about: helping its member nations achieve a better standard of living and higher sustainable growth rate by providing a forum for the exchange of information and policy prescriptions.

While the OECD has 29 member nations, its reach is global. For example, for a number of years, the OECD had in place the Center for Cooperation with the Economies in Transition (CCET). The CCET was initiated by the U.S. as a result of an amendment I introduced to the SEED Act. My colleagues will recall the SEED Act was designed to help the economies of Central and Eastern Europe build market economies. Well the work of the CCET was so successful, that three nations from that region—Poland, Hungary and the Czech Republic—have become members of the OECD.

Now, the OECD has revised its approach to helping non-member nations to reach beyond the CEE nations. For example, the OECD does a lot work with Russia. It is also closely following the Chinese economy. It has been part

of the team of international organizations and governments who have been working on what to do about the economic crisis in Asia.

The OECD's work is not limited to handling macroeconomic issues. It works on a number of other key economic areas. The Convention to combat Bribery and Corruption is an example of an important OECD initiative. It is also taking the lead on helping governments can best respond to the rapidly changing world of electronic commerce. It is involved with issues relating to regulatory reform, corporate governance, and sustainable development to name a few.

But perhaps what really distinguishes the OECD from other international organizations is its internal reform efforts. The OECD has undertaken on its own, a significant reform effort. Specifically, it has pledged to cut its overall spending by 10% during the three year period beginning in 1996. It is well on its way toward reaching this. So far that has meant a loss of 180 staff, more than 10% of its total.

It is my understanding that the subcommittee has decided to use a formula to cut the budgets of international organizations that have administrative costs above 15%. But the data it is using is based on a 1997 State Department study that only goes up to 1995. The OECD has told me that it has brought down administrative costs to about 12.4% of its budget.

I agree with the committee's goal of trying to get international organizations to make necessary reforms and reductions. The era of big government ought to be over not only at home but with international organizations as well. The OECD is a good story. It has reformed on its own. My fear is that if despite all its efforts to enact cuts, the Congress calls for further arbitrary cuts of the OECD based on data that is not up-to-date, then it will undermine the reformers in the organization who share our goal of getting international organizations to be ''leaner and meaner.''

I, therefore, urge the committee and the Administration to fully fund the OECD at the request level made by the Administration. Let's show that we are willing to reward and encourage organizations like the OECD that make real reforms.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Again, Mr. President, I thank Members for the cooperation we have been receiving. We have worked out time agreements on which I believe we can get a unanimous consent agreement. Let me read the whole thing once again. We have made changes.

I ask unanimous consent that the Senate resume the pending Craig amendment to the Kyl amendment and that a vote occur on, or in relation to, the Craig amendment at 9:15 a.m. on Thursday, with 10 minutes for closing remarks, to be equally divided. I further ask unanimous consent that following the vote in relation to the Craig amendment, the Senate proceed to a vote in relation to the Kyl amendment, as amended, with 2 minutes equally divided prior to the vote.

I further ask unanimous consent that following the Kyl amendment, the following amendments be the only remaining amendments to be offered to the pending legislation, other than the managers' amendments, with no second-degree amendments in order, unless specified, and limited to the times where specified, all to be equally divided.

The list is as follows: Senator Nickless amendment regarding defense attorneys, 10 minutes; Senator BINGAMAN, 20 minutes; Senator BUMPERS, 20 minutes; Senator KERREY of Nebraska, 40 minutes; Senator KERRY of Massachusetts, 20 minutes; Senator Wellstone amendment for 30 minutes; Senator Hatch amendment, 20 minutes; the first Grams amendment for 10 minutes regarding criminal courts; a second Grams amendment regarding U.S. nationals for 10 minutes, with a possible second-degree amendment by Senator BIDEN with 10 minutes; a Senator Grams amendment regarding budget certification for 10 minutes; Senator Smith of Oregon amendment regarding guest workers with 20 minutes, with a second-degree amendment for 20 minutes by Senator KENNEDY. We are still hoping they can work this out. If this matter is not resolved, we will have an amendment by Senator DASCHLE on this subject for 10 minutes, and an amendment by Senator LOTT for 10 minutes. Also, a Torricelli amendment regarding nonpoint source, 20 minutes; a Lieberman amendment regarding Asian financial crisis, 20 minutes; and a Lautenberg amendment regarding police cars, 20 minutes.

I further ask unanimous consent that following the debate on the above-listed amendments, the Senate proceed to vote in a stacked sequence, with 2 minutes for debate to be equally divided prior to each vote, and following those stacked votes Senator GREGG be recognized to offer the managers' amendment, and following its disposition, all other provisions of the previous consent agreement with respect to the passage vote then occur.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. In light of this agreement, then, thanks again for the cooperation of all Senators. There will be no further votes tonight. The next vote will occur at approximately 9:15 a.m. in the morning, perhaps slipping a minute or two to 9:20 on Thursday, and then a series of votes to be announced at a specified time later in the morning on Thursday.

Thank you. I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

AMENDMENT NO. 3268

Mr. GREGG. As I understand it, under the previous order we are now to return to the Kyl amendment, as amended by CRAIG, for debate with the votes to occur tomorrow morning. I ask unanimous consent that the debate on this amendment, for this evening's purposes, be limited to 20 minutes, 10 minutes on each side.

Mr. KYL. Ten minutes per side is fine for me. Five minutes per side is fine with me.

Mr. GREGG. I ask unanimous consent that we have 10 minutes, 5 minutes on each side.

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

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, I think many of us have spoken tonight to the issue of Internet gaming and our opposition to it; most assuredly, our opposition to unregulated offshore Internet gaming. The Senator from Arizona has brought forth an amendment that controls that, in fact, prohibits that. But it also prohibits something else that we in the Congress and law, by agreements, treaties with American Indians, have said is separate, should be, and should be regulated. And we have said Indian gaming should be regulated. And it is. But the Senator from Arizona has made the exception as it relates to any Indian gaming on the Internet. I am saying, that is an intrusion that should not be allowed.

Regulate? Absolutely. Control? Absolutely. Build and maintain a tribal-State compact? Absolutely. We have wrestled with this issue over the years. When I was in the House, I worked with a Congresswoman from Nevada. We were outruled by the courts. The Senator from Hawaii has clearly spoken to the issue of the courts.

What I am saying is that I sense there is a clear and important division. Through the Indian Gaming Regulatory Act, Congress established a clear and precise law governing all forms of Indian gaming. And I think it is important that I repeat that—all forms of Indian gaming. Authority to regulate Indian gaming was given by Congress to the National Indian Gaming Regulatory Commission.

I believe the Kyl bill ignores this procedure and IGRA. I do not believe we can ignore that as a Congress. The Kyl bill does this in a number of ways, including placing new restrictions on tribal gaming operations, and overrides and nullifies existing State-tribal compacts.

My amendment simply sets the issue of Indian gaming aside as it pertains to that. But it recognizes, as I think we all should, that Indian gaming via the Internet ought to be regulated and it ought to be controlled. And that is exactly what is happening today.

So I hope that for any of my colleagues who might be listening this

late into the evening, that we could revisit this for a short time tomorrow, because the Internet Gaming Prohibition Act by Senator KYL goes in and amends section 1084 of the Federal Wire Act to include lotteries. It is excluded there today. Decisions have been rendered on behalf of Indians as it relates to this in Federal courts. We think this is the appropriate decision, and it exempts them currently. And they are regulated now.

This is not an unregulated activity that I advocate by this amendment. It is a fully regulated activity under Federal law, under the Indian gaming laws as controlled by the National Indian Gaming Commission. That is the appropriate intent of this amendment.

I retain the balance of my time.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Wyoming.

Mr. ENZI. I yield from the time 1 minute.

I wish that I had 1 hour. This could be the most important thing we debate in this session of Congress. Yes, there is Indian gambling. Yes, there is some limited gambling on the Internet. The wording in this amendment can change the national flow. This can provide for a national lottery by an Internet monopoly—an Internet monopoly. This could eliminate the grocery store sales in each person's State that allows a lottery at the present time, because it would be much easier to pick it up on the Internet.

There is a good reason why gambling is limited to on premises for the most part. That is so you can enforce the age requirements. That is so you can check on the different kinds of gaming that there are, so you can check on the dollar limits that there are, so you can audit the process. The Internet is not something you can audit. This will not be a protection for any of the States.

Some of our States have had a referendum on whether we want any kind of local gambling, whether we want any kind of State gambling. And it has lost 2 to 1. We do not want gambling in Wyoming. But there is no protection against gambling in Wyoming. There is no protection on age in Wyoming. So kids can take parents' credit cards, get into this national lottery and violate State law.

I yield the remainder of my time.

Mr. BRYAN. Mr. President, I ask unanimous consent for 2 minutes.

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

Mr. BRYAN. Mr. President, I want to make very clear what is at issue here. If you oppose kids gambling on the Internet, then you are with Senator KYL and the Senator from Nevada. We think that is a disastrous policy for American families. Your 10-year-old child can dial up a site on the web and gamble without you knowing it and without any ability to control it. So the Kyl-Bryan amendment opposes Internet gambling in America for everyone.

Now, if that policy makes sense to you, and I think it makes sense for American families, then you have to oppose the amendment offered by the Senator from Idaho who says, in effect, Internet gambling should be prohibited for everyone except Indian tribes.

Now, what logic is that that a child in Utah, which is prohibited from all forms of gaming, would be able to surf the web, access the Indian gaming site in Idaho, and be able to participate over the Internet. That makes no sense at all. I think most families, if they were tuned into the debate tonight, would say KYL and BRYAN are correct, we don't want our kids on the Internet, and we believe it ought to be prohibited.

Senator CRAIG's amendment would emasculate that by saying the Indian tribes have an exception. No compact in America, none entered into by any Governor, any State or Indian tribe, authorizes Internet gambling. None. And no court in America, State or Federal, has ever held that Indian tribes are entitled to gamble on the Internet at such web sites.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, a few moments ago you talked about this destroying lottery systems. The national Indian lottery is up and operating today, and State lotteries are not falling by the wayside. In fact, they are stronger than ever in their level of participation. They are as tightly regulated as is this national lottery. That is the reality with which we talk about this, tightly regulated control.

Do I advocate 10-year-olds using this? I do not, and they cannot. There is a screening process. They would be in violation of it. They would have to go through all of the procedures of an adult. Yes, I guess if they stole their parent's credit card in the first instance it might work; in the second, it would not. Any winnings would be repealed and they might be in violation of the law.

So you can talk about scare tactics, if you will. The reality is we have a national Indian lottery today that is deemed legal on the Internet. The amendment by Senator KYL attempts to make it illegal. That is the reality with which we are dealing. I suggest that any effort to talk about great fears and scare tactics just doesn't fit because it is tightly, tightly controlled.

What the Senator from Arizona talks about, about offshore, I agree with an unlimited approach in an unregulated way. That is what is important. That is what my amendment does. We should allow Indian gaming to be regulated under Federal law as it currently is.

The PRESIDING OFFICER. The Senator from Arizona has 2 minutes.

Mr. KYL. Mr. President, let me respond, then, to my friend from Idaho. First, let me begin by saying that the Presiding Officer, when he spoke a few minutes ago, I think hit the nail right on the head. The Presiding Officer, the Senator from Wyoming, pointed out that it didn't really matter who conducts the activity on the Internet. Whether it is an Indian tribe or an offshore virtual casino, the result is the same for the people of the State which has established the public policy of protecting its people from such activity. You can't do it. You can't protect your citizens.

The State of Wyoming has made that decision, and yet if the Indians were allowed an exemption under this bill, they would be permitted to run Internet gambling operations, they could reach every citizen in every State and every young person in every State, as the Presiding Officer pointed out.

No one is allowed to do that today. No one would be allowed to do that under the legislation, but under the Craig amendment, a special exception would be made for the Indians. The Senator from Idaho argues that it is legal for the tribes to do that. In this he is simply wrong.

Again, let me quote from a letter from all 50 attorneys general, including the attorney general of Idaho, on this exact point. They are writing to the National Indian Gaming Commission.

> We are writing to you to express our strong opposition to and legal analysis regarding the use of the Internet for the purpose of engaging in gaming activity allegedly under the Indian Gaming Regulatory Act of 1998. The undersigned have concluded that such gaming is not authorized by IGRA. [One of the reasons, I might say, contained in the next sentence] As you know, under IGRA, gaming activity is allowed only on Indian lands.

This goes beyond that. It goes to any State, into any home, to be used by any child who might log on to the Internet. All the people I quoted before who testified before the Judiciary Committee said this is a pernicious activity for young people who get into the Internet and begin gambling. It could become the most addictive way for children and, later, adults to become addicted to gambling.

As a result, it is an activity that needs to be stopped before it is allowed to spread. What we should not do is create an exception just for the Indian tribes, because, in effect, that is an exception that precludes us from protecting our children. I urge, tomorrow, that we defeat the Craig amendment.

The PRESIDING OFFICER. All time has expired.

MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak up to 10 minutes each.

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

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Tuesday,

July 21, 1998, the federal debt stood at $5,535,209,449,941.52 (Five trillion, five hundred thirty-five billion, two hundred nine million, four hundred forty-nine thousand, nine hundred forty-one dollars and fifty-two cents).

One year ago, July 21, 1997, the federal debt stood at $5,363,683,000,000 (Five trillion, three hundred sixty-three billion, six hundred eighty-three million).

Five years ago, July 21, 1993, the federal debt stood at $4,336,609,000,000 (Four trillion, three hundred thirty-six billion, six hundred nine million).

Ten years ago, July 21, 1988, the federal debt stood at $2,552,565,000,000 (Two trillion, five hundred fifty-two billion, five hundred sixty-five million).

Fifteen years ago, July 21, 1983, the federal debt stood at $1,329,511,000,000 (One trillion, three hundred twenty-nine billion, five hundred eleven million) which reflects a debt increase of more than $4 trillion—$4,205,698,449,941.52 (Four trillion, two hundred five billion, six hundred ninety-eight million, four hundred forty-nine thousand, nine hundred forty-one dollars and fifty-two cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JULY 17TH

Mr. HELMS. Mr. President, the American Petroleum Institute has reported that for the week ending July 17 that the U.S. imported 8,750,000 barrels of oil each day, 605,000 barrels a day more than the 8,145,000 imported during the same week a year ago.

Americans relied on foreign oil for 58.1 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America s oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 8,750,000 barrels a day at a cost of approximately $98,875,000 a day.

LOBBING ONE MORE GRENADE AT MICROSOFT

Mr. GORTON. Mr. President, tomorrow the Senate Judiciary Committee will hold yet another hearing designed solely to lob one more grenade at Microsoft. It is entitled ''Competition and Innovation in the Digital Age: Beyond the Browser Wars.''

Just as I have said of the Justice Department's case against Microsoft, the Judiciary Committee's efforts to paint Microsoft in a negative light seems to be merely an attempt to give software companies that cannot compete against Microsoft on their own merits an opportunity to catch up. It is this practice, the practice of using the United States Senate and the Department of Justice as a means to help less successful companies compete against Microsoft, that is unfair—not Microsoft's business practices.

As all of my colleagues will remember, the Committee held a similar hearing only a few months ago. At that hearing in March, Microsoft's CEO, Bill Gates, patiently answered questions from committee members and witnesses representing his competitors for four hours. The questioning focused primarily on whether Microsoft has the right to integrate new and innovative products into its Windows operating system—specifically, Microsoft's Internet Explorer.

This is precisely that issue that a gaggle of lawyers over at the Justice Department's Antitrust Division and a dozen state attorneys general are currently litigating. The DOJ and state attorneys general allege that Microsoft, in including its browser software in Windows 98, is in violation of U.S. antitrust laws.

Only a few weeks after this case was filed, Microsoft won a major court victory in a related battle. On June 23, a three judge United States Circuit Court of Appeals panel overturned the preliminary injunction issued against Microsoft last December by U.S. District Court Judge Thomas Penfield Jackson. In my opinion, this ruling is so significant as to make the Department of Justice's current case against Microsoft even more questionable than it was at the time of filing.

The question before the panel was whether Microsoft violated antitrust law and a 1995 consent decree by integrating its web browser into Windows 95. The panel ruled that Microsoft's actions did not violate the consent decree and that Microsoft should indeed be allowed to integrate new and improved features into Windows. Such integration, the judges ruled, benefits consumers.

The judges went on to warn that the government is ill-suited to make technological determinations and that the dangers of doing so far outweigh the potential benefits that ''antitrust scholars have long recognized the undesirability of having courts oversee product design, and any dampening of technological innovation would be at cross-purpose with antitrust law.''

The Judiciary Committee's hearing will apparently focus on issues other than the integration of browser software into Windows 98. The witnesses will instead give testimony, among other subjects, alleging that Microsoft competes unfairly in the server operating system market—a market in which Microsoft is one of many competitors and in which no one company is dominant. No monopoly here—what's the beef?

The network server market includes competitors such as IBM, Sun Microsystems, Novell, Microsoft and several others. Many of these companies have chosen strategic business models in which they sell their customers not only the software that runs network servers, but sometimes the servers themselves, the applications that run on the servers, and even the workstations that sit on employees' desks. In such models, every piece of hardware and software is designed to work together, and as long as customers use only that one company's products, everything works fine.

Sales volumes in the network server market are fairly low but profit margins are high. Once a customer decides to buy a one-company network, he tends to stick with that system because the cost of switching to something else is quite high. Thus, this business model is a good one that can make, and has made, some companies very successful.

Microsoft has chosen a different business model for the network server market. It's model is not unfair, illegal, or anti-competitive. It is merely a different way of doing business. Microsoft doesn't make hardware or enterprise applications that run on servers. It does not make the workstation computers that sit on employees' desks. Microsoft makes network operating system called Windows NT. For a customer to use Windows NT on its server, it does not need to buy anything else from Microsoft. NT is designed to work with *any* manufacturer's hardware and support *any* company's software. It is a high volume, low profit margin model.

It is certainly not difficult to understand why companies like Novell, Sun, and IBM might be concerned about competition in the server market. After all, they have been in this market for a long time and have done very well in it. Because the margins on their sales are high, lost sales are more damaging to them than they are to their competitors whose margins on each sale are much lower. But if Sun, IBM, and Novell continue to respond to the needs of their customers, they will continue to do well in the server market.

Just as the appeals panel ruled last month on the browser issue, the decision on whether the business model chosen by Sun, IBM, and Novell or that chosen by Microsoft is a decision best made by the free market and the free market alone. The Department of Justice and the Senate Judiciary Committee have no legitimate role to play in this determination.

Let me make it clear, Mr. President, that throughout this attack, Microsoft has gone out of its way to cooperate both with the Committee and with the Justice Department. Even while its reputation is being tarnished by these two organizations, Microsoft has provided them both with everything it has been asked to provide and more.

So, I admonish my friend and colleague Senator HATCH to reciprocate. Given the list of witnesses scheduled to testify, however, I am afraid that the deck is already stacked against Microsoft. That is precisely why I advised

Bill Gates to decline an invitation from the Committee to appear at the hearing. Once is enough, Mr. President. The Committee can drag Mr. Gates and his company through the mud if it so choose, but Mr. Gates does not have to be there to validate a travesty.

DENVER-LONDON DIRECT FLIGHT HOLDUP

Mr. ALLARD. Mr. President, I am here today to tell my colleagues about an issue of great importance to the people of my state of Colorado. This summer, the state of Colorado has lost an estimated $23 million, at least, due to the problem I am here to address. We have been assured again and again by the Administration that the situation would soon be resolved. I no longer have faith in that assurance, and I believe that I am going to have to make my point stronger and louder in order to secure fair treatment for the State of Colorado. I am disappointed that the problem has lingered for this long, and that my attempts to cooperate with the Department of Transportation have been met with apathy and diluted efforts.

This is a problem that I have been working on for months, and I am continually and increasingly frustrated by the lack of concern shown by the Administration. I was first made aware in April of this year that an application for international service into Denver International Airport was near approval. A foreign airline filed an application with the Department of Transportation to provide direct service between Denver and London. This flight was to be the first overseas flight at Denver's young international airport. British Airways wants to provide this service, and to date is the only airline that has applied to do so. Of course the prospect of a direct flight to Europe is exciting for the people of Colorado; our booming economy, growing business sector, and tourism industry are primed for this direct international service.

The application process under the bilateral Air Transport Services agreement between the United States and the United Kingdom is designed to be a routine step. By law, final review by the United States of the British Airways flight is intended only to assure compliance with technical requirements for air safety and ownership.

At some point in the review process, the Department decided to hold the British Airways flight hostage to influence an unrelated situation. An American airline had approval to provide service between Charlotte, North Carolina and London, but being a new entrant into the market, choice slots were not available for their service. That airline, US Airways, and the Department of Transportation demanded that British Airways relinquish its established slots into London's Gatwick Airport before the Denver-London service would be approved.

The Senior Senator from Colorado, Senator CAMPBELL, and I met with Secretary Slater. We offered our assistance and shared our concerns, and the Secretary assured us that the situation would be resolved soon. Subsequently, US Airways participated in an international slot conference, and legitimately negotiated more desirable slots at Gatwick. The original conditions for approval of Denver-London service were met. Still, the Department refused to approve the British Airways application.

My patience in this matter has not been respected. Frankly, the expanding complaints of US Airways have absolutely no connection to the pending Denver-London service, and Department is inappropriately using the people of Colorado. I do not approve of the Department leveraging the concerns of one state against another, or using our international flights as a bargaining chip in an unrelated matter.

This is the first time the Department has withheld final approval on a US/UK flight to influence the status of another flight. The precedent being set indicates bureaucratic abuse and blatant disregard for a fair resolution of Colorado's problem. The Department should focus on the international flights between London and Charlotte; there is no need to push Coloradans around while the Administration and US Airways are engaged in an unrelated fight.

It is reasonable to think that this service would easily win support from the Transportation Secretary. British Airways has a clear right to operate this service under the term of the UK/US Air Services Agreement. In addition, Secretary Slater is attempting to negotiate an open skies aviation agreement with Britain. In light of this fact alone, failure to approve the Denver-London route is ridiculous. After this episode with the Denver flight, does the Administration really believe that the British authorities will have faith in the ability of the United States to be forthright in international flight negotiations?

The issue of approving Denver-London service was postponed recently when the Secretary and several of his top staffers traveled to Africa. Patiently awaiting his return, I came across a story on the AP wire about the Secretary's activities in Africa. I was stunned to see the story that began, and I quote, ''Transportation Secretary Rodney Slater Friday called on European authorities to respect aviation agreements negotiated by the United States with individual countries.'' It is ironic that the Secretary lectured Europe on fulfilling its obligations under air service pacts when he will not honor the current US/UK pact and approve Denver-London service. How the Secretary could make these comments while keeping a straight face is beyond me.

Speaking of that trip, I would like to know why the Secretary has been able to find so little time to deal with this pressing issue. When I last spoke to Mr. Slater on the phone, he told me that he was working to resolve the issue in the next few days. I expected his call at the end of that week and hoped to learn that they had approved service. It was the week before our July recess, and the call never came. After waiting for another week and investigating the delay, I learned that the Secretary was traveling to Africa for the second time this year, and that Colorado's problems would have to wait until July 15. While he simply set the issue aside, I could not. Unfortunately, neither myself nor my staff could reach the Secretary or his top aides on this issue because they were all traveling and unavailable. I am concerned that the Secretary and Assistant Secretaries have so much time for traveling and so little time for important issues here at home. I am outraged to know that my constituents' tax dollars, and mine as well, are buying flights to Africa while the state is losing money because of the Department's inaction. There is absolutely no reason that the Secretary could not have approved Denver-London service before he and his staff left for Africa. Now, after being assured that this would be his top priority upon returning from his trip, I am astounded that Mr. Slater is not prepared to be straightforward and make this decision.

Several Colorado officials have told Secretary Slater, in no uncertain terms, that this is an important issue to Colorado. I watched the original start date for British Airways service move from June First to August First, and saw it again postponed to September First. The Secretary knew very well that the service had to be approved by the end of last week for the airline to be prepared to begin on that date. Failure to approve the flight has resulted in moving the start date to October first. Colorado has already lost four months of direct Denver-London service, and the reasons that the Department has provided for this delay are inadequate. I am through standing by while the Department is delinquent on its approval of Denver-London direct air service. I am prepared to consider using any means available to me to hasten a decision by the Department.

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.)

REPORT CONCERNING ABATEMENT OF INTEREST ON UNDER-PAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS—MESSAGE FROM THE PRESIDENT—PM 147

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Budget.

To the Congress of the United States:

Pursuant to section 3309(c) of the Internal Revenue Service Restructuring and Reform Act of 1998, I hereby designate the provisions of subsections (a) and (b) of section 3309 of such Act as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 22, 1998.*

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–6110. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report on military expenditures for countries receiving U.S. assistance; to the Committee on Appropriations.

EC–6111. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Subordination of Direct Loan Security to Secure a Guaranteed Line of Credit; Correction'' (RIN0560-AE92) received on July 17, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6112. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule regarding disclosures of energy consumption and water use for certain home appliances received on July 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6113. A communication from the Director of the Office of Rulemaking Coordinator, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Security and Control of Nuclear Explosives and Nuclear Weapons'' (DOE O 452.4) received on July 8, 1998; to the Committee on Energy and Natural Resources.

EC–6114. A communication from the Secretary of Defense, transmitting, pursuant to law, the Department's semiannual report on audit, inspection and investigation activities; to the Committee on Governmental Affairs.

EC–6115. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a major rule relative to interpretation of the Investment Advisers Act (Rls. No. IA–1732.1) received on July 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6116. A communication from the Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a minor rule relative to interpretation of the Investment Advisers Act (Rls. No. IA–1732.2) received on July 20, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6117. A communication from the Acting Comptroller of the Currency, transmitting, pursuant to law, the Comptroller's annual report for 1997 and a report on opinions relating to the preemption of state law for the period January 1992 through December 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–6118. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Issuance of Advisory Opinions by the Office of Inspector General'' (RIN0991–AA85) received on July 16, 1998; to the Committee on Labor and Human Resources.

EC–6119. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on Youth Programs of the Family Youth Service Bureau for fiscal year 1996; to the Committee on Labor and Human Resources.

EC–6120. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a certification regarding International Monetary Fund proposals relative to the Russian Federation; to the Committee on Foreign Relations.

EC–6121. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's report on Military Assistance, Military Exports and Military Imports under the Foreign Assistance Act; to the Committee on Foreign Relations.

EC–6122. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical weapons for fiscal year 1992 and 1993; to the Committee on Foreign Relations.

EC–6123. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the discharge of pollutants from organic pesticide manufacture (FRL6126–6) received on July 17, 1998; to the Committee on Environment and Public Works.

EC–6124. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding land disposal restrictions for petroleum refining process wastes (FRL6122–7) received on July 17, 1998; to the Committee on Environment and Public Works.

EC–6125. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable'' (FRL6126–8) received on July 17, 1998; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 712. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information (Rept. No. 105–258).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 643. A bill to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the ''Carl B. Stokes United States Courthouse''.

H.R. 3504. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance.

S. 1700. A bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the ''Robert C. Weaver Federal Building.''

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. WARNER, from the Committee on Rules and Administration:

Scott E. Thomas, of the District of Columbia, to be a Member of the Federal Election Commission for a term expiring April 30, 2003. (Reappointment)

Darryl R. Wold, of California, to be a Member of the Federal Election Commission for a term expiring April 30, 2001.

David M. Mason, of Virginia, to be a Member of the Federal Election Commission for a term expiring April 30, 2003.

Kark J. Sandstrom, of Washington, to be a Member of the Federal Election Commission for a term expiring April 30, 2001.

(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.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself and Ms. MIKULSKI):

S. 2340. A bill to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under part B of the medicare program, and to amend title 5, United States Code, to provide for coverage of such services under the Federal Employees Health Benefits Program; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. FAIRCLOTH, Mr. BROWNBACK, Mr. BOND, Mr. HELMS, Mr. ABRAHAM, Mr. HUTCHINSON, Mr. ALLARD, Mr. FRIST, Mr. MACK, Mr. MURKOWSKI, Mr. HATCH, Mr. CRAIG, and Mr. GRASSLEY):

S. 2341. A bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries; to the Committee on Foreign Relations.

By Mr. BURNS:

S. 2342. A bill to amend title XVIII of the Social Security Act to exempt certain facilities from the 3-year transition period under the prospective payment system for skilled nursing facilities; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2343. A bill to amend the Radiation Exposure Compensation Act to provide for partial restitution to individuals who worked in uranium mines, or transport which provided uranium for the use and benefit of the United States Government, and for other purposes; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mrs. HUTCHISON, Mr. GRAMM, Mr. SHELBY, Mr. LUGAR, and Mr. COCHRAN):

S. 2344. A bill to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. LOTT, Mr. DASCHLE, Mr. D'AMATO, Mr. HELMS, Mr. GRASSLEY, Mr. HATCH, Mr. BIDEN, Mr. CLELAND, Mr. DURBIN, Mr. TORRICELLI, Mrs. FEINSTEIN, and Mr. INOUYE):

S. Res. 257. A resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself and Ms. MIKULSKI):

S. 2340. A bill to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under part B of the medicare program, and to amend title 5, United States Code, to provide for coverage of such services under the Federal Employees Health Benefits Program; to the Committee on Finance.

THE PATIENT ACCESS TO ACUPUNCTURE SERVICES ACT OF 1998

Mr. HARKIN. Mr. President, I am pleased today to introduce the Patient Access to Acupuncture Services Act of 1998, to provide limited coverage for acupuncture under Medicare and the Federal Employees Health Benefits Program. This is an important bill that reflects an appropriate and needed response to both progress in science, and to the demand for complementary and alternative treatments of pain and illness.

I would like to acknowledge Senator MIKULSKI, who is cosponsoring this bill with me. Senator MIKULSKI has been a strong supporter of effective alternative therapies and has long realized and appreciated the importance and significance of such therapies to our health care system.

Mr. President, approximately 90 million Americans suffer from chronic illnesses, which, each year, cost society roughly $659 billion in health care expenditures, lost productivity and premature death. Despite the high costs of this care, studies published in the Journal of the American Medical Association reveal that the health care delivery system is not meeting the needs of the chronically ill in the United States.

Many of these Americans are looking desperately for effective, less costly alternative therapies to relieve the debilitating pain they suffer. In 1990 alone, Americans spent nearly $14 billion out-of-pocket on alternative therapies. Harvard University researchers have found that fully one-third of Americans regularly use complementary and alternative medicine, making an estimated 425 million visits to complementary and alternative practitioners of these therapies—surpassing those made to conventional primary care practitioners!

And with good reason. Last November, a consensus conference of the National Institutes of Health approved the use of acupuncture in standard U.S. medical care. It was the first time that the NIH had endorsed as effective a major alternative therapy, and it was just the type of medical breakthrough that I had hoped for and envisioned when I worked to establish the Office of Alternative Medicine at NIH.

The NIH experts cited data showing that acupuncture can effectively relieve certain conditions, such as nausea, vomiting and pain, and shows promise in treating chronic conditions such as lower back pain, substance addictions, osteoarthritis and asthma.

In 1993, the FDA reported that Americans spent $500 million for up to 12 million acupuncture visits. In 1996, after reviewing the science, the FDA removed acupuncture needles from the category of ''experimental medical devices'' and now regulates them just as it does other devices, such as surgical scalpels and hypodermic syringes. Acupuncture is effectively used by practitioners around the world. The World Health Organization has approved its use to treat a variety of medical conditions, including pulmonary problems and rehabilitation from neurological damage.

It has been reported that more than 1 million Americans currently receive acupuncture each year. Access to qualified acupuncture professionals for appropriate conditions should be ensured. Including this important therapy under Medicare and FEHBP coverage will promote a progressive health system that integrates treatment from both acupuncturists and physicians. It will expand patient care options. I also believe it will reduce health care costs because of the relatively low cost of acupuncture compared to conventional pain management therapies.

Research is still needed to demonstrate the effectiveness of other alternative therapies. This research is vitally important, but we must act now to help the millions Americans who can benefit from the knowledge we have already gained.

The 21st century is just around the corner. Less than 50 years ago, treatments that are now considered conventional—organ transplants, nitroglycerin for heart patients, immunology, and x-ray and laser technology—were decried as quackery by the medical establishment. Everyday we face new biological and emotional challenges for which modern Western medicine has no remedy. Now science is revealing the effectiveness of many complementary and alternative treatments, including acupuncture, and increasingly more Americans are choosing them to manage their health and treat their illness.

Let us listen to the science, and heed the urgent need for progress. Mr. President, the nation's leading scientists have demonstrated the safety and effectiveness of acupuncture as a treatment for a wide range of pain and illness. It makes common sense that Medicare and FEHBP cover this legitimate course of therapy.

Mr. President, I ask for unanimous consent that a copy of this bill be entered into the RECORD.

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

S. 2340

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 ''Patient Access to Acupuncture Services Act of 1998''.

SEC. 2. COVERAGE OF ACUPUNCTURIST SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) (as amended by section 4557 of the Balanced Budget Act of 1997) is amended—

(1) in subparagraph (S), by striking ''and'' at the end;

(2) in subparagraph (T), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(U) qualified acupuncturist services (as defined in subsection (uu));''.

(b) PAYMENT RULES.—

(1) DETERMINATION OF AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) (as amended by section 4556(b) of the Balanced Budget Act of 1997) is amended—

(A) by striking ''and'' before ''(S)'', and

(B) by striking the semicolon at the end and inserting the following: '', and (T) with respect to qualified acupuncturist services described in section 1861(s)(2)(U), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for purposes of this subparagraph;''.

(2) SEPARATE PAYMENT FOR SERVICES OF INSTITUTIONAL PROVIDERS.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended—

(A) by striking ''and services'' and inserting ''services''; and

(B) by striking the semicolon at the end and inserting the following: '', and qualified acupuncturist services described in section 1861(s)(2)(U);''.

(c) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) (as amended by section 4611(b) of the Balanced Budget Act of 1997) is amended by adding at the end the following:

''Qualified Acupuncturist Services

''(uu)(1) The term 'qualified acupuncturist services' means such services (with such frequency limits as the Secretary determines

appropriate) furnished by a qualified acupuncturist (as defined in paragraph (2)) and such services and supplies (with such limits) furnished as an incident to services furnished by the qualified acupuncturist that the qualified acupuncturist is legally authorized to perform under State law (or under a State regulatory mechanism provided by State law).

''(2) The term 'qualified acupuncturist' means an individual who has been certified, licensed, or registered as an acupuncturist by a State (or under a State regulatory mechanism provided by State law).''.

(d) GUIDANCE BY SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall provide States with guidance regarding what services a qualified acupuncturist (as defined in section 1861(uu)(2) of the Social Security Act (42 U.S.C. 1395x(uu)(2)) (as added by subsection (c)) should be legally authorized to perform under State law (or under a State regulatory mechanism provided by State law). In providing such guidance, the Secretary of Health and Human Services shall take into consideration the recommendations of the Director of the National Institutes of Health relating to the effectiveness of certain acupuncture services and modalities.

(e) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1999.

SEC. 3. COVERAGE OF ACUPUNCTURIST SERVICES UNDER FEDERAL EMPLOYEES HEALTH BENEFIT PLANS.

(a) IN GENERAL.—Section 8902(k)(1) of title 5, United States Code, is amended by inserting ''acupuncturist,'' after ''nurse midwife,'' each place it appears.

(b) APPLICABILITY.—The amendment made by subsection (a) applies with respect to services provided on or after January 1, 1999.

• Ms. MIKULSKI. Mr. President, today I join my good friend and colleague, Senator HARKIN, in introducing a bill to allow for coverage of acupuncture services under Part B of Medicare and the Federal Employee Health Benefits Program (FEHBP). I am proud to be the lead cosponsor of this legislation.

I like this bill for three reasons: it gives patients access to affordable, quality health care; it offers patients choice of treatment; and it lets patients decide what treatment works for them.

Some years ago I had some very severe illnesses. Western medicine was of limited utility for me and I turned to acupuncture. Acupuncture helped me get well and has helped me stay well. Time after time, constituents have confirmed what I already know about acupuncture—it is an effective treatment for a number of conditions.

Last November, the Western medical establishment formally endorsed what American consumers have been saying for a long time. The National Institutes of Health convened a federal panel of experts in medicine, anthropology, biostatistics, epidemiology and other scientific disciplines to discuss the validity of acupuncture as an effective treatment option. The panel concluded that there is clear evidence that acupuncture is an effective treatment for certain kinds of pain and nausea and may be effective for other conditions. Equally important, acupuncture has fewer side effects and is less invasive than many ''traditional'' medical practices. The panel decided that, given its good safety profile and the fact that it is often less expensive than conventional medicine, it's time to take acupuncture seriously.

I think it's time that the federal government take it seriously, too. The time has come for Medicare and FEHBP to cover acupuncture for American patients who seek this treatment option. I urge the Senate to approve this legislation to allow American patients to choose this less invasive, less costly, and effective treatment option. I applaud Senator HARKIN for taking the lead on this important effort.•

By Mr. DEWINE (for himself, Mr. COVERDELL, Mr. GRAHAM, Mr. FAIRCLOTH, Mr. BROWNBACK, Mr. BOND, Mr. HELMS, Mr. ABRAHAM, Mr. HUTCHINSON, Mr. ALLARD, Mr. FRIST, Mr. MACK, Mr. MURKOWSKI, Mr. HATCH, Mr. CRAIG, and Mr. GRASSLEY):

S. 2341. A bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries; to the Committee on Foreign Relations

WESTERN HEMISPHERE DRUG ELIMINATION ACT

• Mr. DEWINE. Mr. President, I rise today to introduce legislation proposing a new and comprehensive strategy to deal with one of the central challenges facing America's young people—the plague of illegal drugs.

Recently, President Clinton and House Speaker NEWT GINGRICH unveiled the latest investment in our war against illegal drug use: a $2 billion-dollar advertising campaign to send our children a hard-hitting message about the life-destroying dangers of drugs.

Anti-drug ad campaigns like this one are important. But we should remember that the creative minds on Madison Avenue are not our best or only weapon to get people off drugs. History has proven that a successful anti-drug strategy is balanced and comprehensive in three key areas: demand reduction (such as education and treatment); domestic law enforcement; and international supply reduction.

Today, though, we are on the wrong side of history. Our overall drug strategy is neither balanced nor comprehensive. That's because Washington has not done its part. It has not carried out its sole responsibility—to reduce the illegal drug imports, either by working with foreign governments, or by seizing drugs or disrupting drug trafficking routes outside our borders.

That is why, today, I rise to introduce this legislation. It is a bill that will fix our current drug strategy deficit. I, along with Senators COVERDELL, GRAHAM and 11 other Senators will introduce the ''Western Hemisphere Drug Elimination Act''—a bill to support enhanced drug interdiction efforts in the major transit countries, and support a comprehensive supply eradication and crop substitution program in source countries.

Mr. President, this is a $2.6 billion authorization initiative over three years for enhanced international eradication, interdiction and crop substitution efforts. Let me mention a few highlights of what this bill would accomplish, very specifically.

It would improve our aircraft, maritime and radar coverage of both drug-source and drug-transit countries. It would do this by (1) authorizing funds for construction, operation and maintenance of additional U.S. Customs/Defense aircraft, Coast Guard cutters and patrol vessels, and Customs/Coast Guard ''go-fast'' boats for drug interdiction efforts; (2) authorizing funds to establish an airbase to support counter-narcotics operations in the Southern Caribbean, Northern South America, and the Eastern Pacific; and (3) authorizing funds to the Department of Defense to restore, operate, and maintain critical radar coverage in these regions.

It would enhance drug-eradication and interdiction efforts in source countries—by authorizing funds to the Departments of State and Defense to provide necessary resources, equipment, training and other assistance needed for the support of eradication and interdiction programs in Bolivia, Colombia, Peru and Mexico.

It would enhance the development of alternative crops in drug-source countries, by authorizing funds to the United States Agency for International Development to support alternative development programs designed to encourage farmers to substitute for narcotic producing crops in Bolivia, Colombia, and Peru.

It would support international law enforcement training—by (1) establishing three separate international law enforcement academies operated by the Department of Justice, to provide training assistance in Latin America, Asia, and Africa; (2) establishing a training center for maritime law enforcement instruction, including customs-related ports management; and (3) authorizing funds for the promotion of law enforcement training and support for Caribbean, Central American and South American countries.

It would enhance law enforcement interdiction operations by authorizing funding to the Drug Enforcement Administration, U.S. Coast Guard, and Department of Defense for the support of counter-narcotics operations and equipment in drug transit and source countries.

Mr. President, as you can see, this is a very targeted and specific investment. And it is necessary. The budget numbers tell an alarming—undeniable—story: In 1987, the federal government's drug control budget of $4.79 billion was divided as follows: 29% for demand reduction programs; 38% for domestic law enforcement; and 33% for international supply reduction. This

funding breakdown was the norm during the Reagan and Bush Administrations' war on drugs, from 1985–92.

During that time, drug interdiction was serious business. President Bush even tasked the Defense Department to engage in the detection and monitoring of drugs in transit to the U.S. As a member of the House of Representatives at that time, I can recall very well the major commitment we made to reduce the amount of drugs going into the U.S.

After President Clinton took office in 1993, his administration immediately pursued policies that upset the careful balance in drug funding. For example, in 1995, the federal drug control budget of $13.3 billion was divided as follows: 35% was allocated for demand reduction programs; 53% for domestic law enforcement, and 12% for international supply reduction. Think of it—only 12% of our drug control budget was dedicated to stop drugs from coming to our country—down from 33% in 1987. Though the overall drug budget increased threefold from 1987 to 1995, the piece of the drug budget pie allocated for international and interdiction efforts had decreased.

Key components of our drug interdiction strategy were slashed. For example, Coast Guard funding for counter-narcotics fell 32% from 1992 to 1995. Not surprisingly, Coast Guard drug seizures dropped from 90,335 lbs in 1991 to 28,585 lbs in 1996. In addition, interdiction no longer remains a priority within the Department of Defense, which currently ranks counter narcotics dead last in importance in its Global Military Force Policy.

What were the results of these two clearly different approaches? The Reagan-Bush approach achieved real success. From 1988 to 1991, total drug use was down 13 percent. Cocaine use dropped by 35 percent. Marijuana use was reduced by 16 percent.

In contrast, under the Clinton approach, since 1992 overall drug use among teens aged 12 to 17 rose by 70 percent. Drug-abuse related arrests more than doubled for minors between 1992 and 1996. Since 1992, there has been an overall 80 percent increase in illicit drug use among graduating high school seniors. Further, in 1995 number of heroin related emergency room admissions jumped 58% since 1992. And in the first half of 1995, methamphetamine related emergency room admissions were 321% higher compared to the first half of 1991.

The price of drugs also decreased during this time period. For instance, the price of a pure heroin gram in 1992 was $1,647—and in February 1996 it was only $966 per gram.

These negative effects have sent shockwaves throughout our communities and our homes.

The rise of drug use is not at all surprising. With the Clinton administration's decline in emphasis on drug interdiction, it has become easier to bring drugs into the U.S. This makes drugs more available and more affordable. The Office of National Drug Control Policy reported that small ''pieces'' or ''rocks'' of crack, which once sold for ten to twenty dollars, are now available for three to five dollars.

No question, continued investments to deal with the ''demand side'' of the drug situation are necessary. We have to find ways to persuade Americans, particularly young people, that doing drugs is wrong—that it destroys lives, families, schools and communities. As long as there is a demand for drugs, education and treatment remain essential long-term components of our anti-drug efforts.

Casual drug users also are influenced by price, which is why a balanced anti-drug strategy includes fighting drugs beyond our borders. The drug lords in South America are well aware that the U.S. is no longer pursuing a tough interdiction strategy. I have seen Coast Guard operations first hand, and while the Coast Guard and other agencies can detect and monitor drug trafficking operations, they usually stand by helpless because they lack necessary equipment to turn detection into seizures and arrests. Of the total drug air events in the Bahamas from April 1997 to April 1998, there was only an 8% success rate in stopping drug air flights that have been detected. That means over 92% got away. Without doubt, the drug lords can get a larger flow of drugs into the U.S.

With additional resources, we can make it more difficult to import illegal narcotics, and drive up the cost for the drug cartels to engage in this illicit and immoral practice. Interdiction drives up the price—and drives down the purity—of cocaine on the street. Also, seizing or destroying a ton of cocaine outside our borders is more cost effective than trying to seize the same quantity of drugs at the point of sale.

Mr. President, that is why I think that this bill is absolutely essential. The bill can get us back on the right track. I want to take this opportunity to acknowledge Representative BILL MCCOLLUM's tireless efforts and dedication to this initiative. He has shown tremendous leadership on anti-drug efforts.

Mr. President, it is time to reverse the current administration's policy and get right with history. It is time we returned to a comprehensive, balanced drug control strategy that will put us back on a course toward ridding our schools and communities of illegal and destructive drugs. The evidence clearly shows that with a balanced strategy, we were making great progress. We significantly reduced drug use. For the sake of our children, it is time for us to embrace the lessons of history, and stop trying to escape them.●

● Mr. GRAHAM. Mr. President, I am proud to join Senator DEWINE and my other colleagues in introducing the Western Hemisphere Drug Elimination Act of 1998. This bill will provide an additional $2.6 billion over a 3-year period to implement a more comprehensive eradication, interdiction, and crop substitution strategy for our nation's counter-drug efforts.

The bill will help the United States meet its goal of reducing the flow of cocaine and heroin into the U.S. by 80 percent in three years by combining a reduction in availability with demand reduction efforts. This is accomplished by providing more funding to those doing the heavy lifting in this fight—the Coast Guard, the Customs Service, the Drug Enforcement Administration, and the Department of Defense.

The U.S. needs to focus its resources in a comprehensive way to protect the entire southern frontier of the United States from San Diego to San Juan. Previously, resources were shifted from one part of the country to another, alternating between those states along the Southwest border and the Caribbean. This created ''gates'' where drug smugglers could move their product without fear of U.S. interdiction. This bill will provide the necessary resources to eliminate the chinks from the anti-drug fence, so that we do not have to choose between stopping drug smuggling in one area of the country or another.

On June 22 of this year, I chaired a field hearing in Miami on behalf of the Senate Caucus on International Narcotics Control. The purpose was to examine the flow of drugs into the United States through the Caribbean into Florida. I wanted to gain a clearer picture of the current patterns of narcotics trafficking from the Southwest border back to the Caribbean and South Florida, obtain a better understanding for what the United States needs to do to increase our anti-drug effectiveness, and improve our efforts to stem this flow which threatens our youth. We held the hearing on the deck of a U.S. Coast Guard Medium Endurance Cutter named the *Valiant*, which had just returned from a seven week counter-narcotics patrol in the Caribbean.

We selected the Coast Guard venue to underscore a number of very important realities in the United States' current strategy to fight the drug war. One of our principal interdiction forces—the United States Coast Guard—is conducting its mission on vessels such as the *Valiant*, a ship that is more than 30 years old, with an equally antiquated surface search radar. The Coast Guard needs new ships and newer radars. As I approached the *Valiant*, I noticed that there were a number of weapons systems on board, including two .50 caliber machine guns and a 25mm chain gun. These weapons reminded me that this effort is indeed a war. Despite the words of some officials who prefer not to characterize the effort as such, it is indeed. We are fighting a well-organized, well-financed, and doggedly determined enemy whose objective is to inundate our nation with a chemical weapon that demeans, degrades, and defeats the most precious asset we have—our people. What more do we

need to know to energize ourselves to fight back?

The individuals who testified at the field hearing painted a very disturbing picture. Consider the following facts:

The United States Southern Command cannot maintain adequate radar and airborne early warning coverage of the region or sustain the right number of tracker aircraft to perform its mission to provide counter-drug support to states in South America and the Caribbean.

The Joint Interagency Task Force East, located in Key West, Florida, does not know the extent of drug smuggling in the Eastern Pacific because the Department of Defense has not provided the necessary assets to conduct its Detection & Monitoring mission.

The Coast Guard had to end a very successful counter-narcotics operation in the Caribbean, OPERATION FRONTIER LANCE, because of a lack of funding.

The United States Customs Service is limited in its ability to capture drug runners in go-fast boats because of a lack of funds to procure newer and faster boats, as well as a lack of personnel to adequately maintain those go-fast boats currently in service due to lack of funding.

The Drug Enforcement Administration lacks sufficient special agents in the Caribbean, as well as accompanying administrative and intelligence personnel, because the DEA does not have sufficient funds to hire and retain these individuals.

The South Florida High Intensity Drug Trafficking Area—responsible for coordinating and integrating federal, state, and local law enforcement agencies' counter-drug efforts—is constrained in its ability to conduct investigations by paying overtime salaries because of the lack of funding.

If there is a trend underlying all these problems, it is the lack of funds being made available to those agencies responsible for performing the supply reduction component of the drug war. By adding resources to the supply side of the drug war—more planes, helicopters, radars, personnel, and boats—we will eliminate the need to constantly shift resources from one area of the country to another. Drug smugglers will no longer be able to exploit our weaknesses, such as the lack of Coast Guard, Customs, and DEA resources in the Caribbean. South Florida will no longer be a gate through which drug smugglers have entry into the United States.

Those responsible for coordinating the national drug control strategy say that reducing our own demand for drugs is tremendously important. I could not agree more. That is why I was an original co-sponsor of the Drug Free Communities Act, and why I took steps to create and fund the Central Florida High Intensity Drug Trafficking Area. But addressing our demand for drugs is only one part of the solution, and that reduction will take time. We must take strong steps to interrupt the supply side of the equation as well. And quite frankly, we are not doing as much on the supply side as we should, or as much as we can.

I am committed to seeing that more is done, and this legislation goes a long way towards achieving our goals. By restoring the support we provide to eradication and interdiction, I believe we can make a difference in this war, and the time to make that difference is now.●

By Mr. BURNS:

S. 2342. A bill to amend title XVIII of the Social Security Act to exempt certain facilities from the 3-year transition period under the prospective payment system for skilled nursing facilities; to the Committee on Finance.

THE SKILLED NURSING FACILITY PAYMENT FAIRNESS ACT OF 1998

● Mr. BURNS. Mr. President, today I am pleased to introduce legislation to put more equality into the Medicare payment system for skilled nursing facilities (SNFs). The Skilled Nursing Facility Payment Fairness Act of 1998 will allow certain SNFs—those which will suffer a real cut in Medicare payments—to use a more equitable payment formula that more closely reflects their actual costs.

The Balanced Budget Act of 1997 required HCFA to develop a prospective payment system (PPS) for Medicare-covered services provided by skilled nursing facilities. Under the PPS, SNFs will be paid a single federal per diem rate for all routine, ancillary, and capital-related Part A costs. For SNFs that participated in Medicare before October 1, 1995, there is a three-year transition period to the PPS. During this transition period, facilities will be paid a blended rate based on a facility-specific rate and a federal rate. In the first year of the transition, the blended rate will be 75% of the facility-specific rate and 25% of the federal rate; in the second year the split will be 50%–50%; and in the third year 25%–75%.

For facilities that have had a substantial change in the level of services they provide since 1995, the transitional blended payment rate will have a severe impact. And of those facilities adversely affected, a significant number are low-utilization SNFs is rural areas. For example, facilities in Montana provide fewer services as measured by Medicare patient days than the national average. They are hit in two ways: first, their utilization levels (length of stay, level of acuity), though still low, are higher today than they were in 1995, so the facility-specific rate which is based on 1995 cost reports does not reflect today's costs; second, the low-utilization facilities are less able to absorb Medicare payment reductions and are more likely to drop out of Medicare altogether. As a result, rural communities with few providers may have no post-hospital services. Patients will then have to leave their communities to seek services elsewhere or go without these services.

The bill I'm introducing today will allow facilities to skip the transition period and go directly to the more equitable federal rate if (1) the Secretary of Health and Human Services determines that the facility's level of services has changed substantially since 1995, or (2) the facility had fewer than 1500 Medicare patient days in its last cost reporting period. By receiving payments based on the federal rate, which is adjusted for case-mix, geographic variations in wages, and inflation, facilities will be compensated in an amount closer to their actual costs. On the other hand, the facility-specific portion of the current blended rate bases costs in part on 1995 expenses, which does not reflect current costs.

Rural areas will suffer under the current prospective payment system. In Montana alone, cuts in Medicare payments to skilled nursing facilities are estimated at $5.6 million in the first year of the prospective payment system, which began on July 1, 1998. It will result in decreased access to care for Medicare patients as fewer services are offered and fewer facilities participate in Medicare. This bill provides a straightforward, workable solution and is supported by the Montana Health Care Association and the American Health Care Association. It will correct the unintended negative consequences of the transition to a prospective payment system and restore fairness to the process.●

By Mr. BINGAMAN:

S. 2343. A bill to amend the Radiation Exposure Compensation Act to provide for partial restitution to individuals who worked in uranium mines, or transport which provided uranium for the use and benefit of the United States Government, and for other purposes; to the Committee on the Judiciary.

RADIATION EXPOSURE COMPENSATION IMPROVEMENT ACT

Mr. BINGAMAN. Mr. President, I rise to make a few remarks regarding a bill I am introducing today, the Radiation Exposure Compensation Improvement Act.

Mr. President, the Radiation Exposure Compensation Act or RECA was originally enacted as a means of compensating thousands of individuals who suffered from exposure to radiation as a result of the federal government's nuclear testing program and federal uranium mining activities. While the government can never fully compensate for the loss of a life or the reduction in the quality of life, RECA serves as a cornerstone for the national apology Congress extended in 1990 to the victims of the radiation tragedies. In keeping with the spirit of that apology, the legislation I introduce today will further correct existing injustices and provide compensation for those whose lives and health were sacrificed as part of our nation's effort to win the Cold War.

In 1990, I was pleased to have been a sponsor of the RECA legislation here in

the Senate. I was very optimistic that after years of waiting, some degree of redress would be given to the thousands of miners in my state of New Mexico. I chaired the Senate oversight hearing on this issue in Shiprock, N.M. for the Senate Labor and Human Resources Committee in 1993 and began to hear of changes that were necessary. To that end, I worked to facilitate changes in the regulatory and administrative areas.

Unfortunately, I have heard from many of my constituents that the program still does not work as intended. I have received compelling letters of need from constituents telling me how RECA needs to be amended. The letters come from widows unable to access the current compensation. Miners and millers tied to oxygen tanks, in respiratory distress or dying from cancer write to tell me how they have been denied compensation under the current act. Family members write of the pain of fathers who worked in the mills. They recount how their fathers came home covered in the ''yellow cake'' of uranium oxide that was floating in the air of the mills. The story of their father's cancers and painful breathing are vivid in these letters and yet the current act does not address their needs.

Mr. President, the bill I introduce today will address the issues they raise in their sometimes angry and often tear stained letters. Their points are backed by others as well. In fact, the bill incorporates findings by the prestigious Committee on the Biological Effects of Ionizing Radiation (BEIR) which has, since 1990, enlarged scientific evidence about radiogenic cancers and the health effects of radiation exposures. In other words, because of their good work, we know more now than we did in 1990 and we need to make sure the compensation we provide keeps pace with our medical knowledge.

Other amendments will, in essence, adopt and incorporate into RECA the recommendations made in October 1995 by the President's Advisory Committee on Human Radiation Experiments. This blue-ribbon committee determined that U.S. uranium miners were used as subjects of an experiment which had tragic results. It used this language to condemn the ethical outcome of this study:

> The grave injustice that the government did to the uranium miners, by failing to take action to control the hazard and by failing to warn the miners of the hazard, should not be compounded by unreasonable barriers to receiving the compensation the miners deserve for the wrongs and harms inflicted upon them as they served their country.

Mr. President, I would like to cite several of the key provisions in the Radiation Exposure Compensation Improvement Act. Currently RECA covers those exposed to radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the U.S. government. The bill would make all uranium workers eligible for compensation including above ground miners, millers, and transport workers.

RECA currently covers individual termed ''downwinders'' who were in the areas of Nevada, Utah, and Arizona affected by atmospheric nuclear testing in the 1950's. This bill expands the geographical area eligible for compensation to include the Navajo Reservation. In addition, the bill expands the compensable diseases for the downwind population by adding salivary gland, urinary bladder, brain, colon, and ovarian cancers.

Currently, the law has disproportionately high levels of radiation exposure requirements for miners to qualify for compensation as compared to the ''downwinders.'' My legislation would set a standard of proof for uranium workers that is more realistic given the availability of mining and mill data. The bill also removes the provision that only permits a claim for respiratory disease if the uranium mining occurred on a reservation. Thus, the bill will allow for further filing of a claim by those miners, millers, and transport workers who did not have a work history on a reservation. In addition, the bill would change the current law so that requirements for written medical documentation is updated to allow for use of high resolution CAT scans and allow for written diagnoses by physician in either the Department of Veterans Affairs or the Indian Health Service to be considered conclusive.

In 1990, we joined together in a bipartisan, bicameral effort and assured passage of the Radiation Exposure Compensation Act (RECA). Now, either years later, I put forward this comprehensive amendment to RECA to correct some omissions, make RECA consistent with current medical knowledge, and to address what have become administrative horror stories for the claimants. I look forward to the debate in the Senate on this issue and hope that we can move to amend the current statue to ensure our original intent . . . fair and rapid compensation to those who served so well.

Mr. President, I ask unanimous consent to have the text of the Radiation Improvement Compensation Act printed in the RECORD.

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

S. 2343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Radiation Exposure Compensation Improvement Act''.

(b) FINDINGS.—Congress finds the following:

(1) The intent of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), enacted in 1990, was to apologize to victims of the weapons program of the Federal Government, but uranium workers who have applied for compensation under the Act have faced a disturbing number of challenges.

(2) The congressional oversight hearing conducted by the Committee on Labor and Human Resources of the Senate has shown that since passage of the Radiation Exposure Compensation Act, former uranium workers and their families have not received prompt and efficient compensation.

(3) There is no plausible justification for the Federal Government's failure to warn and protect the lives and health of uranium workers.

(4) Progress on implementing the Radiation Exposure Compensation Act has been impeded by criteria for compensation that is far more stringent than for other groups for which compensation is provided.

(5) The President's Advisory Committee on Human Radiation Experiments recommended that amendments to the Radiation Exposure Compensation should be made.

(6) Uranium millers, aboveground miners, and individuals who transported uranium ore should be provided compensation that is similar to that provided for underground uranium miners in cases in which those individuals suffered disease or resultant death as a result of the failure of the Federal Government to warn of health hazards.

SEC. 2. TRUST FUND.

Section 3(d) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking ''of this Act'' and inserting ''of the Radiation Exposure Compensation Improvement Act''.

SEC. 3. AFFECTED AREA; CLAIMS RELATING TO SPECIFIED DISEASES.

(a) AFFECTED AREA.—Section 4(b)(1) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking ''and'' at the end of subparagraph (B); and

(2) by adding at the end the following:

''(D) those parts of Arizona, Utah, and New Mexico comprising the Navajo Nation Reservation that were subjected to fallout from nuclear weapons testing conducted in Nevada; and''.

(b) CLAIMS RELATING TO SPECIFIED DISEASES.—Section 4(b)(2) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking ''the onset of the disease was between 2 and 30 years of first exposure,'' and inserting ''the onset of the disease was at least 2 years after first exposure, lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam),'';

(2) by striking ''(provided initial exposure occurred by the age of 20)'' after ''thyroid'';

(3) by inserting ''male or'' before ''female breast'';

(4) by striking ''(provided initial exposure occurred prior to age 40)'' after ''female breast'';

(5) by striking ''(provided low alcohol consumption and not a heavy smoker)'' after ''esophagus'';

(6) by striking ''(provided initial exposure occurred before age 30)'' after ''stomach'';

(7) by striking ''(provided not a heavy smoker)'' after ''pharynx'';

(8) by striking ''(provided not a heavy smoker and low coffee consumption)'' after ''pancreas'';

(9) by inserting ''salivary gland, urinary bladder, brain, colon, ovary,'' after ''gall bladder,''; and

(10) by inserting before the period at the end the following: '', and chronic lymphocytic leukemia''.

SEC. 4. URANIUM MINING AND MILLING AND TRANSPORT.

(a) AMENDMENT TO HEADING.—Section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking the section heading and inserting the following:

"SEC. 5. CLAIMS RELATING TO URANIUM MINING OR MILLING OR TRANSPORT.".

(b) MILLING.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking "Any" and inserting "Any individual who was employed to transport or handle uranium ore or any"; and

(2) by inserting "or in any other State in which uranium was mined, milled, or transported" after "Utah".

(c) MINES.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsection (a) of this section, is amended by striking "a uranium mine" and inserting "a uranium mine (including a mine located aboveground or an open pit mine in which uranium miners worked, or a uranium mill)".

(d) DATES.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsections (b) and (c) of this section, is amended by striking "January 1, 1947, and ending on December 31, 1971" and inserting "January 1, 1942, and ending on December 31, 1990".

(e) AMENDMENT OF PERIOD OF EXPOSURE; EXPANSION OF COVERAGE; INCREASE IN COMPENSATION AWARDS; AND REMOVAL OF SMOKING DISTINCTION.—Section 5(a) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsections (b) through (d) of this section, is amended—

(1) by striking paragraph (1) and all that follows through the end of the subsection and inserting the following:

"(2) COMPENSATION.—Any individual shall receive $200,000 for a claim made under this Act if—

"(A) that individual—

"(i) was exposed to 40 or more working level months of radiation and submits written medical documentation that the individual, after exposure developed—

"(I) lung cancer,

"(II) a nonmalignant respiratory disease, or

"(III) any other medical condition associated with uranium mining or milling, or

"(ii) worked in uranium mining, milling, or transport for a period of at least 1 year and submits written medical documentation that the individual, after exposure, developed—

"(I) lung cancer,

"(II) a nonmalignant respiratory disease, or

"(III) any other medical condition associated with uranium mining, milling, or transport,

"(B) the claim for that payment is filed with the Attorney General by or on behalf of that individual, and

"(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.".

(2) by striking "(a) ELIGIBILITY OF INDIVIDUALS.—Any" and inserting the following: "(a) ELIGIBILITY.—

"(1) IN GENERAL.—Any"; and

(3) in paragraph (1), as so designated, by striking the dash at the end and inserting a period.

(f) CLAIMS RELATED TO HUMAN RADIATION EXPERIMENTATION AND DEATH RESULTING FROM CAUSE OTHER THAN RADIATION.—Section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following:

"(b) CLAIMS RELATING TO HUMAN USE RESEARCH AND DEATH RESULTING FROM NONRADIOLOGICAL CAUSES.—

"(1) IN GENERAL.—

"(A) PAYMENT.—Any individual described in subparagraph (B) shall receive $50,000 if—

"(i) a claim for that payment is filed with the Attorney General by or on behalf of that individual; and

"(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is an individual who—

"(i) was employed in a uranium mining, milling, or transport within any State referred to in subsection (a) at any time during the period referred to in that subsection, and

"(ii)(I) in the course of that employment, without the individual's knowledge or informed consent, was intentionally exposed to radiation for purposes of testing, research, study, or experimentation by the Federal Government (including any agency of the Federal Government) to determine the effects of that exposure on the human body; or

"(II) in the course of or arising out of the individual's employment, suffered death, that, because the individual or the estate of the individual was barred from pursuing recovery under a worker's compensation system or civil action available to similarly situated employees of mines or mills that are not uranium mines or mills, is not otherwise—

"(aa) compensable under subsection (a); or

"(bb) redressable.

"(2) PAYMENTS.—Payments under this subsection may be made only in accordance with section 6.".

(g) OTHER INJURY OR DISABILITY.—Section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as amended by subsection (f) of this section, is amended by adding after subsection (b) the following:

"(c) OTHER INJURY OR DISABILITY.—

"(1) IN GENERAL.—

"(A) PAYMENT.—Any individual described in subparagraph (B) shall receive $20,000 if—

"(i) a claim for that payment is filed with the Attorney General by or on behalf of that individual; and

"(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is an individual who—

"(i) was employed in a uranium mine or mill or transported uranium ore within any State referred to in subsection (a) at any time during the period referred to in that subsection; and

"(ii) submits written medical documentation that individual suffered injury or disability, arising out of or in the course of the individual's employment that, because the individual or the estate of the individual was barred from pursuing recovery under a worker's compensation system or civil action available to similarly situated employees of mines or mills that are not uranium mines or mills, is not otherwise—

"(I) compensable under subsection (a); or

"(II) redressable.

"(2) PAYMENTS.—Payments under this subsection may be made only in accordance with section 6.".

(h) DEFINITIONS.—Subsection (d) of section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), as redesignated by subsection (f) of this section, is amended—

(1) in paragraph (1)—

(A) by striking "radiation exposure" and inserting "exposure to radon and radon progeny"; and

(B) by inserting "based on a 6-day workweek," after "every work day for a month,";

(2) by striking paragraph (2) and inserting the following:

"(2) the term 'affected Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Native Americans, whose people engaged in uranium mining or milling or were employed where uranium mining or milling was conducted;";

(3) by striking paragraphs (3) and (4); and

(4) by adding at the end the following:

"(3) the term 'course of employment' means—

"(A) any period of employment in a uranium mine or uranium mill before or after December 31, 1971, or

"(B) the cumulative period of employment in both a uranium mine and uranium mill in any case in which an individual was employed in both a uranium mine and a uranium mill;

"(4) the term 'lung cancer' means any physiological condition of the lung, trachea, and bronchus that is recognized under that name or nomenclature by the National Cancer Institute, including any in situ cancer;

"(5) the term 'nonmalignant respiratory disease' means fibrosis of the lung, pulmonary fibrosis, corpulmonale related to pulmonary fibrosis, or moderate or severe silicosis or pneumoconiosis;

"(6) the term 'other medical condition associated with uranium mining, milling, or uranium transport' means any medical condition associated with exposure to radiation, heavy metals, chemicals, or other toxic substances to which miners and millers are exposed in the mining and milling of uranium;

"(7) the term 'uranium mill' includes milling operations involving the processing of uranium ore or vanadium-uranium ore, including carbonate and acid leach plants;

"(8) the term 'uranium transport' means human physical contact involved in moving uranium ore from 1 site to another, including mechanical conveyance, physical shoveling, or driving a vehicle;

"(9) the term 'uranium mine' means any underground excavation, including dog holes, open pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted;

"(10) the term 'working level' means the concentration of the short half-life daughters (known as 'progeny') of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air; and

"(11) the term 'written medical documentation' for purposes of proving a nonmalignant respiratory disease means, in any case in which the claimant is living—

"(A) a chest x-ray administered in accordance with standard techniques and the interpretive reports thereof by 2 certified 'B' readers classifying the existence of the nonmalignant respiratory disease of category 1/0 or higher according to a 1989 report of the International Labour Office (known as the 'ILO'), or subsequent revisions;

"(B) a high resolution computed tomography scan (commonly known as an 'HCRT scan') and any interpretive report for that scan;

"(C) a pathology report of a tissue biopsy;

"(D) a pulmonary function test indicating restrictive lung function (as defined by the American Thoracic Society); or

"(E) an arterial blood gas study.".

SEC. 5. DETERMINATION AND PAYMENT OF CLAIMS.

(a) DETERMINATION AND PAYMENT OF CLAIMS, GENERALLY.—Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: ''All reasonable doubt with regard to whether a claim meets the requirements of this Act shall be resolved in favor of the claimant.'';

(B) by redesignating paragraph (2) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

''(2) EVIDENCE.—In support of a claim for compensation under section 5, the Attorney General shall permit the introduction of, and a claimant may use and rely upon, affidavits and other documentary evidence, including medical evidence, to the same extent as permitted by the Federal Rules of Evidence.

''(3) INTERPRETATION OF CHEST X-RAYS.—For purposes of this Act, a chest x-ray and the accompanying interpretive report required in support of a claim under section 5(a), shall—

''(A) be considered to be conclusive, and

''(B) be subject to a fair and random audit procedure established by the Attorney General.

''(4) CERTAIN WRITTEN DIAGNOSES.—

''(A) IN GENERAL.—For purposes of this Act, in any case in which a written diagnosis is made by a physician described in subparagraph (B) of a nonmalignant pulmonary disease or lung cancer of a claimant that is accompanied by written medical documentation that meets the definition of that term under subsection (b)(11), that written diagnosis shall be considered to be conclusive evidence of that disease.

''(B) DESCRIPTION OF PHYSICIANS.—A physician described in this subparagraph is a physician who—

''(i) is employed by—

''(I) the Indian Health Service of the Department of Health and Human Services, or

''(II) the Department of Veterans Affairs, and

''(ii) is responsible for examining or treating the claimant involved.'';

(2) in subsection (c)(2)—

(A) in subparagraph (A)(ii), by striking ''in a uranium mine'' and inserting ''in uranium mining, milling, or transport''; and

(B) in subparagraph (B)(ii), by striking ''by the Federal Government'' and inserting ''through the Department of Veterans Affairs'';

(3) in subsection (d)—

(A) by striking ''(d) ACTION ON CLAIMS.—The Attorney General'' and inserting the following:

''(d) ACTION ON CLAIMS.—

''(1) IN GENERAL.—The Attorney General''; and

(B) by adding at the end the following:

''(2) DETERMINATION OF PERIOD.—For purposes of determining the tolling of the 12-month period under paragraph (1), a claim under this Act shall be considered to have been filed as of the date of the receipt of that claim by the Attorney General.

''(3) ADMINISTRATIVE REVIEW.—If the Attorney General denies a claim referred to in paragraph (1), the claimant shall be permitted a reasonable period of time in which to seek administrative review of the denial by the Attorney General.

''(4) FINAL DETERMINATION.—The Attorney General shall make a final determination with respect to any administrative review conducted under paragraph (3) not later than 90 days after the receipt of the claimant's request for that review.

''(5) EFFECT OF FAILURE TO RENDER A DETERMINATION.—If the Attorney General fails to render a determination during the 12-month period under paragraph (1), the claim shall be deemed awarded as a matter of law and paid.'';

(4) in subsection (e), by striking ''in a uranium mine'' and inserting ''uranium mining, milling, or transport'';

(5) in subsection (k), by adding at the end the following: ''With respect to any amendment made to this Act after the date of enactment of this Act, the Attorney General shall issue revised regulations, guidelines, and procedures to carry out that amendment not later than 180 days after the date of enactment of that amendment.''; and

(6) in subsection (l)—

(A) by striking ''(l) JUDICIAL REVIEW.—An individual'' and inserting the following:

''(l) JUDICIAL REVIEW.—

''(1) IN GENERAL.—An individual''; and

(B) by adding at the end the following:

''(2) ATTORNEY'S FEES.—If the court that conducts a review under paragraph (1) sets aside a denial of a claim under this Act as unlawful, the court shall award claimant reasonable attorney's fees and costs incurred with respect to the court's review.

''(3) INTEREST.—If, after a claimant is denied a claim under this Act, the claimant subsequently prevails upon remand of that claim, the claimant shall be awarded interest on the claim at a rate equal to 8 percent, calculated from the date of the initial denial of the claim.

''(4) TREATMENT OF ATTORNEY'S FEES, COSTS, AND INTEREST.—Any attorney's fees, costs, and interest awarded under this section shall—

''(A) be considered to be costs incurred by the Attorney General, and

''(B) not be paid from the Fund, or set off against, or otherwise deducted from, any payment to a claimant under this section.''.

(b) FURTHERANCE OF SPECIAL TRUST RESPONSIBILITY TO AFFECTED INDIAN TRIBES; SELF-DETERMINATION PROGRAM ELECTION.—In furtherance of, and consistent with, the trust responsibility of the United States to Native American uranium workers recognized by Congress in enacting the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), section 6 of that Act, as amended by subsection (a) of this section, is amended—

(1) in subsection (a), by adding at the end the following: ''In establishing any such procedure, the Attorney General shall take into consideration and incorporate, to the fullest extent feasible, Native American law, tradition, and custom with respect to the submission and processing of claims by Native Americans.'';

(2) in subsection (b), by inserting after paragraph (3) the following:

''(4) PULMONARY FUNCTION STANDARDS.—In determining the pulmonary impairment of a claimant, the Attorney General shall evaluate the degree of impairment based on ethnic-specific pulmonary function standards.'';

(3) in subsection (b)(5)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by inserting after subparagraph (C) the following:

''(D) in consultation with any affected Indian tribe, establish guidelines for the determination of claims filed by Native American uranium miners, millers, and transport workers pursuant to section 5.'';

(4) in subsection (b), by adding after paragraph (5) the following:

''(6) SELF-DETERMINATION PROGRAM ELECTION.—

''(A) IN GENERAL.—The Attorney General on the request of any affected Indian tribe by tribal resolution, may enter into 1 or more self-determination contracts with a tribal organization of that Indian tribe pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to plan, conduct, and administer the disposition and award of claims under this Act to the extent that members of the affected Indian tribe are concerned.

''(B) APPROVAL.—(i) On the request of an affected Indian tribe to enter into a self-determination contract referred to in subparagraph (A), the Attorney General shall approve or reject the request in a manner consistent with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f).

''(ii) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall apply to the approval and subsequent implementation of a self-determination contract entered into under clause (i) or any rejection of such a contract, if that contract is rejected.

''(C) USE OF FUNDS.—Notwithstanding any other provision of law, funds authorized for use by the Attorney General to carry out the functions of the Attorney General under subsection (i) may be used for the planning, training, implementation, and administration of any self-determination contract that the Attorney General enters into with an affected Indian tribe under this section.''; and

(5) in subsection (c)(4), by adding at the end the following:

''(D) APPLICATION OF NATIVE AMERICAN LAW.—In determining the eligibility of individuals to receive compensation under this Act by reason of marriage, relationship, or survivorship, the Attorney General shall take into consideration and give effect to established law, tradition, and custom of affected Indian tribes.''.

SEC. 6. CHOICE OF REMEDIES.

Section 7(b) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended to read as follows:

''(b) CHOICE OF REMEDIES.—

''(1) IN GENERAL.—Except as provided in paragraph (1), the payment of an award under any provision of this Act does not preclude the payment of an award under any other provision of this Act.

''(2) LIMITATION.—No individual may receive more than 1 award payment for any compensable cancer or other compensable disease.''.

SEC. 7. LIMITATION ON CLAIMS; RETROACTIVE APPLICATION OF AMENDMENTS.

Section 8 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended to read as follows:

''SEC. 8. LIMITATION ON CLAIMS.

''(a) BAR.—After the date that is 20 years after the date of enactment of the Radiation Exposure Compensation Improvement Act no claim may be filed under this Act.

''(b) APPLICABILITY OF AMENDMENTS.—The amendments made to this Act by the Radiation Exposure Compensation Improvement Act shall apply to any claim under this Act that is pending or commenced on or after October 5, 1990, without regard to whether payment for that claim could have been awarded before the date of enactment of the Radiation Exposure Compensation Improvement Act as the result of previous filing and prior payment under this Act.''.

SEC. 9. REPORT.

Section 12 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) by striking the section heading and inserting the following:

''**SEC. 12. REPORTS.**'';

and

(2) by adding at the end the following:

''(c) URANIUM MILL AND MINE REPORT.—Not later than January 1, 2000, the Secretary of Health and Human Services in consultation with the Secretary of Energy shall prepare and submit to Congress a report that—

''(1) summarizes medical knowledge concerning adverse health effects sustained by residents of communities who reside adjacent to—

''(A) uranium mills or mill tailings,

''(B) aboveground uranium mines, or

''(C) open pit uranium mines; and

''(2) summarizes available information concerning the availability and accessibility of medical care that incorporates the best available standards of practice for individuals with malignancies and other compensable diseases relating to exposure to uranium as a result of uranium mining and milling activities;

''(3) summarizes the reclamation efforts with respect to uranium mines, mills, and mill tailings in Colorado, New Mexico, Arizona, Wyoming, and Utah; and

''(4) makes recommendations for further actions to ensure health and safety relating to the efforts referred to in paragraph (3).''.

By Mr. COVERDELL (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mrs. HUTCHISON, Mr. GRAMM, Mr. SHELBY, Mr. LUGAR, and Mr. COCHRAN):

S. 2344. A bill to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts; to the Committee on Agriculture, Nutrition, and Forestry.

THE EMERGENCY FARM FINANCIAL RELIEF ACT

• Mr. COVERDELL. Mr. President, the past several years have been devastating for a large number of Georgia farmers. Due to the large amounts of weather damage and associated agriculture production losses, numerous farmers and agribusinesses are faced with dire financial situations.

Farmers from across the state of Georgia are facing their worst crop disaster in many years. Currently, damages are estimated at about $450 million and rising. The drought in Georgia has already lasted 3 months and has caused farmers water supplies to dry up, leaving many without a source of irrigation water. I understand fully that it is not only in my home state where farmers are suffering. It is occuring in many parts of the country.

To help alleviate farmers' financial difficulties, today I am proud to introduce legislation with my esteemed colleagues Majority Leader LOTT, Senator COCHRAN, Senator FAIRCLOTH, Senator SHELBY, Senator GRAMM, Senator LUGAR and Senator HUTCHISON, which will help provide American farmers with much needed financial relief. The bill—The Emergency Farm Financial Relief Act—would allow farmers the option of receiving all of the Agriculture Market Transition Act (AMTA) contract payments for FY 1999 immediately after the beginning of the fiscal year. Annual payments can now be made two times a year, in December or January and again in September. The legislation we introduce today is a Senate companion to House legislation introduced by Representative BOB SMITH, Chairman of the House Agriculture Committee.

The bill would make $5.5 billion available much earlier in order to help farmers cope with the cash shortages they are now experiencing due to low prices and poor production. This important initiative leaves the decision to accept early payments or not solely with the farmer. Since all of the 1999 AMTA payments occur within the same fiscal year, the Congressional Budget Office (CBO) has determined that this proposal would not cost any additional taxpayer funds.

While this legislation is not the only answer to helping farmers during their time of economic hardship, it is a much needed overture which provides farmers with immediate financial relief. Certainly we have other measures to consider, but this is a good first step. I look forward to working with my colleagues in the Senate on this proposal and urge its speedy consideration.•

• Mr. FAIRCLOTH. Mr. President, I rise as a co-sponsor of the Emergency Farm Financial Relief Act of 1998, which will permit farmers to receive their fiscal year 1999 Agriculture Market Transition Act (AMTA) payments at the start of the fiscal year in October of 1998 rather than the semi-annual payments in December of 1998 and September of 1999.

This bill thus readies some $5.5 billion to help farmers cope with their current cash shortage that stems from high debts and low commodity prices.

This is a first to address the farm crisis, and it will help some farmers with their cash flow, but there are a lot of other growers in rough straits. Therefore, this is just a first step, and we need to take more aggressive steps to open export markets to American commodities.

This bill will not solve the farm crisis in North Carolina. In fact, because we managed to preserve the tobacco and peanut programs in the 1996 farm bill, the acceleration of AMTA contract payments will be limited, for the most part, to cotton, corn, and wheat growers.

The fields of North Carolina, Mr. President, are dry. All the farmers are in the same dire situation, and the scope of this bill is limited, but we need to address the tobacco growers.

I am concerned that efforts to bring the tobacco program to the Senate floor will get torn to shreds, but, certainly, the anti-tobacco crowd needs to rise above politics and realize that this is about farm families and family farms.

In addition to cash flow assistance, farmers need aggressive leadership to boost exports, and President Clinton needs to pay attention to farmers and to use the tools we gave him—like the Export Enhancement Program—to secure foreign markets for American agricultural commodities. Farmers just can't afford this continued silence from President Clinton. Agriculture is our number one export, so, clearly, we need the White House to engage on this issue.

Thank you, Mr. President, and I urge my colleagues to join us in support of the Emergency Farm Financial Relief Act of 1998.•

ADDITIONAL COSPONSORS

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 981

At the request of Mr. LEVIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1344

At the request of Mr. BROWNBACK, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1344, a bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1759

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1759, A bill to grant a Federal charter to the American GI Forum of the United States.

S. 1924

At the request of Mr. MACK, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2049

At the request of Mr. KERREY, the names of the Senator from Illinois (Ms.

MOSELEY-BRAUN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2112

At the request of Mr. ENZI, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2112, a bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

S. 2118

At the request of Mr. CHAFEE, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2118, A bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 2145

At the request of Mr. SHELBY, the names of the Senator from Mississippi (Mr. LOTT), the Senator from North Carolina (Mr. HELMS), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2145, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 2152

At the request of Mr. DURBIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2152, a bill to establish a program to provide credit and other assistance for encouraging microenterprises in developing countries, and for other purposes.

S. 2154

At the request of Mrs. BOXER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2154, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

S. 2181

At the request of Mr. AKAKA, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2181, a bill to amend section 3702 of title 38, United States Code, to make permanent the eligibility of former members of the Selected Reserve for veterans housing loans.

S. 2208

At the request of Mr. FRIST, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 2208, a bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

S. 2216

At the request of Ms. COLLINS, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 2216, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 2217

At the request of Mr. FRIST, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2291

At the request of Mr. GRAMS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2291, a bill to amend title 17, United States Code, to prevent the misappropriation of collections of information.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2322

At the request of Mr. BREAUX, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2322, a bill to amend the Internal Revenue Code of 1986 to change the determination of the 50,000-barrel refinery limitation on oil depletion deduction from a daily basis to an annual average daily basis.

S. 2337

At the request of Mr. SMITH, the names of the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from North Carolina (Mr. FAIRCLOTH), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2337, a bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes.

SENATE CONCURRENT RESOLUTION 80

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution urging that the railroad industry, including rail labor, management and retiree organization, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity.

SENATE RESOLUTION 257—EXPRESSING THE SENSE OF THE SENATE THAT OCTOBER 15, 1998, SHOULD BE DESIGNATED AS ''NATIONAL INHALANT ABUSE AWARENESS DAY''

Mr. MURKOWSKI (for himself, Mr. LOTT, Mr. DASCHLE, Mr. D'AMATO, Mr. HELMS, Mr. GRASSLEY, Mr. HATCH, Mr. BIDEN, Mr. CLELAND, Mr. DURBIN, Mr. TORRICELLI, Mrs. FEINSTEIN, and Mr. INOUYE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 257

Whereas inhalant abuse is nearing epidemic proportions with over 20 percent of all students admitting to experimenting with inhalants by the time they graduate from high school and only 4 percent of parents suspecting their children of inhalant use;

Whereas according to the National Institute on Drug Abuse, inhalant use ranks third behind use of alcohol and tobacco for all youths through the eighth grade;

Whereas the over 1,000 products that are being inhaled to get high are legal, inexpensive, and found in nearly every home and every corner market;

Whereas using inhalants even once can lead to kidney failure, brain damage, and even death;

Whereas inhalants are considered a gateway drug, one that leads to the use of harder, more deadly drugs; and

Whereas because inhalant use is difficult to detect, the products used are accessible and affordable, and abuse is so common, increased education of young people and their parents regarding the dangers of inhalants is an important step in our battle against drug abuse: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day'', to be observed with appropriate activities; and

(2) the Senate requests that the President issue a proclamation designating October 15, 1998, as ''National Inhalant Abuse Awareness Day''.

• Mr. MURKOWSKI. Mr. President, today with 12 of my colleagues, including our distinguished Majority and Minority Leaders, I submit an important resolution that affects the health and safety of all of our children. My resolution would designate October 15th, 1998 as National Inhalant Abuse Awareness Day.

What is inhalant abuse? Many of you may know it as ''sniffing'' addiction. At alarmingly high rates, today's young people are using common household products to get high. In my state of Alaska alone, 22% of the high school and 19% of middle school students admit to experimenting with inhalants. 21% of students nationally will have tried inhalants by the time they graduate from high school.

Inhalant abusers often start in elementary school, as young as 7 years old. In Alaska, there is even a report of a three year old using inhalants, having probably been taught to do so from an older sibling. Inhalant abusers are both male and female and cut across all socio-economic backgrounds. It is a national epidemic which affects all of our communities.

Inhalant abuse is so prevalent because of the availability and affordability of the products. The over 1,000 products being abused include nail and furniture polish, markers, whip cream aerosols, glue, gasoline, and air fresheners. These products are available in every home across the country and are sold for only a few dollars in every corner market. Unlike other substances young people abuse—alcohol, cigarettes, and harder drugs like cocaine, marijuana and heroin—these are perfectly legal products and harmless if used according to the directions.

All of us have these products in our homes and at some point, we have all asked our children to follow those directions and polish the living room furniture or fix a broken dish. But how many of us knew these items, which we so casually use, could someday kill our children? According to a recent study, only four percent of parents suspected their children of inhaling when in fact, 21% of them have.

With the products accessible and cheap, how do we stop the abuse without more laws? Congress can't just enact another law this time, we can't outlaw furniture polish or gasoline. Instead, I strongly believe the solution lies within our communities and our families. We, as community leaders, parents, and grandparents, should make a concerted effort to involve young people in other activities—teach them a trade or give them a summer job. I suggest that families pray together and eat their meals together. Children who have loving supportive homes and who are involved in a job or their community are less likely to be enticed by drugs, including inhalants.

We can also provide information. Inhalant abuse could be reduced if parents knew what symptoms they should be looking for. The warning signs for abuse include: unusual breath odor, chemical odor on clothing, a drunk or dazed appearance, hand tremors, red or runny nose and eyes, spots or sores around the mouth and anxiety and restlessness.

A sudden drop in grades and school attendance can also be an indication of drug abuse.

Most importantly, teenagers and children need to be told over and over again that even one try, one sniff, can kill. What they may view as simple experimentation can kill them. If they don't die from inhalant abuse, they may be left with permanent brain, liver and kidney damage.

I hope that on October 15th, my colleagues in the Senate will join me in a nationwide conversation about inhalant abuse. Together, as community leaders, parents, and concerned citizens, we can educate parents and young people while encouraging community and family oriented solutions to drug abuse. ●

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SESSIONS (AND HATCH) AMENDMENT NO. 3245

Mr. SESSIONS (for himself and Mr. HATCH) proposed an amendment to the bill (S. 2260) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

On page 30, line 7, strike ''$100,000,000'' and insert ''$150,000,000''.

On page 36, line 20, strike ''$95,000,000'' and insert ''$45,000,000''.

KERREY (AND HAGEL) AMENDMENT NO. 3246

(Ordered to lie on the table.)

Mr. KERREY (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

At the end of the bill insert the following:

SEC. . TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

INTERNATIONAL MONETARY FUND APPROPRIATIONS ACT OF 1998

HUTCHINSON (AND WELLSTONE) AMENDMENTS NOS. 3247–3248

(Ordered to lie on the table.)

Mr. HUTCHINSON (for himself and Mr. WELLSTONE) submitted two amendments intended to be proposed by them to the bill (S. 2334) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; as follows:

AMENDMENT NO. 3247

On page 99, between lines 17 and 18, insert the following:

TITLE IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the ''Forced Abortion Condemnation Act''.

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population

control under the slogan ''better to have more graves than one more child''. Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the ''Natal and Health Care Law''.

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, no funds appropriated or otherwise made available for the Department of State for fiscal year 1999 for the United States Information Agency or the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation in conferences, exchanges, programs, and activities of the following nationals of the People's Republic of China:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant ''Three Self'' Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b)(1) Each Federal agency subject to the prohibition in subsection (a) shall certify in writing to the appropriate congressional committees, on a quarterly basis during fiscal year 1999, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

SEC. 9013. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any national of the People's Republic of China described in section 9012(a)(2) (except the head of state, the head of government, and cabinet level ministers).

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

Subtitle C—Monitoring of Human Rights Abuses in China

SEC. 9021. This subtitle may be cited as the ''Political Freedom in China Act of 1998''.

SEC. 9022. Congress makes the following findings:

(1) Congress concurs in the following conclusions of the United States State Department on human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is ''an authoritarian state'' in which ''citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government''.

(B) The Government of the People's Republic of China has ''continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms''.

(C) ''[a]buses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention''.

(D) ''[p]rison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights''.

(E) ''[a]lthough the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state', or for peaceful political or religious activities are believed to number in the thousands''.

(F) ''[n]onapproved religious groups, including Protestant and Catholic groups * * * experienced intensified repression''.

(G) ''[s]erious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia[, and] [c]ontrols on religion and on other fundamental freedoms in these areas have also intensified''.

(H) ''[o]verall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.''.

(2) In addition to the State Department, credible independent human rights organizations have documented an increase in repression in China during 1995, and effective destruction of the dissident movement through the arrest and sentencing of the few remaining pro-democracy and human rights activists not already in prison or exile.

(3) Among those were Li Hai, sentenced to 9 years in prison on December 18, 1996, for gathering information on the victims of the 1989 crackdown, which according to the court's verdict constituted ''state secrets''; Liu Nianchun, an independent labor organizer, sentenced to 3 years of ''re-education through labor'' on July 4, 1996, due to his activities in connection with a petition campaign calling for human rights reforms; and Ngodrup Phuntsog, a Tibetan national, who was arrested in Tibet in 1987 immediately after he returned from a 2-year trip to India, where the Tibetan government in exile is located, and following a secret trial was convicted by the Government of the People's Republic of China of espionage on behalf of the ''Ministry of Security of the Dalai clique''.

(4) Many political prisoners are suffering from poor conditions and ill-treatment leading to serious medical and health problems, including—

(A) Gao Yu, a journalist sentenced to 6 years in prison in November 1994 and honored by UNESCO in May 1997, has a heart condition; and

(B) Chen Longde, a leading human rights advocate now serving a 3-year reeducation through labor sentence imposed without trial in August 1995, has reportedly been subject to repeated beatings and electric shocks at a labor camp for refusing to confess his guilt.

(5) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(6) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 9023. (a) The Secretary of State, in all official meetings with the Government of the People's Republic of China, should request the immediate and unconditional release of Ngodrup Phuntsog and other prisoners of conscience in Tibet, as well as in the People's Republic of China.

(b) The Secretary of State should seek access for international humanitarian organizations to Drapchi prison and other prisons in Tibet, as well as in the People's Republic of China, to ensure that prisoners are not being mistreated and are receiving necessary medical treatment.

(c) The Secretary of State, in all official meetings with the Government of the People's Republic of China, should call on that country to begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

SEC. 9024. (a) There is authorized to be appropriated for fiscal year 1999, $1,100,000 for support personnel to monitor political repression in the People's Republic of China in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong.

(b) Amounts appropriated pursuant to the authorization of appropriations in subsection (a) are in addition to any other amounts appropriated or otherwise available in fiscal year 1999 for the personnel referred to in that subsection.

SEC. 9025. (a)(1) There is authorized to be appropriated for fiscal year 1999 for the National Endowment for Democracy, $2,500,000 for the promotion of democracy, civil society, and the development of the rule of law in China.

(2) Amounts appropriated pursuant to the authorization of appropriations in subsection (a) are in addition to any other amounts appropriated or otherwise made available in fiscal year 1999 for the National Endowment for Democracy.

(b) The Secretary of State shall, in fiscal year 1999, utilize funds available in the East Asia-Pacific Regional Democracy Fund to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

SEC. 9026. (a) The Secretary of State shall utilize funds appropriated or otherwise available for the Department of State for fiscal year 1999 submit to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate, in that fiscal year, a report on human rights in China, including religious persecution, the development of democratic institutions, and the rule of law. The report shall provide information on each region of China.

(b)(1) The Secretary of State shall utilize funds referred to in subsection (a) to establish a Prisoner Information Registry for China which shall provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China.

(2) Such information shall include the charges, judicial processes, administrative actions, use of forced labor, incidences of torture, length of imprisonment, physical and health conditions, and other matters related to the incarceration of such prisoners in China.

(3) The Secretary may make funds available to nongovernmental organizations presently engaged in monitoring activities regarding Chinese political prisoners to assist in the creation and maintenance of the registry.

SEC. 9027. It is the sense of Congress that Congress, the President, and the Secretary of State should work with the governments of other countries to establish a Commission on Security and Cooperation in Asia which would be modeled after the Commission on Security and Cooperation in Europe.

SEC. 9028. It is the sense of Congress that—

(1) the people of Hong Kong should continue to have the right and ability to freely elect their legislative representatives; and

(2) the procedure for the conduct of the elections of the first legislature of the Hong Kong Special Administrative Region should be determined by the people of Hong Kong through an election law convention, a referendum, or both.

SEC. 9029. It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals determined to be participating in or otherwise facilitating the sale of such organs in the United States should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

AMENDMENT NO. 3248

On page 99, between lines 17 and 18, insert the following:

TITLE IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the ''Forced Abortion Condemnation Act''.

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan ''better to have more graves than one more child''. Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the ''Natal and Health Care Law''.

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, no funds appropriated or otherwise made available for the Department of State for fiscal year 1999 for the United States Information Agency or the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation in conferences, exchanges, programs, and activities of the following nationals of the People's Republic of China:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant ''Three Self'' Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b)(1) Each Federal agency subject to the prohibition in subsection (a) shall certify in writing to the appropriate congressional committees, on a quarterly basis during fiscal year 1999, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

SEC. 9013. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any national of the People's Republic of China described in section 9012(a)(2) (except the head of state, the head of government, and cabinet level ministers).

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

TREASURY DEPARTMENT, THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

HUTCHINSON AMENDMENTS NOS. 3249–3250

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted two amendments intended to be proposed by him to the bill (H.R. 2312) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes; as follows:

AMENDMENT NO. 3249

At the appropriate place, insert the following new section:

SEC. ___. TERMINATION OF INTERNAL REVENUE CODE OF 1986; NEW FEDERAL TAX SYSTEM.

(a) TERMINATION.—

(1) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(A) for any taxable year beginning after December 31, 2002, and

(B) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2002.

(2) EXCEPTION.—Paragraph (1) shall not apply to taxes imposed by—

(A) chapter 2 of such Code (relating to tax on self-employment income),

(B) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(C) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

(b) NEW FEDERAL TAX SYSTEM.—

(1) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(A) applies a low rate to all Americans,

(B) provides tax relief for working Americans,

(C) protects the rights of taxpayers and reduces tax collection abuses,

(D) eliminates the bias against savings and investment,

(E) promotes economic growth and job creation, and

(F) does not penalize marriage or families.

(2) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form not later than July 4, 2002.

AMENDMENT NO. 3250

In lieu of the matter proposed to be inserted by the amendment, insert the following:

SEC. ___. SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.

(a) CONTROL OF SATELLITES ON THE UNITED STATES MUNITIONS LIST.—Notwithstanding any other provision of law, the export control of satellites and related items on the Commerce Control List of dual-use items in the Export Administration Regulations (15 C.F.R. Part 730 et seq.) on the day before the effective date of this section shall be considered, on or after such date, to be transferred to the United States Munitions List under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) REPORT.—Each report to Congress submitted pursuant to section 902(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) to waive the restrictions contained in that Act on the export to the People's Republic of China of United States-origin satellites and defense articles on the United States Munitions List shall be accompanied by a detailed justification setting forth—

(1) a detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite;

(2) an estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch;

(3) a detailed description of—

(A) the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States Government expected to be needed in country to carry out monitoring of the proposed satellite launch; and

(B) the manner in which the costs of such monitoring shall be borne; and

(4) the reasons why the proposed satellite launch is in the national security interest of the United States, including—

(A) the impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export;

(B) the number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed;

(C) the impact of the proposed export on the balance of trade between the United States and China and a reduction in the current United States trade deficit with China;

(D) the impact of the proposed export on China's transition from a nonmarket to a market economy and the long-term economic benefit to the United States;

(E) the impact of the proposed export on opening new markets to American-made products through China's purchase of United States-made goods and services not directly related to the proposed export;

(F) the impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in China by United States nationals;

(G) the increase in the United States overall market share for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia;

(H) the impact of the proposed export on China's willingness to modify its commercial and trade laws, practices, and regulations to make American-made goods and services more accessible to that market; and

(I) the impact of the proposed export on China's willingness to reduce formal and informal trade barriers and tariffs, duties, and other fees on American-made goods and services entering China.

(c) NATIONAL SECURITY WAIVER FOR THE EXPORT OF SATELLITES TO CHINA.—Section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 22 U.S.C. 2151 note) is amended

by inserting before the period at the end the following: '', except that, in the case of a proposed export of a satellite under subsection (a)(5), on a case-by-case basis, that it is in the national security interests of the United States to do so''.

(d) DEFINITIONS.—In this section:

(1) MILITARILY SENSITIVE CHARACTERISTICS.—The term ''militarily sensitive characteristics'' includes, but is not limited to, antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, or kick motors.

(2) RELATED ITEMS.—The term ''related items'' means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

(e) EFFECTIVE DATE.—This section shall take effect 15 days after the date of enactment of this Act.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

McCAIN AMENDMENT NO. 3251

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 2260, supra; as follows:

On page 62, strike ''*Provided further,*'' on line 3 and all that follows through line 16 and insert the following: ''*Provided further,* That none of the funds appropriated or otherwise made available under this Act or under any other provision of law may be obligated or expended by the Secretary of Commerce, through the Patent and Trademark Office, to plan for the design, construction, or lease of any new facility for that office until the date that is 90 days after the date of submission to Congress by the Administrator of General Services of a report on the results of a cost-benefit analysis that analyzes the costs versus the benefits of relocating the Patent and Trademark Office to a new facility, and that includes an analysis of the cost associated with leasing, in comparison with the cost of any lease-purchase, Federal construction, or other alternative for new space for the Patent and Trademark Office and a recommendation on the most cost-effective option for consolidating the Patent and Trademark Office: *Provided further,* That the report submitted by the Administrator of General Services shall consider any appropriate location or facility for the Patent and Trademark Office, and shall not be limited to any geographic region: *Provided further,* That the Administrator of General Services shall submit the report to Congress not later than May 1, 1999.''.

WELLSTONE (AND LANDRIEU) AMENDMENT NO. 3252

Mr. WELLSTONE (for himself and Ms. LANDRIEU) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. MENTAL HEALTH SCREENING AND TREATMENT FOR PRISONERS.

(a) ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.—Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''(b) ADDITIONAL REQUIREMENTS.—

''(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or 20104, a State shall, not later than January 1, 1999, have a program of mental health screening and treatment for appropriate categories of convicted juvenile and other offenders during periods of incarceration and juvenile and criminal justice supervision, that is consistent with guidelines issued by the Attorney General.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, amounts made available to a State under section 20103 or 20104 may be applied to the costs of programs described in paragraph (1), consistent with guidelines issued by the Attorney General.

''(B) ADDITIONAL USE.—In addition to being used as specified in subparagraph (A), the funds referred to in that subparagraph may be used by a State to pay the costs of providing to the Attorney General a baseline study on the mental health problems of juvenile offenders and prisoners in the State, which study shall be consistent with guidelines issued by the Attorney General.''.

FAIRCLOTH AMENDMENT NO. 3253

Mr. FAIRCLOTH proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. Section 3486(a)(1) of title 18, United States Code, is amended by inserting ''or any act or activity involving a Federal offense relating to the sexual exploitation or other abuse of children,'' after ''health care offense,''.

HOLLINGS (AND OTHERS) AMENDMENT NO. 3254

Mr. HOLLINGS (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mr. LAUTENBERG, Mrs. MURRAY, Mrs. BOXER, Mr. REID, Mr. FORD, and Mr. JOHNSON) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(a) FINDINGS.—The Senate finds that:—

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds have reported to the Congress that the ''total income'' of the Social Security system ''is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) Section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations; and

(3) save Social Security first by reserving any surpluses in fiscal year 1999 budget legislation.

GREGG (AND OTHERS) AMENDMENT NO. 3255

Mr. GREGG (for himself, Mr. LOTT, Mr. MACK, Mr. GRAMM, and Mr. MURKOWSKI) proposed an amendment to amendment No. 3254 proposed by Mr. HOLLINGS to the bill, S. 2260, supra; as follows:

In the pending amendment, strike all after the word ''Sec.'' and insert the following:

SENSE OF THE SENATE ON THE BUDGET AND SOCIAL SECURITY.

(A) FINDINGS.—The Senate finds that:—

(1) the Social Security system provides benefits to 44 million Americans, including 27.3 million retirees, over 4.5 million people with disabilities, 3.8 million surviving children and 8.4 million surviving adults, and is essential to the dignity and security of the nation's elderly and disabled;

(2) the Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trsut Funds have reported to the Congress that the ''total income'' of the Social Security system ''is estimated to fall short of expenditures beginning in 2021 and in each year thereafter . . . until the assets of the combined trust funds are exhausted in 2032'';

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy all require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010;

(4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prefund the retirement of the baby boom generation;

(5) in his State of the Union message to the joint session of Congress on January 27, 1998, President Clinton called on the Congress to ''save Social Security first'' and to ''reserve one hundred percent of the surplus, that is any penny of any surplus, until we have taken all the necessary measures to strengthen the Social Security system for the twenty-first century'';

(6) saving Social Security first would work to expand national savings, reduce interest rates, enhance private investment, increase labor productivity, and boost economic growth;

(7) section 13301 of the Budget Enforcement Act of 1990 expressly forbids counting Social Security trust fund surpluses as revenue available to balance the budget; and

(8) the CBO has estimated that the unified budget surplus will reach nearly $1.5 trillion over the next ten years.

(b) SENSE OF THE SENATE—It is the sense of the Senate that Congress and the President should—

(1) continue to rid our country of debt and work to balance the budget without counting Social Security trust fund surpluses;

(2) work in a bipartisan way on specific legislation to reform the Social Security system, to ensure that it is financially sound over the long term and will be available for all future generations;

(3) save Social Security first; and

(4) return all remaining surpluses to American taxpayers.

THOMPSON (AND OTHERS) AMENDMENT NO. 3256

Mr. THOMPSON (for himself, Mr. LOTT, Mr. COVERDELL, Mr. HUTCHINSON, Mr. ENZI, Mr. ABRAHAM, Mr. KEMPTHORNE, Mr. STEVENS, Mr. THURMOND, and Ms. COLLINS) proposed an amendment to the bill, S. 2260, supra; as follows:

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

SEC. ___. POLICIES RELATING TO FEDERALISM.

(a) REPEAL OF EXECUTIVE ORDER.—Executive Order No. 13083, issued May 14, 1998, shall have no force and effect.

(b) CONTINUATION OF EXECUTIVE ORDERS.—Executive Order No. 12612, issued October 26, 1987, and Executive Order No. 12875, issued October 26, 1993, shall be in effect as though Executive Order No. 13083 never took effect.

McCAIN AMENDMENT NO. 3257

Mr. McCAIN proposed an amendment to the bill, S. 2260, supra; as follows:

On page 62, strike ''*Provided further,*'' on line 3 and all that follows through line 16 and insert the following: ''*Provided further,* That none of the funds appropriated or otherwise made available under this Act or under any other provision of law may be obligated or expended by the Secretary of Commerce, through the Patent and Trademark Office, to plan for the design, construction, or lease of any new facility for that office until the date that is 90 days after the date of submission to Congress by the Administrator of General Services of a report on the results of a cost-benefit analysis that analyzes the costs versus the benefits of relocating the Patent and Trademark Office to a new facility, and that includes an analysis of the cost associated with leasing, in comparison with the cost of any lease-purchase, Federal construction, or other alternative for new space for the Patent and Trademark Office and a recommendation on the most cost-effective option for consolidating the Patent and Trademark Office: *Provided further,* That the report submitted by the Administrator of General Services shall consider any appropriate location or facility for the Patent and Trademark Office, and shall not be limited to any geographic region: *Provided further,* That the Administrator of General Services shall submit the report to Congress not later than May 1, 1999.''.

SMITH (AND OTHERS) AMENDMENT NO. 3258

(Ordered to lie on the table.)

Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. McCONNELL, Mr. MACK, Mr. KEMPTHORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following new title:

TITLE ____—TEMPORARY AGRICULTURAL WORKERS

SEC. ___01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Job Opportunity Benefits and Security Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. ____01. Short title; table of contents.
Sec. ____02. Definitions.
Sec. ____03. Agricultural worker registries.
Sec. ____04. Employer applications and assurances.
Sec. ____05. Search of registry.
Sec. ____06. Issuance of visas and admission of aliens.
Sec. ____07. Employment requirements.
Sec. ____08. Enforcement and penalties.
Sec. ____09. Alternative program for the admission of temporary H–2A workers.
Sec. ____10. Inclusion in employment-based immigration preference allocation.
Sec. ____11. Migrant and seasonal Head Start program.
Sec. ____12. Regulations.
Sec. ____13. Funding from Wagner-Peyser Act.
Sec. ____14. Report to Congress.
Sec. ____15. Effective date.

SEC. ___02. DEFINITIONS.

In this title:

(1) ADVERSE EFFECT WAGE RATE.—The term ''adverse effect wage rate'' means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term ''eligible'' as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term ''job opportunity'' means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term ''prevailing wage'' means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term ''registered worker'' means an individual whose name appears in a registry.

(8) REGISTRY.—The term ''registry'' means an agricultural worker registry established under section ____03(a).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this title.

SEC. ___03. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section ____05 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to

which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section ___05.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. ___04. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section ___05. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this title.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this title.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section ___05(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this title, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section ___07 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section ___05, or terminate individuals employed pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(9) ASSURANCE OF UNEMPLOYMENT INSURANCE COVERAGE.—The employer shall assure that if the employer's employment is not covered employment under the State's unemployment insurance law, the employer will provide unemployment insurance coverage for the employer's United States workers at the place of employment for which the employer has applied for workers under subsection (a).

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this title pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section ___08(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section ___08(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. ___05. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section ___04(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section ___04(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. ___06. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section ___05(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this title.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section ___04(a)(2)(B).

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a referral of sufficient workers pursuant to section ___05(b) or a report of insufficient workers pursuant to section ___05(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section ___04(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this title in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. ___07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section ___04(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term ''task rate'' means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term ''group rate'' means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section ___04(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) REDUCED USER FEE FOR WORKERS PROVIDED HOUSING.—An employer shall receive a credit of 40 percent of the payment otherwise due pursuant to section 218(b) of the Immigration and Nationality Act on the earnings of alien workers to whom the employer provides housing pursuant to paragraph (1).

(7) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the Secretary for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section ___05(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section ___05(a), or an alien employed pursuant to this title, who completes the period of employment for the job opportunity involved, may apply to the Secretary for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence (or place of next employment, if the worker travels from the place of current employment to a subsequent place of employment and is otherwise ineligible for reimbursement under paragraph (1) with respect to such subsequent place of employment).

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(4) USE OF TRUST FUND.—Reimbursements made by the Secretary to workers or aliens under this subsection shall be considered to be administrative expenses for purposes of section 218A(b)(4) of the Immigration and Nationality Act, as added by this title.

(d) ESTABLISHMENT OF PILOT PROGRAM FOR ADVANCING TRANSPORTATION COSTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program for the issuance of vouchers to United States workers who are referred to job opportunities under section ___05(a) for the purpose of enabling such workers to purchase common carrier transportation to the place of employment.

(2) LIMITATION.—A voucher may only be provided to a worker under paragraph (1) if the job opportunity involved requires that the worker temporarily relocate to a place of employment that is more than 100 miles from the worker's permanent place of residence or last place of employment, and the worker attests that the worker cannot travel to the place of employment without such assistance from the Secretary.

(3) NUMBER OF VOUCHERS.—The Secretary shall award vouchers under the pilot program under paragraph (1) to workers referred from each registry in proportion to the number of workers registered with each such registry.

(4) REIMBURSEMENT.—

(A) USE OF TRUST FUND.—Reimbursements for the cost of vouchers provided by the Secretary under this subsection for workers who complete at least 50 percent of the period of employment of the job opportunity for which the worker was hired shall be considered to be administrative expenses for purposes of section 218A(b)(4) of the Immigration and Nationality Act, as added by this title.

(B) OF SECRETARY.—A worker who receives a voucher under this subsection who fails to complete at least 50 percent of the period of employment of the job opportunity for which the worker was hired under the job opportunity involved shall reimburse the Secretary for the cost of the voucher.

(5) REPORT AND CONTINUATION OF PROGRAM.—

(A) COLLECTION OF DATA.—The Secretary shall collect data on—

(i) the extent to which workers receiving vouchers under this subsection report, in a timely manner, to the jobs to which such workers have been referred;

(ii) whether such workers complete the job opportunities involved; and

(iii) the extent to which such workers do not complete at least 50 percent of the period of employment the job opportunities for which the workers were hired.

(B) REPORT.—Not later than 6 months after the expiration of the second fiscal year during which the program under this subsection is in operation, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, a report, based on the data collected under subparagraph (A), concerning the results of the program established under this section. Such report shall contain the recommendations of the Secretary concerning the termination or continuation of such program.

(C) TERMINATION OF PROGRAM.—The recommendations of the Secretary in the report submitted under subparagraph (B) shall become effective upon the expiration of the 90-day period beginning on the date on which such report is submitted unless Congress enacts a joint resolution disapproving such recommendations.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section ___04(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who are referred under section ___05(b) after the employer receives the report described in section ___05(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section ___04(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which

the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this title, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this title.

SEC. ___08. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section ___04 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this title limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this title.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this title, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section ___04(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section ___04,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this title or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this title, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this title.

SEC. ___09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking ''(c)(1) The'' and inserting ''(c)(1)(A) Except as provided in subparagraph (B), the''; and

(C) by adding at the end the following new subparagraph:

''(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section ___04(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.''.

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

''ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

''SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

''(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

''(A) CRITERIA FOR ADMISSIBILITY.—

''(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

''(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

''(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

''(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who

is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

''(C) ABANDONMENT OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien's employment.

''(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

''(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

''(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

''(I) specify the date of the alien's acquisition of status under this section;

''(II) specify the expiration date of the alien's work authorization; and

''(III) specify the alien's admission number or alien file number.

''(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

''(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section ___06(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section ___06 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

''(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

''(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

''(b) TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the 'Trust Fund') for the purpose of funding the costs of administering this section and, in the event of an adverse finding by the Attorney General under subsection (c), for the purpose of providing a monetary incentive for aliens described in section 101(a)(15)(H)(ii)(a) to return to their country of origin upon expiration of their visas under this section.

''(2) TRANSFERS TO TRUST FUND.—

''(A) IN GENERAL.—There is appropriated to the Trust Fund amounts equivalent to the sum of the following:

''(i) Such employers shall pay to the Secretary of the Treasury a user fee in an amount equivalent to so much of the Federal tax that is not transferred to the States on the earnings of such aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act if the earnings were subject to such Acts. Such payment shall be in lieu of any other employer fees for the benefits provided to employers pursuant to this Act or in connection with the admission of aliens pursuant to section 218A.

''(ii) In the event of an adverse finding by the Attorney General under subsection (c), employers of aliens under this section shall withhold from the wages of such aliens an amount equivalent to 20 percent of the earnings of each alien and pay such withheld amount to the Secretary of the Treasury.

''(B) TREATMENT OF AMOUNTS.—Amounts paid to the Secretary of the Treasury under subparagraph (A) shall be treated as employment taxes for purposes of subtitle C of the Internal Revenue Code of 1986.

''(C) TREATMENT AS OFFSETTING RECEIPTS.—Amounts appropriated to the Trust Fund under this paragraph shall be treated as offsetting receipts.

''(3) ADMINISTRATIVE EXPENSES.—Amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(ii), shall, without further appropriation, be paid to the Attorney General, the Secretary of Labor, the Secretary of State, and the Secretary of Agriculture in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(a) and this section.

''(4) DISTRIBUTION OF FUNDS.—In the event of an adverse finding by the Attorney General under subsection (c), amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(ii), and interest earned thereon under paragraph (6), shall be held on behalf of an alien and shall be available, without further appropriation, to the Attorney General for payment to the alien if—

''(A) the alien applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States;

''(B) in such application the alien establishes that the alien has complied with the terms and conditions of this section; and

''(C) in connection with the application, the alien tenders the identification and employment authorization card issued to the alien pursuant to subsection (a)(1)(D) and establishes that the alien is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

''(5) MIGRANT AGRICULTURAL WORKER HOUSING.—Such funds as remain in the Trust Fund after the payments described in paragraph (4) shall be used by the Secretary of Agriculture, in consultation with the Secretary, for the purpose of increasing the stock of in-season migrant worker housing in areas where such housing is determined to be insufficient to meet the needs of migrant agricultural workers, including aliens admitted under this section.

''(6) REGULATIONS.—The Secretary of the Treasury, in consultation with the Attorney General, shall prescribe regulations to carry out this subsection.

''(7) INVESTMENT OF PORTION OF TRUST FUND.—

''(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(i), and, if applicable, paragraph (2)(A)(ii), 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. For such purpose, such obligations may be acquired—

''(i) on original issue at the price; or

''(ii) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to

both principal and interest by the United States on original issue or at the market price, is not in the public interest.

''(B) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

''(C) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(i).

''(D) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

''(c) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and, upon receipt of the report, subsections (b)(2)(A)(ii) and (b)(4) shall take effect.''.

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking ''specified in this paragraph'' and inserting ''specified in this subparagraph (other than in clause (ii)(a))''.

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

''Sec. 218A. Alternative program for the admission of H–2A workers.''.

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking ''ALTERNATIVE PROGRAM FOR''.

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

''(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).''.

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

''(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

''(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.''.

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

SEC. ___10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

''(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.''.

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(iv)''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this title.

SEC. ___11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting ''and seasonal'' after ''migrant''; and

(2) by inserting before the period the following: '', or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period''.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike ''13'' and insert ''14'';

(2) in paragraph (2)(A), by striking ''1994'' and inserting ''1998''; and

(3) by adding at the end the following new paragraph:

''(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.''.

SEC. ___12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. ___13. FUNDING FROM WAGNER-PEYSER ACT.

If additional funds are necessary to pay the start-up costs of the registries established under section ____03(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

SEC. ___14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, the Attorney General and the Secretaries of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their authorized stay ends;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of United States workers and aliens admitted under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the housing provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.

SEC. ___15. EFFECTIVE DATE.

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

INHOFE (AND OTHERS) AMENDMENT NO. 3259

(Ordered to lie on the table.)

Mr. WARNER (for Mr. INHOFE, for himself, Mr. BROWNBACK, and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

On page 62, lines 3 through 16, strike ''That if the standard build-out'' and all that follows through ''covered by those costs.'' and insert the following: ''That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration) and shall not exceed an aggregate amount equal to $88,000,000: *Provided further*, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000: *Provided further*, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000.''.

DURBIN (AND OTHERS) AMENDMENT NO. 3260

Mr. DURBIN (for himself, Mr. CHAFEE, Ms. MOSELEY-BRAUN, Mr. LAUTENBERG, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. ___. CHILDREN AND FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, prevents the firearm from being operated without first deactivating or removing the device;

''(B) a device incorporated into the design of the firearm that prevents the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that can be unlocked only by means of a key, a combination, or other similar means.''.

(b) PROHIBITION AND PENALTIES.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) 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), any person that—

''(A) keeps 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; and

''(B) knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the lawful permission of the parent or legal guardian of the juvenile;

shall, if a juvenile 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 subsection (q), be imprisoned not more than 1 year, fined not more than $10,000, or both.

''(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 1 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 to the premises by any person.''.

(c) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Secretary shall ensure that a copy of section 922(y) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.''.

(d) 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 children from injuring themselves or others with firearms.

CRAIG AMENDMENT NO. 3261

Mr. CRAIG proposed an amendment to the bill, S. 2260, supra; as follows:

" . INTENSIVE FIREARMS ENFORCEMENT INITIATIVES.

(a)(1) The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative, as enhanced in this section, (and referred hereafter to as ''YCGII/Exile'') to 50 cities or counties by October 1, 2000, to 75 cities or counties by October 1, 2002, and to 150 cities or counties by October 1, 2003.

(2) Cities and counties selected for participation in the YCGII/Exile shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials. Not later than February 1, 1999, the Secretary shall deliver to the Congress, through the Chairman of each Committee on Appropriations, a full report, empirically based, explaining the impact of the program before the enhancements set out in section on the firearms related offenses, as well as detailing the plans by the Secretary to implement this section.

(h)(1) The Secretary of the Treasury shall, utilizing the information provided by the YCGII/Exile, facilitate the identification and prosecution of individuals—

(A) Illegally transferring firearms to individuals, particularly to those who have not attained 24 years of age, or in violation of the Youth Handgun Safety Act; and

(B) illegally possessing firearms, particularly in violation of 18 U.S.C. §922 (g)(1)-(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section.

(2) The Secretary of the Treasury shall, commencing October 1, 1998, and in consultation with the Attorney General, the United States Attorney for the Eastern District of Pennsylvania, the State of Pennsylvania, the City of Philadelphia and other local government for such District, establish a demonstration program, the objective of which shall be the intensive identification, apprehension, and prosecution of persons in possession of firearm in violation of 18 U.S.C. §922 (g)(1)-(2), or in violation of any provision in 18 U.S.C. §924 in connection with a serious drug offense or violent felony, as those terms are used in that section. The program shall be at last two years in duration, and the Secretary shall report to Congress on an annual basis on the results of these efforts, including any empirically observed affects on gun related crime in the District.

(3) The Attorney General, and the United States Attorneys, shall give the highest possible prosecution priority to the offense stated in this subsection.

(4) The Secretary of the Treasury shall share information derived from the YCGII/Exile with State and local law enforcement agencies through on-line computer access, as soon as such capability is available.

(c)(1) The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII/Exile.

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement personnel for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b): and

(B) to purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.''.

BUMPERS (AND HATCH) AMENDMENT NO. 3262

Mr. BUMPERS (for himself and Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

"SEC. . REPORT BY THE JUDICIAL CONFERENCE.

''(a) Not later than September 1, 1999, the Judicial Conference of the United States shall prepare and submit to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating whether an amendment to Rule 6 of the Federal Rules of Criminal Procedure permitting the presence in the grand jury room of counsel for a witness who is testifying before the grand jury would further the interests of justice and law enforcement.

(b) In preparing the report referred to in paragraph (a) of this section the Judicial Conference shall consider the views of the Department of Justice, the organized Bar, the academic legal community, and other interested parties.

(c) Nothing in this section shall require the Judicial Conference to submit recommendations to the Congress in accordance with the Rules Enabling Act, nor prohibit the Conference from doing so.

BUMPERS AMENDMENT NO. 3263

Mr. BUMPERS proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place add the following:

''SEC. . Subsection 2(d) of Section 2511 of title 18, United States Code, is amended to read as follows:

''2(d)(i) Except as prohibited by subsection (ii), it shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

''(ii) It shall be unlawful under this chapter for a person not acting under color of law to intercept a telephone communication unless—

''(A) all parties to the communication have given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States;

''(B) such person is an employer, or the officer or agent of an employer, engaged in lawful electronic monitoring of its employees' communications made in the course of the employees' duties; or

''(C) such person is a party to the communication and the communication conveys threats of physical harm, harassment or intimidation.''

FEINGOLD AMENDMENT NO. 3264

Mr. FEINGOLD proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

SEC. 620. (a) FINDINGS.—Congress makes the following findings:

(1) Since the adoption by the Federal Communication Commission of the so-called

''Going Forward Rules'' to relax regulation of cable television rates in 1994, cable television rates have increased by 6.3 percent per year. Since the enactment of the Telecommunications Act of 1996 (Public Law 104–104), such rates have increased by approximately 8.2 percent per year.

(2) The rate of increase in cable television rates has exceeded the rate of increase in inflation by more than 3 times since the enactment of the Telecommunications Act of 1996. The increase in such rates is faster than when such rates were not regulated between 1986 and 1992. Such rates are rising 50 percent faster than the Commission predicted when it adopted the so-called ''Going Forward Rules''.

(3) In 1996, many United States cities experienced increases in cable television rates that exceeded 20 percent. Overall, according to the Bureau of Labor Statistics, cable television rates increased at an annual pace of 10.4 percent in 1996, compared with 3.5 percent for all consumer goods.

(4) The Nation's largest cable television company boosted its rates approximately 13.5 percent in 1996. In Denver alone, it raised rates by 19 percent in the summer of 1996, then another 8 percent in June 1997. The Nation's second largest cable television company increased its average rates 12 percent in the New York City area in 1996.

(5) The cable television industry continues to hold the dominant position in the market for multichannel video programming distribution (MVPD) with 87 percent of MVPD subscribers receiving service from their local franchised cable television operator.

(6) Certain factors place alternatives to cable television at a competitive disadvantage. For example, direct broadcast satellite (DBS) service is widely available and constitutes the most significant alternative to cable television. However, barriers to both the entry and expansion of DBS include—

(A) the lack of availability of local broadcast signals;

(B) up front equipment and installation costs; and

(C) the need to purchase additional equipment to receive service on additional television sets.

(7) Telephone company entry into the video programming distribution business has been limited.

(8) With the increased concentration of cable television systems at the national level, the percentage of cable television subscribers served by the 4 largest cable television companies rose to 61.4 percent in 1996.

(9) Recent agreements in the cable television industry have given TCI and Time Warner/Turner Broadcasting ownership of cable television systems serving approximately one-half of the Nation's cable television subscribers.

(10) Financial analysts report that cable television industry revenue for 1995 was $24,898,000,000 and grew 8.9 percent to $27,120,000,000 in 1996. For 1996, revenue per subscriber grew 5.6 percent to reach $431.85 per subscriber. Analysts estimate 1997 year-end-total revenue for the industry was approximately $30,000,000,000, an increase of 9.9 percent from 1996 year-end revenue.

(b) REPORT.—(1) Not later than 30 days after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report setting forth the assessment of the Commission whether or not the findings under subsection (a) are consistent with the Commission's fulfillment of its responsibilities under the Cable Television Consumer Protection and Competition Act of 1992 (Public Law 102–385) and the Telecommunications Act of 1996 to promote competition in the cable television industry and ensure reasonable rates for cable television services.

(2) If the Commission determines under paragraph (1) that the findings under subsection (a) are consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a detailed justification of that determination.

(3) If the Commission determines under paragraph (1) that the findings under subsection (a) are not consistent with the fulfillment of the responsibilities referred to in that paragraph, the report shall include a statement of the actions to be undertaken by the Commission to fulfill the responsibilities.

WYDEN (AND SMITH) AMENDMENT NO. 3265

Mr. WYDEN (for himself and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. Section 505 of the Incentive Grants for Local Delinquency Prevention Programs Act (42 U.S.C. 5784) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) court supervised initiatives that address the illegal possession of firearms by juveniles.''; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''demonstrate ability in'';

(B) in paragraph (1), by inserting ''have in effect'' after ''(1)'';

(C) in paragraph (2)—

(i) by inserting ''have developed'' after ''(2)''; and

(ii) by striking ''and'' at the end;

(D) in paragraph (3)—

(i) by inserting ''are actively'' after ''(3)''; and

(ii) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(4) have in effect a policy or practice that requires State and local law enforcement agencies to detain for not less than 24 hours any juvenile who unlawfully possesses a firearm in a school, upon a finding by a judicial officer that the juvenile may be a danger to himself or herself, or to the community.''.

KYL (AND BRYAN) AMENDMENT NO. 3266

Mr. KYL (for himself and Mr. BRYAN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON INTERNET GAMBLING.

(a) SHORT TITLE.—This section may be cited as the ''Internet Gambling Prohibition Act of 1998''.

(b) DEFINITIONS.—Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

''(6) BETS OR WAGERS.—The term 'bets or wagers'—

''(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

''(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

''(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

''(D) does not include—

''(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

''(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

''(iii) a contract of indemnity or guarantee; or

''(iv) a contract for life, health, or accident insurance.

''(7) FOREIGN JURISDICTION.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

''(8) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term 'information assisting in the placing of a bet or wager'—

''(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

''(B) does not include—

''(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

''(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

''(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

''(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

''(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.''.

(c) PROHIBITION ON INTERNET GAMBLING.—

(1) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

''§ 1085. Internet gambling

''(a) DEFINITIONS.—In this section:

''(1) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term 'closed-loop subscriber-based

service' means any information service or system that uses—

''(A) a device or combination of devices—

''(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

''(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

''(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

''(C) appropriate data security standards to prevent unauthorized access.

''(2) GAMBLING BUSINESS.—The term 'gambling business' means a business that is conducted at a gambling establishment, or that—

''(A) involves—

''(i) the placing, receiving, or otherwise making of bets or wagers; or

''(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

''(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

''(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

''(3) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

''(4) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

''(5) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

''(6) PRIVATE NETWORK.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

''(A) private dedicated lines; or

''(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

''(7) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

''(b) GAMBLING.—

''(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

''(A) to place, receive, or otherwise make a bet or wager with any person; or

''(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

''(2) PENALTIES.—A person who violates paragraph (1) shall be—

''(A) fined in an amount that is not more than the greater of—

''(i) three times the greater of—

''(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

''(II) the total amount that the person is found to have received as a result of such wagering; or

''(ii) $500;

''(B) imprisoned not more than 3 months; or

''(C) both.

''(c) GAMBLING BUSINESSES.—

''(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

''(A) to place, receive, or otherwise make a bet or wager; or

''(B) to send, receive, or invite information assisting in the placing of a bet or wager.

''(2) PENALTIES.—A person engaged in a gambling business who violates paragraph (1) shall be—

''(A) fined in an amount that is not more than the greater of—

''(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

''(ii) $20,000;

''(B) imprisoned not more than 4 years; or

''(C) both.

''(d) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

''(e) EXCEPTIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

''(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

''(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

''(ii) a closed-loop subscriber-based service that is wholly intrastate; or

''(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

''(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

''(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

''(2) INAPPLICABILITY OF EXCEPTION TO BETS OR WAGERS MADE BY AGENTS OR PROXIES.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

''(f) STATE LAW.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.''.

(2) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

''1085. Internet gambling.''.

(d) CIVIL REMEDIES.—

(1) IN GENERAL.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by this section, by issuing appropriate orders.

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—

(i) IN GENERAL.—Subject to subclause (ii), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by this section, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this subsection. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(ii) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by this section, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under clause (i) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(C) ORDERS AND INJUNCTIONS AGAINST INTERNET SERVICE PROVIDERS.—Notwithstanding subparagraph (A) or (B), the following rules shall apply in any proceeding instituted under this paragraph in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(i) SCOPE OF RELIEF.—

(I) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(II) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a

violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(III) No relief shall issue under clause (i)(II) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(ii) CONSIDERATIONS.—In the case of an application for relief under clause (i)(II), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(I) such relief either singularly or in combination with such other injunctions issued against the same service under this paragraph, would seriously burden the operation of the service's system or network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(II) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(III) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by this section, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(iii) FINDINGS.—In any order issued by the court under this paragraph, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(D) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to this paragraph shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(3) EXPEDITED PROCEEDINGS.—

(A) IN GENERAL.—In addition to proceedings under paragraph (2), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added by this section, upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by this section.

(B) EXPIRATION.—A temporary restraining order entered under this paragraph shall expire on the earlier of—

(i) the expiration of the 30-day period beginning on the date on which the order is entered; or

(ii) the date on which a preliminary injunction is granted or denied.

(C) HEARINGS.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest practicable time.

(4) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by this section) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for a reasonable course of action taken to comply with a court order issued under paragraph (2) or (3) of this subsection.

(5) PROTECTION OF PRIVACY.—Nothing in this section or the amendments made by this section shall be construed to authorize an affirmative obligation on an interactive computer service—

(A) to monitor use of its service; or

(B) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(6) NO EFFECT ON OTHER REMEDIES.—Nothing in this subsection shall be construed to affect any remedy under section 1084 or 1085 of title 18, United States Code, as amended by this section, or under any other Federal or State law. The availability of relief under this subsection shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this section, or under any other Federal or State law.

(7) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this subsection to enforce section 1085 of title 18, United States Code, as added by this section.

(e) REPORT ON ENFORCEMENT.—Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by this section;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

(f) REPORT ON COSTS.—Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by this section, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this section.

(g) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section, the amendments made by this section, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

BRYAN AMENDMENT NO. 3267

Mr. BRYAN proposed an amendment to amendment No. 3266 by Mr. KYL to the bill, S. 2260, supra; as follows:

On page 3, strike lines 9 through 12, and insert the following:

''(iii) a contract of indemnity or guarantee;

''(iv) a contract for life, health, or accident insurance; or

''(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

''(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

''(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

''(III) in which the winner or winners may receive a prize or award;

(otherwise know as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

CRAIG (AND OTHERS) AMENDMENT NO. 3268

Mr. CRAIG (for himself, Mr. INOUYE, and Mr. DOMENICI) proposed an amendment to amendment No. 3266 proposed by Mr. KYL to the bill, S. 2260, supra; as follows:

On page 3 of the amendment, strike lines 9 through 12 and insert the following below line 13:

''(iii) a contract of indemnity or guarantee;

''(iv) a contract for life, health, or accident insurance;

''(v) lawful gaming conducted pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)—; or''.

Beginning on page 13 of the amendment, strike line 4 and all that follows through page 14, line 25, and insert the following:

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—

(i) IN GENERAL.—The United States may institute proceedings under this paragraph. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(ii) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by this section, that is alleged to have occurred, or may occur, in whole or in part, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the United States shall have the authority to enforce that section.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by this section, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this paragraph. Upon application of the attorney general (or other appropriate State official)

of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by this section, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

TORRICELLI AMENDMENTS NOS. 3269–3270

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 2260, supra; as follows:

AMENDMENT NO. 3269

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $6,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program of the Department of Commerce funded under this Act (other than the program referred to in subsection (a)) in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $6,000,000.

AMENDMENT NO. 3270

At the appropriate place in title II, insert the following:

SEC. 2___. NONPOINT POLLUTION CONTROL.

(a) IN GENERAL.—In addition to the amounts made available to the National Oceanic and Atmospheric Administration under this Act, $6,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) PRO RATA REDUCTIONS.—Notwithstanding any other provision of law, a pro rata reduction shall be made to each program of the International Trade Administration of the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $6,000,000.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3271

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

Notwithstanding any rights already conferred under this Act, Section 2 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052 (b)), is amended in subsection (b) by inserting ''or of any federally recognized Indian tribe,'' after ''State or municipality,''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, July 22, 1998. The purpose of this meeting will be to examine the Y2K computer problem as it relates to agricultural business and other matters.

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

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 22, 1998 at 10 a.m. in executive session, to consider certain pending nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 22, 1998, to conduct a hearing on the 1946 Swiss Holocaust Assets Agreement.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. 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 Wednesday, July 22, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nomination of Bill Richardson to be Secretary of Energy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Wednesday, July 22, 1998, at 9:00 a.m., hearing room (SD–406).

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

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, July 22, 1998 beginning at 9:30 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 22, 1998 at 4 p.m. to hold a hearing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs and the House Committee on Resources be authorized to meet during open session on Wednesday, July 22, 1998 at 9 a.m., to conduct a Joint Hearing on S. 1770, to elevate the Director of the Indian Health Service to Assistant Secretary for Health & Human Services; and H.R. 3782, Indian Trust Fund Accounts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, July 22, 1998, at 9:30 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 22, 1998 at 2 p.m., to vote on the nominations of:

Scott E. Thomas, of the District of Columbia, to be a member of the Federal Election Commission for a term expiring April 30, 2003 (reappointment);

David M. Mason, of Virginia, to be a member of the Federal Election Commission for a term expiring April 30, 2003, vice Trevor Alexander McClurg Potter, resigned;

Darryl R. Wold, of California, to be a member of the Federal Election Commission for a term expiring April 30, 2001, vice Joan D. Aikens, term expired; and,

Karl L. Sandstrom, of Washington, to be a member of the Federal Election Commission for a term expiring April 30, 2001, vice John Warren McGarry, term expired.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, July 22, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 2136, to provide for the exchange of certain land in the State of Washington; S. 2226, to amend the Idaho Admission Act regarding the sale or lease of school land; H.R. 2886 to provide for a demonstration project in the Stanislaus National Forest, CA, under which a private contractor will perform multiple resource management

activities for that unit of the National Forest System; and H.R. 3796, to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

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

ADDITIONAL STATEMENTS

FAA MAKES PROGRESS ON Y2K

• Mr. MOYNIHAN. Mr. President, I would like to bring to the Senate's attention the latest development regarding the Year 2000 (Y2K) problem. The Federal Aviation Administration (FAA) has determined that a critical mainframe computer system used to monitor air traffic will continue to function smoothly into the millennium. The FAA, uncertain as to how long testing would take, only recently began an intensive investigation of its mainframe computers. The testing involved the time consuming task of examining more than 40 million lines of software. Although the technicians determined the date problem could be repaired in time, the process underscores the urgent nature of the Y2K issue. The uncertainties of Y2K mean repair work can be as simple as that of the FAA, or more complicated than is possibly imaginable. It is imperative that the public and private sectors follow the example of the FAA and begin testing their computer systems immediately. I continue to hope that it is not too late to properly prepare for the year 2000.

I ask that the July 22, 1998 Washington Post article on the FAA be printed in the RECORD.

The article follows:

AIR TRAFFIC CONTROL COMPUTER SYSTEM CLEARED FOR 2000

IBM WARNING PROMPTED TESTS

(By Rajiv Chandrasekaran)

ATLANTIC CITY, N.J.—Federal Aviation Administration technicians have concluded that a critical mainframe computer system used in the nation's largest air traffic control centers will function properly in the year 2000, despite warnings from the system's manufacturer that the agency should replace the equipment.

The determination, reached over the past few weeks by programmers at the FAA's technical center here, has elicited cheers from agency officials who had been castigated by congressional investigators earlier this year for not planning a quick replacement of the systems.

''The examination has revealed that the [system] will transition the millennium in a routine manner,'' FAA Administrator Jan F. Garvey said in an interview yesterday.

The mainframe computers at issue, made by International Business Machines Corp., are used at the FAA's 20 air route traffic control centers to track high-altitude aircraft between airports. The computers, IBM's Model 3083 mainframes, receive data from radar systems and integrate that information into a picture for air traffic controllers.

Last October, IBM sent a letter to the FAA warning that ''the appropriate skills and tools do not exist to conduct a complete Year 2000 test assessment'' of the 3083 computers, once the mainstay of large corporate data centers. The machines have been mothballed by most users, step IBM urged the FAA to take.

Although the FAA plans to replace the mainframes as part of a broader modernization effort, agency officials were unsure they could complete the process by 2000. As a result, they embarked on an aggressive testing program to figure out how the computer system would be affected.

Most mainframes use a two-digit dating system that assumes that 1 and 9 are the first two digits of the year. Without specialized reprogramming, it was feared that the IBM 3083s would recognize ''00'' not as 2000 but as 1900, a glitch that could cause them to malfunction. The federal government and private companies are racing to fix other computers to avoid the year 2000 problem.

To conduct the testing, the FAA hired two retired IBM programmers and assigned a handful of other agency employees to the project, which involved checking more than 40 million lines of ''microcode''—software that controls the mainframe's most basic functions. Among the initial areas of concern was whether a date problem would affect the operation of the mainframe's cooling pumps. If the computer does not regularly switch from one cooling pump to another, it can overheat and shut down, causing controllers' radar screens to go blank.

The technicians, however, found that the microcode doesn't consider the last two digits of the year when processing dates. Instead, it stores the year as a two-digit number between one and 32, assuming that 1975 was year one. As a result, they determined, the system would fail in 2007, but not in 2000.

''Nothing we have found will cause an operational aberration over the new year. It will continue to function as it's supposed to,'' said one FAA technician working on the project. FAA officials recently allowed a reporter to tour the facility here and talk to employees on the condition that they not be named.

''We're dealing with minutes and seconds in air traffic control,'' said another technician. ''The systems don't really care about days and years.''

The programmers did find four software modules that need to be repaired to handle the leap year in 2000, but they said the task would be relatively straightforward.

While the technicians came to their conclusions a few weeks ago, Garvey only recently was briefed on the findings. The results, sources said, have not yet been shared widely within the Transportation Department or with lawmakers.

Agency officials acknowledge their determination will be met with skepticism on Capitol Hill and in the aviation industry. To bolster their case, the technicians said they have compiled reams of computer printouts that back up their conclusions.

The findings highlight one of he uncertainties of year 2000 repair work. While some projects can be more costly and time consuming than originally expected, others can be unexpectedly simple.

''It's a welcome surprise,'' Garvey said. ''And we don't get many of them in government.''•

MICHIGAN ATTORNEY GENERAL FRANK J. KELLEY RETIRES

• Mr. ABRAHAM. Mr. President, I rise today to honor Michigan Attorney General Frank J. Kelley, the longest serving chief law enforcement officer in the history of the United States. After spanning the administrations of five U.S. Presidents, Attorney General Kelley decided this spring not to seek re-election. Attorney General Kelly will have served for 37 years when he retires at the end of 1998, leaving behind a long and distinguished career of service to the State of Michigan and its citizens.

A native of Detroit, Frank Kelley's career in law began after receiving both his Bachelor of Arts and Juris Doctor degrees from the University of Detroit. He practiced law in Alpena, Michigan, where he served as both city attorney and the Alpena County Supervisor. In 1961, Governor John Swainson appointed Kelley Michigan's 50th Attorney General. The following year he was elected to his first term and has been reelected every term since.

Recognized as having an enduring commitment to good government, Frank Kelley has been a champion of consumer causes, fighting to protect Michigan citizens from price gouging and fraud, and serving as a watchdog on other consumer issues. Kelley also used his office to fight for school desegregation and equal housing. He has been honored with several public service awards throughout his career, including the Wyman Award from the National Association of Attorneys General.

In his almost four decades as Attorney General, Frank Kelley has earned the respect and admiration of those he worked with and the millions he represented. He has served with tenacity, distinction, and honor. It is with great pleasure that I add my heartfelt thanks and congratulations to Attorney General Kelley for his extraordinary career and service to the State of Michigan.•

100TH ANNIVERSARY OF GREATER SALEM CHAMBER OF COMMERCE

• Mr. DURBIN. Mr. President, I rise today to congratulate the Greater Salem Chamber of Commerce of Salem, Illinois, which will celebrate its 100th anniversary on July 23.

A century ago, seven Illinoisans founded the Salem Business Men's Association, which was later renamed the Greater Salem Chamber of Commerce. As they stated in their original charter, its purpose was ''to promote and encourage the location of manufactories and other industries in our city * * * and to encourage in all proper and lawful ways the development of our city and its surrounding country.'' It is hard to imagine that the seven founders could have foreseen how their association would grow and flourish into the present.

Today, the Chamber supports the community of Salem through numerous projects ranging from economic development to educational support. In

addition, the Chamber serves as a network for local businesses and a coordinator between them and the government of Salem. The Chamber also fosters a general sense of community in Salem, by welcoming new residents and promoting consciousness of Salem's unique heritage.

In its role as coordinator, networker, and initiator, the Chamber has proven itself to be a crucial player in Salem's recent economic expansion. The city of Salem can boast a net gain of 900 jobs over the past five years. These gains are due in no small part to the efforts of the Chamber of Commerce.

With a century of success behind it, the Chamber is now working to secure the future prosperity of Salem. The Chamber regularly notifies businesses of education and training opportunities so that Salem's labor force can continue to adapt to the changing needs of the economy. Further, the Chamber was instrumental in developing the Tech Prep program, which provides 25 local high school students with internships that prepare them for future careers.

Throughout its history, the Chamber has proven itself to be an indispensable asset to the city of Salem and the state of Illinois. Again, I would like to extend my congratulations to the Chamber and all of its members and hope that their second century is as successful as their first.●

BETHESDA SEVEN/CARD CLUB VISIT TO WASHINGTON, D.C.

● Mr. ABRAHAM. Mr. President, I rise today to honor seven people who visited our Nation's capitol from June 12 to June 15, 1998. Frank ''The Gin Mill'' Jonna, one of Gin's all time greatest players who began his career with Detroit Catholic Central and gained further fame as a Wayne State Tartar; Judy ''The Wicked Wick'' Jonna, one of Detroit's most prominent all around card players who was recently named one of the 50 best players in Concan history; Joe ''The Professor'' Sarafa, the legendary, steady utility man who never misses a beat when placed in the lineup on a moment's notice; Mike ''The Dish'' Sarafa, possibly the most exalted and prominent card shark of all time, far and away the most political player on the tour; Mariann ''MB'' Sarafa, initially named ''All Telcaif'' shopper but has since proven to be ''All World'' (also known to win a dish or two now and then while screaming ''Ayoooooon Michael''); Suzanne ''The Maoon killer'' Sarafa, easily the single greatest hustler in Concan history. She has been known to ask, in the middle of a game . . . ''how many points do you need to go down?'' while cramming money into that silly black wallet of hers; and Tony ''The Silent Winner'' Antone, the guy who never boasts, brags, or rubs in his victories (and there are many).

Mr. President, it is also worthy to note that while this incredibly fun filled weekend was occurring, the Detroit Red Wings were on their way to winning their second straight Stanley Cup. The Bethesda Seven played a critical role in the Game 3 victory at the MCI Center by strategically sitting in different areas of the arena so as to keep the thousands of Red Wings fans fired up.

Mr. President, I truly thank the Bethesda Seven for their visit. ●

GEORGE OSTROM

● Mr. BAUCUS. Mr President, I rise today to celebrate a true Montanan and a great friend on his 70th birthday.

Anyone who has come to know George Ostrom through his radio broadcasts, his photographs, his writing, or who has been fortunate enough as I have to spend time personally with him has come away with a better understanding of the American West and Montana in particular.

I've known George for too many years to count. Among other things, he and I share a passion for hiking in general and for hiking in Glacier National Park in particular. You see George has spent most of his 70 years in and around the Park. To this day, he hikes with a group that he affectionately calls the ''Over the Hill Gang.'' They hike once a week when the weather permits, usually between 30 and 40 times a year.

For years, George has invited me to join his friends for a hike. But you know how it is. Our schedules are busy and somehow I just never got around to it. Until last August. During our summer recess last year I joined up with George and his Over the Hill Gang. And what a day we had. We told stories (all of them were true, of course), shared water bottles and talked about our families, our hopes and our dreams. Mr. President, it was a day I will not soon forget.

Over the years, I had heard all about George's many awards including the honor bestowed on his weekly column ''The Trailwatcher'', which in 1996 was selected as the best weekly humor column in the United States by the National Newspaper Association. And I had seen many of his photographs of the Park in local and national magazines including Sports Afield, Field and Stream and Sports Illustrated.

But on that hike I came to know George Ostrom the man. A funny and engaging gentleman who will not quit until he gets where he is going. That spirit is Montana's spirit. An ideal that defines all of us. A common bond that all Montanans share.

Sadly, just a few days later, one of our group, Roger Dokken, fell to his death while hiking a different trail. Because of our time together, he was my friend—automatically. No politics, no agenda. Just two people doing together what they enjoy.

Through the triumphs and tragedies of life, George and his Over the Hill gang continue to hike on. They continue to embody what is good, what is right about Montana.

So Mr. President, as George and his family celebrate his 70th birthday, I send my congratulations confident that George Ostrum is still well shy of being over the hill.●

MANAGERS' AMENDMENT TO THE REGULATORY IMPROVEMENT ACT

● Mr. LEVIN. Mr. President, today Senator THOMPSON and I, as sponsors of S. 981, the Regulatory Improvement Act of 1998, are putting into the CONGRESSIONAL RECORD a proposed amendment we will offer when S. 981 is brought to the Senate floor for consideration. The amendment reflects changes to the bill we have agreed to make in response to a number of concerns about the bill identified by the Administration and Members of the Governmental Affairs Committee. We are putting it in the RECORD at this time, to make the language available to the public and persons interested in this bill. We are also putting into the RECORD today the letter of July 15th from Acting OMB Director Jack Lew, stating that the Administration will sign the bill if the changes included in the Managers' Amendment are made and the bill passes both Houses in the same form. We welcome the support of the Administration in this effort and hope we can get the bill to the floor as soon as possible.

OMB stated in their analysis of costs and benefits of federal regulations in 1997 that regulation has enormous potential for good and harm. ''The only way,'' OMB said, ''we know to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs.'' S. 981 would build that careful evaluation into the regulatory process of all the regulatory agencies. OMB estimated that of the significant or major regulations currently in effect, we have received approximately $300 billion in benefits at a cost of some $280 billion. We know that through the appropriate use of cost benefit analysis and risk assessment we can improve those figures. In a well-respected analysis of 12 major EPA rules and the impact of cost-benefit analysis on those rules, the author, Richard Morgenstern, former Associate Assistant Administrator of EPA and a visiting scholar at Resources for the Future, concluded that in each of the 12 rule makings, economic analysis helped reduce the costs of all the rules and at the same time helped increase the benefits of 5 of the rules. Report after report acknowledges the importance of good cost-benefit analysis and risk assessment for all agencies. It's long past time to get these basic requirements into statute. S. 981 offers us the best opportunity to do that.

The Managers' Amendment Senator THOMPSON and I will be offering to S. 981 reconfirms our intention that the bill not diminish or affect an agency's

responsibility to carry out the purposes of the substantive statute under which the agency is regulating. At the same time, the amendment does nothing to weaken the important requirements of the bill that agencies do a thorough and competent analysis of the costs and benefits of the major regulations they issue.

Mr. President, I believe S. 981 will significantly improve the regulatory process. If enacted, it will build confidence in the regulatory programs that are so important to this society's well-being, and will result in a better, and I believe a less contentious, regulatory process. Those of us who believe in the benefits of regulation to protect health and safety have a particular responsibility to make sure that regulations are sensible and cost-effective. When they aren't, the regulatory programs—which are so vital to our health and well being—come under attack. By providing an open regulatory process guided by reasonableness and common sense, we are protecting important programs from harmful attacks.

Mr. President, I ask that copies of three letters exchanged between the Administration and Senator THOMPSON and me be printed in the RECORD.

I am also pleased to announce that the Minority Leader, Senator DASCHLE, has been added as a cosponsor to the bill, S. 981.

The letters follow:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 9, 1998.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide the Administration's views on S. 981, the Regulatory Improvement Act of 1998. The Administration commends the thoughtful effort by both you and Senator Levin to address numerous concerns raised by the Administration and by others about the bill as introduced.

The Administration believes strongly in responsible regulatory reform. President Clinton's issuance of Executive Order No. 12866 was predicated on his belief that government should do a better job of assessing risks and evaluating costs and benefits before issuing major rules. While we have been skeptical of the need for further comprehensive regulatory reform legislation at this time, we have sought to work with the Committee to ensure that any bill advances the President's regulatory reform principles without creating unwarranted costs to taxpayers or needless burdens on agencies acting to protect human health, safety, or the environment.

The substitute bill issued earlier this month contains significant improvements over last summer's draft. We very much appreciate this effort. While the substitute is responsive to many of our concerns, there are still serious issues remaining. One of the problems with comprehensive legislation is that so many different kinds of rulemaking are affected. We want to be sure that any new law meets a simple test: that it truly improves the regulatory system, and does not impair—by creating more litigation, more red tape, and more delay—the agencies' ability to do their jobs. We are interested in working with you to see if we can find the common ground.

After a full review of the substitute to S. 981, we have concluded that the bill does not yet meet the test we have articulated, and therefore the Administration would oppose the bill if it were to be adopted in its current form. Our concerns are briefly outlined below, and we have developed and enclosed for your consideration a set of modifications to the bill that would remedy these and other concerns while remaining faithful to the sponsors' intent. As you know from our past conversations, many of these are critical to achieving an acceptable result.

1. Judicial Review. The Administration remains concerned that the judicial review provisions would promote tactical litigation over errors that were not material to the outcome of a particular rulemaking. We know that this conflicts with the sponsors' intent, as reflected in earlier hearing discussions. To avoid additional litigation over major rules, the troubling ambiguity in the current version of the bill should be eliminated.

2. Implicit Supermandate. We have been pleased that the sponsors of S. 981 consistently have agreed with the view that regulatory reform legislation should not alter or modify the substantive reach of particular statutes designed to protect human health, safety, or the environment. We remain concerned that the current language of the bill would be construed to narrow the range of discretion available to agencies under their existing statutory mandates to protect human health, safety, or the environment. The range of discretion available to agencies under current law must be expressly preserved to avoid an implicit supermandate.

3. Risk Assessment. The Administration believes that, while there have been improvements in Section 624, this section needs to be revised still further to eliminate the imposition of burdensome requirements where those requirements will not enhance major rules. For example, section 624 includes in its sweep an unbounded category of agency actions that are not rulemakings, as well as major rules where Congress has not predicated regulatory standards on risk assessment. These should be excluded. In addition, the requirement for revision of risk assessments threatens an endless and costly analytical process, reopened with each new study, that would provide additional fodder for protracted litigation. We also remain concerned that certain provisions are too specifically tailored to analysis of cancer risks, and are thus ill-suited to other objectives, such as an evaluation of risks related to environmental and natural resource protection, worker safety, or airworthiness.

4. Peer Review. The Administration is very concerned about requiring peer review in contexts where the process would add significantly to costs and delays of the regulatory process without any foreseeable benefit. For example, the requirement that cost-benefit analyses be subject to peer review would add little to the review already performed by the Office of Management and Budget in our regulatory review process. In addition, the requirement that peer review be entirely independent of the regulating agency would displace well-established and credible peer review mechanisms, while making good peer review virtually impossible in highly specialized subject areas (e.g. nuclear safety). We also believe that the statute should require no more than one round of peer review for each major rule.

5. Review of Past Regulations. While the Committee responded to many of the Administration's earlier concerns about review of past regulations, the current version of the bill creates two different, uncoordinated and likely duplicative processes for the review of past regulations, imposing a major burden on agencies and needless expense on taxpayers. The second of these should be deleted, and the cycle of review in the first should be set at 10 years.

6. Needless Burdens. A number of the bill's requirements would impose substantial costs on agencies where there would be no conceivable benefit to the public or regulated entities. For example, the bill imposes its analytical requirements and review requirements even where the costs of compliance with the regulation have been incurred by the regulated community and no costs can be avoided by selecting a different regulatory option. Our proposed changes address other examples as well.

7. Definitions and other issues. There are several definitions and other provisions that need to be added or modified to ensure clarity, to discourage unwarranted litigation that would delay new safeguards, to protect the constitutional prerogatives of the President and the deliberative process within the Executive Branch, and to eliminate unwarranted burdens on agencies. While many of these changes appear minor, it would be difficult to overstate their importance to us in evaluating the cumulative effect of this bill.

In developing revisions to the bill that would address our concerns, we have sought to suggest changes that are consistent with our understanding of the sponsors' intent and with the spirit of our very constructive discussions with the Committee staff. We would welcome a further opportunity to work with you before the bill is reported by the Committee.

Sincerely,

FRANKLIN D. RAINES,
Director.

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, July 1, 1998.

Mr. JACK LEW,
Director Designate, Office of Management and Budget, Executive Office Building, Washington, DC.

DEAR MR. LEW: In March of this year, Franklin Raines, then Director of OMB, sent us a letter expressing the Administration's views on S. 981, the Regulatory Improvement Act, shortly before its scheduled mark-up in the Governmental Affairs Committee. Mr. Raines stated that while ''the Administration believes strongly in responsible regulatory reform,'' it has ''serious issues remaining'' with respect to S. 981. Mr. Raines then enclosed ''a set of modifications to the bill that would remedy'' these concerns.

As you know, the bill was reported by the Committee on a vote of 10 to 5, and now awaits consideration by the full Senate. In the interest of addressing the Administration's concerns so we can join together in support of S. 981, we have enclosed our response to each of the proposed modifications included in the attachment to the March 6th letter from Mr. Raines. Our effort has been undertaken with the objective of seeking to eliminate any cause for confusion or misinterpretation about the specific provisions in the bill while doing no harm to the important remedial and beneficial effects of our legislation. We would be willing to offer a Manager's Amendment on the floor during Senate consideration of S. 981 which would make these changes. Because such an amendment would meet your concerns, we would do so with the understanding that the Administration would then support this important legislation.

The path to this point has not been easy. Regulatory reform legislation over the years has engendered a great deal of distrust and friction among the interested parties. Yet we feel deeply that this moderate proposal will bring important analytical tools and openness to the very complex issues involved in

federal regulation and will give the American people the effective and efficient protections they deserve. If it's true that nothing worth doing is ever easy, then S. 981 may prove to be one of the most valuable pieces of legislation we'll have enacted in a long time.

We welcome your support and look forward to your response.

Sincerely,

CARL LEVIN,
Senior Member.
FRED THOMPSON,
Chairman.

Enclosure.

1. Judicial Review:

a. Page 62, line 16, insert after ''determining'' the following: ''under the statute granting the rule making authority''.

b. Amend Section 627(e) to read as follows: ''If an agency fails to perform the cost-benefit analysis, cost-benefit determination, or risk assessment, or to provide for peer review, a court may, giving due regard to prejudicial error, remand or invalidate the rule. The adequacy of compliance with the specific requirements of this subchapter shall not otherwise be grounds for remanding or invalidating a rule under this subchapter. If the court allows the rule to take effect, the court shall order the agency to promptly perform such analysis, determination, or assessment or provide for such peer review.''

c. No judicial review for Subchapter III, because Subchapter III will be deleted.

d. Clarification regarding interlocutory orders is not necessary.

2. ''Implicit Supermandate'':

a. On page 47, strike lines 1 through 4 and insert the following:

''(b) Nothing in this subchapter shall be construed to alter or modify—

(1) the substantive standards applicable to a rulemaking under other statutes;

(2) the range of regulatory options that an agency has the authority to adopt under the statute authorizing the agency to promulgate the rule, or the deference otherwise accorded to the agency in construing such statute; or

(3) any opportunity for judicial review made applicable under other statutes.''

3. Risk Assessment:

a. On page 54, strike lines 8 through 11 and insert the following:

''(ii) any risk assessment that is not the basis of a rule making that the Director reasonably anticipates is likely to have an annual effect on the economy of $100 million or more in reasonably quantifiable costs and that the Director determines shall be subject to the requirements of this section.''

b. On page 56, strike lines 10 through 12 and insert the following:

''(2) Significant assumptions used in a risk assessment shall incorporate all reasonably available, relevant and reliable scientific information.''

c. On page 56, strike lines 13 and 14 up to but not including ''and,'' on line 14 and insert the following:

''(d) The agency shall inform the public when the agency is conducting a risk assessment subject to this section''.

d. No amendment. (MACT and BACT).

4. Peer Review:

a. On page 58, strike lines 10 through 12 and insert the following:

''(a) Each agency shall provide for an independent peer review in accordance with this section of—

(1) a cost-benefit analysis of a major rule that the agency or Director reasonably anticipates is likely to have an annual effect on the economy of $500 million in reasonably quantifiable costs; and

(2) a risk assessment required by this subchapter.''

b. On page 60, between lines 12 and 13 insert the following:

''(e) A member of an agency advisory board (or comparable organization) established by statute shall be considered ''independent of the agency'' for purposes of section 625(b)(1)(A)(ii).

''(f) The status of a person as a contractor or grantee of the agency conducting the peer review shall not, in and of itself, exclude such person from serving as a peer reviewer for such agency because of the requirements of (b)(1)(A)(ii) of this section.''

c. On page 60, between lines 12 and 13 insert the following:

''(g) Nothing in this section shall require more than one peer review of a cost-benefit analysis or a risk assessment during a rule making. A peer review required by this section shall occur to the extent feasible prior to the notice of proposed rule making.''

d. On page 60, between lines 9 and 10 insert the following and renumber the remaining subsection accordingly:

''(d) The formality of the peer review conducted pursuant to this section shall be commensurate with the significance and complexity of the subject matter.''

5. Other

a. On page 70, between lines 20 and 21 insert the following and renumber the remaining subsections accordingly;

''(a) This subchapter shall apply to all proposed and final major rules and to any other rules designated by the President for review.''

On page 72, line 4, strike ''(a)'' and insert in lieu thereof ''(b)''.

b. Strike Subchapter III and strike section 610.

c. On page 53, strike lines 14 and 15 and insert the following: ''as possible unless the Director determines that compliance would be clearly unreasonable.''

d. No amendment (OSTP and OMB studies)

e. On page 51, between lines 17 and 18 insert the following: ''Consistent with subsection 621(2) and 621(3), net benefits analysis shall not be construed to be limited to quantifiable effects.''

f. On page 46, strike lines 19 through 22 and insert the following:

''(11) The term 'substitution risk' means a reasonably identifiable significant increased risk to health, safety, or the environment expected to result from a regulatory option and does not include risks attributable to the effect of an option on the income of individuals.''

On page 46, strike lines 16 through 18 and insert the following:

''(J) a rule or agency action that authorizes or bars the introduction into or removal from commerce, or recognizes or cancels recognition of the marketable status, of a product under the Federal Food, Drug and Cosmetic Act;''

g. Executive Oversight:

On page 72, line 22, strike ''communciations'' and insert ''correspondence''.

On page 73, line 3, strike ''communications'' and insert ''correspondence''.

On page 73, line 10, strike ''substantive'' and insert ''significant''.

On page 73, strike lines 16 and 17.

On page 73, line 20, strike ''communications'' and insert ''correspondence''.

On page 74, line 3, strike ''substantive'' and insert ''significant''.

On page 74, strike line 9 through line 11.

On page 74, line 17, strike ''announced'' and insert ''published''.

On page 74, line 23, strike ''communications'' and insert ''correspondence''.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 15, 1998.

Hon. CARL LEVIN,
Committee on Governmental Affairs,
U.S. Senate, Washington, DC

DEAR SENATOR LEVIN: Thank you for your letter of July 1, 1998, in which you respond to the views on S. 981 that we expressed in former OMB Director Frank Raines' letter of March 6, 1998.

President Clinton has been a strong supporter of responsible regulatory reform. In addition to signing into law a number of important pieces of reform legislation, he and Vice President Gore are taking a wide range of administrative steps to improve the regulatory process. For example, under the guidance of Executive Order 12866, agencies are developing flexible performance standards and using market incentives whenever possible; are applying benefit-cost analysis to achieve objectives in the most cost-effective manner; and are reaching out to the affected parties, particularly our State and local partners, to understand better the intended and unintended consequences of a proposed regulatory action. Under the leadership of the Vice President's National Partnership for Reinventing Government, agencies are improving delivery of services, reducing red tape, and reforming practices to focus on customer service. The Administration's goal in these actions is to streamline and reduce the burden of government on its citizens, improve services, and restore the basic trust of public in its government.

The debate on comprehensive regulatory reform legislation is one that has sparked great passion and has provoked, as you aptly note in your letter, ''distrust and friction among the interested parties.'' We heartily agree with you that, to say the least, ''[t]he path to this point has not been easy.'' In part, this has been the result of earlier versions of this legislation proposed by others that sought not to improve the nation's regulatory system, but to burden and undermine it. In a variety of ways these bills would have created obstacles and hurdles to the government's ability to function effectively and to protect the health, safety, and environment of its citizens. In particular, these bills would have created a supermandate, undoing the many protections for our citizens that are carefully crafted into specific statutes. In addition, strict judicial review and complex analytic, risk assessment, peer review, and lookback provisions would have hampered rather than helped the government's ability to make reasonable decisions and would have opened the door to new rounds of endless litigation.

We appreciate your thoughtful efforts over the past year to respond to issues that we and others have raised. In your latest letter you continue to take seriously our concerns. Indeed, the changes you indicate that you are willing to make would resolve our concerns, and if the bill emerges from the Senate and House as you now propose, with no changes, the President would find it acceptable and sign it.

I should note, however, that our experience with past efforts to resolve these differences suggests that good ideas and the resolution of differences can be destroyed during the long process of getting a bill to the President's desk, and the nuances and balance that we have all sought in this legislation could be easily disrupted. Nanny of the terms used carry great meaning, and further modification is likely to renew the concerns that have animated our past opposition to bills of this type. Accordingly, we look forward to working with you to ensure that any bill the Congress passes on this subject is

fully consistent with the one on which we have reached agreement.

Sincerely,

JACOB J. LEW,
Acting Director.

Mr. THOMPSON. Mr. President, I want to ask my colleagues for their help to bring much-needed improvements to our federal regulatory system. In March, the Governmental Affairs Committee favorably reported S. 981, the ''Regulatory Improvement Act,'' by a 10–5 vote. At the time of the markup, the administration sent a letter to me and Senator LEVIN expressing a number of concerns with the bill. Over the past few months, we have worked to resolve those concerns, which largely involved adding clarifying language to the bill. In addition, some sections of the bill were modified, and a couple were dropped. On July 16, we received a letter from Jack Lew, the Acting OMB Director, on behalf of the administration. The letter says the administration supports the legislation with the proposed changes and will cooperate with us to pass it. These changes are explained in the accompanying summary of the managers' amendment that Senator LEVIN and I would support. I am pleased that the President recognizes that we need this legislation to deliver the effective and efficient regulatory system that the American people expect and deserve.

Most of us recall the partisan and ultimately destructive debate on this issue in the last Congress. Reforming regulation is an area fraught with distrust. It is tempting for opponents of reform to try to score political points by scare tactics. We have to set aside political posturing if we're going to get the job done. Just last week, former Majority Leader Howard Baker told us, ''it ill behooves America's leaders to invent disputes for the sake of political advantage, or to inveigh carelessly against the motives and morals of one's political adversaries. America expects better of its leaders than this, and deserves better.'' I hope we heed that good advice.

There's no doubt that improving the regulatory process is one of the toughest challenges we face. Regulation affects virtually every aspect of our lives. There are over 130,000 pages of federal regulations, and 60 agencies continue to issue new rules at a rate of 4,000 a year. The costs are hundreds of billions of dollars annually, and the public expects better results. As the costs of regulation rise with public expectations of better results, the need is greater than ever for a smarter way of regulating. We have to find ways to do more good while reducing the waste in the current system.

The evidence is overwhelming that we can achieve greater benefits at far less cost by regulating smarter. Hearings of the Governmental Affairs Committee, investigations of the General Accounting Office, the work of other congressional committees, and many scholarly studies show a striking consensus on this point. Our Committee also has found that the administration's Executive Order 12866 and other initiatives to reinvent regulation have not been as effective as was hoped.

I want to thank the 19 cosponsors who have joined me and Senator LEVIN to improve the regulatory process. The Regulatory Improvement Act will promote the public's right to know, improve the quality of government decisions, and make government more accountable to the people it serves. Ultimately, it will help improve the quality of our lives. That is why we have the support of State and local government, businesses of all sizes, farmers, educational organizations, think tanks, scholars, and the administration. We have a rare opportunity to reform the regulatory process. Let's pull together and get the job done.

● Mr. LEVIN. Mr. President, I ask that a summary of S. 981 and a summary of the proposed manager's amendment be printed in the RECORD.

The material follows:

SUMMARY OF LEVIN-THOMPSON REGULATORY IMPROVEMENT ACT

The Levin-Thompson regulatory reform bill would put into statute requirements for cost-benefit analysis and risk assessment of major rules and executive oversight of the rulemaking process. It builds on the bipartisan Roth-Glenn bill unanimously reported out of the Governmental Affairs Committee in 1995.

It requires agencies to do a cost-benefit analysis when issuing rules that cost $100 million or have other significant impacts. The agency must determine whether the benefits of the rule justify its costs; whether the rule is more cost-effective, or provides greater net benefits, than other regulatory options considered by the agency; and whether the rule adopts a flexible regulatory option. If the agency determines that the rule does not do so, the agency is required to explain the reasons why it selected the rule, including any statutory provision that required the agency to select the rule. If the rule involves a risk to health, safety or the environment, the bill requires the agency to do a quality risk assessment to analyze the benefits of the rule. Risk assessments and cost-benefit analyses for rules costing $500 million would undergo independent peer review.

During the cost-benefit analysis and risk assessment, the rulemaking agency is required to consider substitution risks—that is, risks that could be expected to result from the implementation of the regulatory option selected by the agency—and to compare the risk being regulated with other risks with which the public may be familiar.

In presenting the cost-benefit analysis and risk assessment, the rulemaking agency is required to present the results of the analysis and assessment in a clear and understandable form, including an executive summary of: the expected benefits and costs of the rule and the agency's cost-benefit determinations; the risk addressed by the rule and the results of any risk assessment; the benefits and costs of the other regulatory options considered by the agency; and the key assumptions and scientific or economic information upon which the agency relied.

The cost-benefit analysis, cost-benefit determinations, and risk assessment are required to be included in the rulemaking record and to be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary and capricious. In addition, if the agency fails to perform the cost-benefit analysis, risk assessment or peer review, the court may remand or invalidate the rule, giving due regard to prejudicial error, and in any event shall order the agency to perform it.

The bill codifies the review procedure now conducted by the Office of Information and Regulatory Affairs (OIRA) and requires public disclosure of OIRA's review process.

Finally, the bill requires the Director of OMB to contract for a study on the comparison of risks to human health, safety and the environment and a study to develop a common basis for risk communication with respect to carcinogens and noncarcinogens and the incorporation of risk assessments into cost-benefit analyses.

SUMMARY OF PROPOSED MANAGERS' AMENDMENT TO S. 981

Senator Levin and Senator Thompson plan to offer a Managers' Amendment when S. 981 is brought to the floor for Senate consideration. The Amendment would include the following:

1. JUDICIAL REVIEW

The bill as reported requires a court to consider the cost-benefit analysis, cost-benefit determinations, and risk assessment in determining whether the final rule is arbitrary and capricious. The bill as reported also requires a court to remand or invalidate a rule if the agency fails to perform the cost-benefit analysis, cost-benefit determinations or risk assessment, or to provide for peer review as required by S. 981. The Managers' Amendment modifies that requirement by giving the court the discretion to remand or invalidate the rule. The Managers' Amendment also adds a specific clarifying sentence that the adequacy of compliance with the specific requirements for performing the cost-benefit analysis, risk assessment, and peer review is not otherwise independent grounds for remanding or invalidating a rule. The Managers' Amendment also requires a court to order an agency to perform the cost-benefit analysis, cost-benefit determinations, risk assessment, or peer review whenever the agency fails to do so, even if the court allows the rule to take effect.

2. RELATIONSHIP TO OTHER STATUTES

The Managers' Amendment adds two additional provisions to the savings clause in order to reiterate that S. 981 does not contain a ''supermandate'' that would override or alter the substantive standards of the statute under which the rule is being issued. The Managers' Amendment confirms that S. 981 does not alter the range of regulatory options the agency has authority to adopt under the statute authorizing the agency to promulgate the rule or the deference otherwise accorded by the courts to the agency in construing such statute pursuant to the *Chevron* decision.

3. REVIEW OF RULES

The bill as reported contained two provisions for the review of existing rules: one for major rules and one for rules affecting small businesses and small governments. The Managers' Amendment strikes both review of rules provisions. S. 981 will impose new and important responsibilities on federal agencies to conduct their rulemakings with greater care and thoroughness. In order to direct the resources of the agencies to fully carrying out these requirements, the provisions for the review of existing rules were stuck. Of course, agencies remain free to review existing rules under the Regulatory Flexibility Act on their own initiative, at the request of an interested party, or pursuant to Presidential directive.

4. RISK ASSESSMENT

The bill as reported requires a quality risk assessment to be performed for each major

rule with a primary purpose to address risks to health, safety or the environment, as well as for risk assessments that are not the basis for a rulemaking and that the OMB Director determines may have a substantial impact on public policy or the economy. The Managers' Amendment narrows the coverage of the bill with respect to risk assessments that are not the basis of a rulemaking to those risk assessments that the Director anticipates are likely to have an annual effect on the economy of $100 millon or more.

5. PEER REVIEW

The bill as reported requires independent peer review of the cost-benefit analysis and risk assessment for each major rule. The Managers' Amendment would modify the application of peer review of the cost-benefit analysis to only those rules that the agency or OMB Director reasonably anticipates are likely to have an annual effect on the economy of $500 million or more.

The Managers' Amendment clarifies that members of agency advisory boards required by statute and persons who serve as contractors or grantees to the agency conducting the peer review are not precluded from serving as peer reviewers solely because of the requirement that the peer reviewers be ''independent of the agency.'' The Managers' Amendment also claifies that only one peer review of a risk assessment and cost-benefit analysis is required by S. 981.

6. NET BENEFITS

The Managers' Amendment clarifies that application of a net benefits analysis under S. 981 is not intended to be limited to only quantifiable benefits; S. 981 requires the net benefits analysis to include consideration of nonquantifiable as well as quantifiable benefits.

7. SUBSTITUTION RISK

The Managers' Amendment, in an effort to clarify the scope of responsibility required of an agency in assessing applicable substitution risks, incorporates the language in the bill used to define costs and benefits. Thus, substitution risk is defined in the Managers' Amendment as ''a reasonably identifiable significant increased risk to health, safety or the environment expected to result from a regulatory option.'' The definition also makes it clear that substitution risk does not include ''risks attributable to the effect of an option on the income of individuals.''

8. EXEMPTIONS

The bill as reported exempts from coverage of the legislation ''a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status of, a product.'' The Managers' Amendment both expands and limits this exemption. It expands it by adding ''removal'' of a product as well as ''introduction;'' it limits this exemption by applying it only to rules ''under the Federal Food, Drug and Cosmetic Act.''

9. OTHER

The Managers' Amendment would make a number of other technical or minor changes to the bill.●

JOHN D. ODEGARD, RECIPIENT OF THE FAA 1998 EXCELLENCE IN AVIATION AWARD

● Mr. DORGAN. Mr. President, I rise today to congratulate the John D. Odegard School of Aerospace Sciences at the University of North Dakota, and its dean and founder, John Odegard who have been selected by the Federal Aviation Administration to receive its 1998 Excellence in Aviation award. In addition to being one of North Dakota's most outstanding entrepreneurs, John is also a personal friend of mine and I can attest to the fact that this honor is truly deserved. It accurately reflects the contributions that John and the college have made to aviation education and research to make flying safer in our country.

Announcing the award, FAA Administrator Jane Garvey noted,

The FAA formally recognizes significant aviation research accomplishments each year through the Excellence in Aviation award. This research plays a prominent role in ensuring that the nation's airspace system remains the safest in the world.

''Aviation weather research conducted at the John D. Odegard School of Aerospace Sciences contributed to the development of the Terminal Doppler Weather Radar, which is used to detect wind shear near airports. The aerospace school, which has conducted aviation research, education and training programs for over 30 years, participates in a FAA-sponsored research project to chart wind conditions at the Juneau, Alaska, airport.

Mr. CONRAD. I join my colleague, Senator DORGAN, in congratulating Dean Odegard on this exceptional and well deserved honor from the FAA.

Dean Odegard and the Odegard School, which this year was named in his honor by a grateful state, are true national assets. John's work building the School at the University of North Dakota is one of the great accomplishments in North Dakota in my lifetime. His vision and ability to make his dreams a reality sets him apart in all of higher education and aviation. He began his career in 1968 with two small planes and a dozen students and transformed this fledgling operation into the premier aerospace training facility in the world with 1400 students, a fleet of 85 aircraft and 16 flight simulators.

The contributions of John Odegard and his staff and faculty to aviation safety in the development of new pilot training programs is a major achievement. His leadership in the creation of university-based air traffic controller training is providing our country with superior new young controllers that our country's air space system desperately needs. As the Administrator noted in her citation, UND's work in FAA-sponsored atmospheric research has resulted in the Terminal Doppler Weather Radar that is now making air travel even safer in the United States.

It is also important to note that the contributions made by the Odegard School to improvements in national aviation safety are a direct product of the investment the Federal government made almost 20 years ago. It was the FAA's Airway Science Program, begun in the early 1980's, that helped build the Odegard School's facilities on the University of North Dakota campus. Those investments, of which we are very proud, are paying dividends today in lives saved. That's what the FAA award recognizes.

Mr. DORGAN. Within our state, John's achievements are well recognized. The North Dakota State Board of Higher Education has honored John by placing his name on the aviation college at the University of North Dakota. The Odegard School of Aerospace Sciences is one of our state's flagship programs and draws students from every state in the nation as well as many foreign countries. Airlines from around the world send its pilots to be trained at UND. Its size and number of employees means it is also a significant economic asset and has served to help draw the aerospace industry to North Dakota.

Again, I want to offer my congratulations to John and all his faculty and staff at the Odegard School. We look forward to their continued contributions to the aerospace industry, not only in North Dakota but throughout the world.●

RETIREMENT FROM CONGRESS OF REPRESENTATIVE THOMAS J. MANTON

● Mr. MOYNIHAN. Mr. President, yesterday, a dear friend and colleague, Representative THOMAS J. MANTON, announced his intention to retire at the end of the 105th Congress, saying, ''I have worked for the citizens of this Nation, New York City, and Queens for most of my adult life.'' Indeed he has. Fourteen years as a Member of Congress. Fifteen years before that as a member of the New York City Council. Five years as an officer in the New York City Police Department. And two years as a Marine Corps flight navigator on active duty during Korea.

His departure is bittersweet for me. I take solace from the fact that he will continue to chair the Queens County Democratic Organization, a post he has held with honor and distinction for the past twelve years. And I am happy that he and his wife Diane will have more time ''to enjoy life and travel,'' as he put it; to enjoy his four children and—as of July 5th—his four grandchildren. But we here will miss his calm and steady demeanor, and his unwavering commitment to ''moderate government,'' which is, as Alexander Hamilton observed, the font of real liberty.

For the most part, I will leave it to others to recite his legislative accomplishments, which are legion. But I would highlight his service as co-chairman of the Congressional Ad-Hoc Committee on Irish Affairs. The bi-partisan Ad-Hoc Committee was established in 1977 to promote peace and justice in Northern Ireland. His interest is natural, for both his parents were Irish immigrants. The task, of course, enormous. But under TOM's steady leadership, the Ad-Hoc Committee made possible implementation of the McBride Principles. And the Ad-Hoc Committee had a huge role in this year's Good Friday Irish Peace Accord. Few men or women have had such positive effect in such a devastated and forlorn part of the world.

Horace remarked that ''We rarely find anyone . . . who, content with his

life, can retire from the world like a satisfied guest.'' TOM MANTON is the rare individual who can retire from Congress like a ''satisfied guest.'' Godspeed, dear friend.●

PROSTATE CANCER RESEARCH FUNDING

● Ms. MOSELEY-BRAUN. Mr. President, I would like to call the attention of my colleagues to a national health epidemic that kills 40,000 American men every year and strikes hundreds of thousands more each year—prostate cancer. I am concerned about this disease and its impact on American men, particularly its disproportionate impact on African-American men.

For too long prostate cancer has been a silent killer. Too little has been known about it. Too little was said about it. Too little has been done about it. Fortunately, in recent years many prominent national figures like Senator Bob Dole, General Norman Schwarzkopf, Arnold Palmer, Sidney Poitier, Andy Grove, and Harry Belafonte have come forward to discuss their personal battles with prostate cancer. The admirable leadership of these men and others has helped educate the country about the importance of screening and early diagnosis of prostate cancer, and the need for all of us to do more to fight this disease.

Mr. President, prostate cancer is the most commonly occurring non-skin cancer in the United States. In 1997, more than 200,000 men were diagnosed with prostate cancer and 41,800 died of the disease. Every three minutes a new case of prostate cancer is diagnosed and every 13 minutes someone dies from the disease. While it is often thought to be an older man's disease, younger men are increasingly diagnosed with prostate cancer. In fact, about 20 percent of prostate cancers are now occurring in men between the ages of 40 and 60.

Although prostate cancer accounts for approximately 20 percent of all new non-skin cancers, it receives less than four percent of federal cancer research funding. In 1996, approximately the same number of lives were lost due to prostate cancer breast cancer and AIDS. In 1997, however, while prostate cancer deaths continued to rise, deaths due to breast cancer and AIDS declined. Nevertheless, the federal commitment to prostate cancer research has not even kept pace with these other priorities.

Clearly, I am not advocating reduced funding for breast cancer or AIDS research programs. I have been one of the major champions of breast cancer and AIDS research funding. Rather, I use these comparisons to make the point that much more must be done to address the prostate cancer epidemic as well. How can we face the hundreds of thousands of men and their families who are daily affected by prostate cancer knowing, for instance, that more money was spent to make the movie Titanic—more than $200 million—than was spent in 1997 by the federal government for prostate cancer research—only $120 million.

The possibility and the fear of developing prostate cancer is common to all men. One in five American men will develop prostate cancer during his lifetime. As frightening as that statistic may be for the general population, it is even more pointed in the African-American community. African-American men have a prostate cancer incidence more than 30 percent higher than for any other ethnic groups in this country and the highest in the world.

The prostate cancer mortality rate for African-American men is more than twice that of white American men. Researchers do not yet know why this is true and do not yet have answers to these and the many other questions about prostate cancer. For example, it is not clear which prostate cancer patients will benefit from traditional treatments, like surgery or radiation. The economic status of many African-American men, and limited access to medical counseling further complicated treatment decisions.

Those who are devoted to relieving the burden of prostate cancer in the African-American community, including scientists, health care providers, national organizations, community leaders, and survivors alike, are united in their desire to find answers to these questions. I am particularly pleased with the leadership of many national organizations in informing the country about the impact of prostate cancer in the African-American community. In November of last year, the American Cancer Society, the National Cancer Institute, and the Centers for Disease Control and Prevention sponsored A Leadership Council on Prostate Cancer in the African-American Community. In cooperation with the Intercultural Cancer Council, the National Black Leadership Initiative on Cancer, the National Prostate Cancer Coalition and the 100 Black Men of America, the Leadership Conference proposed a blueprint for action that aims to solve the problem of prostate cancer in the African-American community.

These private organizations—and many others—are working very hard at the community and national levels to see that the prostate cancer epidemic is addressed. That a letter that 29 organizations representing the African-American community sent to Congress in May laying out a research funding agenda to attack this problem be printed in the RECORD.

The letter follows:

MAY 20, 1998.

DEAR MEMBER OF CONGRESS: We have come together as organizations representing the African American community to develop a united response to one of the most significant medical and social challenges facing our country today—the severe burden of prostate cancer in African American men. Together, our organizations represent millions of Americans. We strongly urge you to support significant increases in federal funding for prostate cancer research.

African American men have the highest rate of prostate cancer mortality in the world. In 1994, the prostate cancer mortality rate for African American men was at least two times higher than rates for all other racial and ethnic groups in the U.S. Overall, prostate cancer is the most commonly diagnosed cancer in America, excluding skin cancer, and it is the second leading cause of cancer death among men. Last year, 41,800 men died from prostate cancer and 209,000 were diagnosed with the disease.

Federal funding for prostate cancer research has been woefully inadequate, particularly given the devastating impact of the disease. We therefore strongly urge you to support increased appropriations for FY 1999 prostate cancer research programs, including the following.

Department of Defense (DOD)—The DOD conducts highly successful peer reviewed research programs that are renowned for their innovative and efficient use of resources. We call on Congress to fund this innovative program at $175 million for FY 1999—a level which is in the middle range of other Congressionally-directed medical research programs at DOD.

National Institutes of Health (NIH)—Prostate cancer research at NIH has not reflected the incidence and mortality rates of the disease. We believe prostate cancer research funding at NIH must be substantially increased to a level commensurate with the impact prostate cancer has on the American population.

Center for Disease Control and Prevention (CDC)—The CDC supports the development and communication of health messages about prostate cancer screening and early detection, particularly focusing on African American men and their families. We believe the CDC appropriation for prostate cancer must be doubled—to $10 million—so that it can engage in aggressive outreach and education and health communications research, particularly for high risk groups.

We believe that the research programs of the National Institutes of Health, the Department of Defense, and the Centers for Disease Control and Prevention offer great promise in the fight against prostate cancer in the African American community. We urge you to support our request by increasing funding for these critically important programs.

Sincerely,

David S. Rosenthal, M.D., President, American Cancer Society.

Thomas W. Dortch, Jr., President, 100 Black Men of America.

Norman Hill, President, A. Philip Randolph Institute.

Dale P. Dirks, Washington Representative, Associate of Minority Health Professions Schools.

Dr. Charles H. Mitchell, Co-Convener, Breakfast Group.

Dr. Shirley B. Carmack, Founder, GNLD Wellness Center.

Armin D. Weinberg. Ph.D., Co-Chair, Intercultural Cancer Council.

Kweisi, Mfume, President and CEO, NAACP.

Deborah Lee-Eddie, President, National Association of Health Services Executives.

Dr. Betty Smith Williams, President, National Black Nurses Association.

Barbara P. Van Blake, Director, Human Rights and Community Relations, American Federation of Teachers, AFL–CIO.

Rev. Dr. Joseph E. Lowery, Chairman and CEO, Black Leadership Forum.

Wil Duncan, Special Assistant to the President, Coalition of Black Trade Unionists.

Lovell A. Jones, Ph.D., Co-Chair, Intercultural Cancer Council.

Abdul Alim Muhammad, M.D., Minister of Health and Human Services, Nation of Islam.

Edna Bell, President, National Association of Black County Officials.

The Honorable Roscoe Dixon, Chair, Health Committee, National Black Caucus of State Legislators.

William T. Merritt, President and CEO, National Black United Fund.

Henry L. English, President and CEO, Black United Fund of Illinois.

Jane E. Smith, Ed.D., President and CEO, National Council of Negro Women.

Garry A. Mendez, Jr., Executive Director, The National Trust for the Development of African American Men.

Warren R. Whitley, Grand Master, Most Worshipful Prince Hall Grand Lodge.

Marchel Smiley, President, International Caucus for People of African Descent, Service Employees International Union.

The Honorable Henrietta E. Turnquest, Georgia House of Representatives, 73rd District.

Dr. Barbara W. Carpenter, International President, Zeta Phi Beta Sorority.

Samuel J. Simmons,, President and CEO, The National Caucus and Center on Black Aged.

Jay H. Hedlund, President and CEO, National Prostate Cancer Coalition.

Dr. Dorsey C. Miller, Grand Basileus (National President), Omega Psi Phi Fraternity.

Howard D. Brown, Director for Black Catholic Ministry, Roman Catholic Archdiocese of Altanta.

Richard O. Butcher, M.D., President, Summit Health Coalition.

Henry A. Porterfield, Chairman and CEO, Us Too International.

Ms. MOSELEY-BRAUN. The compelling case this letter makes for dramatic increases in funding for prostate cancer research brings me to the last point I want to make. This Congress, this country, must do better. We must do more in the fight to bring a cure for prostate cancer.

Just last year alone, the National Prostate Cancer Coalition identified more than $250 million of worthwhile prostate cancer research that was not conducted due to lack of funding. This inadequacy in funding is an unconscionable neglect of men with prostate cancer and their families. There needs to be an increased commitment to prostate cancer research.

In June, President Clinton announced the release of $60 million for prostate cancer research grants in a promising new Department of Defense program modeled after the very successful DoD breast cancer program. Yet, the House has proposed to cut 75 percent of the funding for this important cancer research program. The House position will virtually kill a program that is critical to finding breakthroughs and a potential cure. The current Senate position also shrinks research funding for this program to $40 million. Instead, we should increase the funding to at least $80 million in order to maintain this ground breaking research program.

While it is also important to increase the amount of prostate cancer research conducted by the National Cancer Institute (NCI), the Congress must not neglect the Department of Defense prostate cancer research program. We must not dash the hopes of prostate cancer patients, their families, and their supporters. As is the case with the DoD's breast cancer efforts, this program supports targeted research that complements the work of the NCI and is a necessary component of an overall national effort to find effective treatments for this disease.

Mr. President, to do anything less would send a devastating message to the men living and dying from this disease, to their families, and to the scientific community that is working to find a cure. I call on this Congress to equip researchers with the tools they badly need to end this epidemic. For the one million Americans currently diagnosed with prostate cancer and their families, increased research funding is desperately needed now. Each day, more and more people will be affected. We cannot turn a deaf ear to their cries for help. It is time for the country and the Congress to make a commitment to equity in funding for prostate cancer research. It is time for us to give the researchers the resources they need to eradicate this silent killer.●

ORDERS FOR THURSDAY, JULY 23, 1998

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes it business today, it stand in adjournment until 9 a.m., Thursday, July 23. I further ask that when the Senate reconvenes on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of the Craig amendment to S. 2260, the Commerce-State-Justice appropriations bill.

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

PROGRAM

Mr. GREGG. Mr. President, for the information of all Senators, tomorrow morning the Senate will resume consideration of the Commerce-State-Justice bill. At 9:15 a.m., the Senate will vote in relation to the Craig amendment, followed by a vote in relation to the underlying Kyl amendment. Following those votes, under a previous consent agreement, the Senate will debate several amendments to be offered to the Commerce-State-Justice bill. At the conclusion of that debate, which is expected by early afternoon, the Senate will proceed to a stacked series of votes in relationship to those amendments. Following disposition of all amendments in order, it is expected that the Senate will quickly proceed to final passage on the Commerce-State-Justice appropriations.

Upon completion of the Commerce-State-Justice bill, it is hoped that the Senate will begin consideration of the Transportation appropriations bill. Therefore, Members should expect another late night session with votes as the Senate attempts to make progress on the remaining appropriations bills.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. GREGG. 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 11:37 p.m., adjourned until Thursday, July 23, 1998, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1998:

COMMODITY FUTURES TRADING COMMISSION

JAMES E. NEWSOME, OF MISSISSIPPI, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING JUNE 19, 2001, VICE JOSEPH B. DIAL, TERM EXPIRED.

DEPARTMENT OF JUSTICE

HOWARD HIKARU TAGOMORI, OF HAWAII, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS, VICE ANNETTE L. KENT, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. RANDOLPH W. HOUSE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID S. WEISMAN, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

TO BE REAR ADMIRAL (LOWER HALF)

CAPT. DAVID ARCHITZEL, 0000
CAPT. JOSE L. BETANCOURT, 0000
CAPT. ANNETTE E. BROWN, 0000
CAPT. BRIAN M. CALHOUN, 0000
CAPT. KEVIN J. COSGRIFF, 0000
CAPT. LEWIS W. CRENSHAW, JR., 0000
CAPT. JOSEPH E. ENRIGHT, 0000
CAPT. TERRANCE T. ETNYRE, 0000
CAPT. EDWARD J. FAHY, JR., 0000
CAPT. MARK P. FITZGERALD, 0000
CAPT. JONATHAN W. GREENERT, 0000
CAPT. CHARLES H. GRIFFITHS, JR., 0000
CAPT. STEPHEN C. HEILMAN, 0000
CAPT. JOHN P. JARABAK, JR., 0000
CAPT. CURTIS A. KEMP, 0000
CAPT. ANTHONY W. LENGERICH, 0000
CAPT. WALTER B. MASSENBURG, 0000
CAPT. MICHAEL G. MATHIS, 0000
CAPT. JAMES K. MORAN, 0000
CAPT. CHARLES L. MUNNS, 0000
CAPT. RICHARD B. PORTERFIELD, 0000
CAPT. ISSAC E. RICHARDSON, III, 0000
CAPT. JAMES A. ROBB, 0000
CAPT. PAUL S. SCHULTZ, 0000
CAPT. JOSEPH A. SESTAAK, JR., 0000
CAPT. DAVID M. STONE, 0000
CAPT. STEVEN J. TOMASZESKI, 0000
CAPT. JOHN W. TOWNES, III, 0000
CAPT. THOMAS E. ZELIBOR, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT AS CHAPLAIN (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C. SECTIONS 624, 531, AND 3064:

To be major

*DAVID W. ACUFF, 0000
*GARET V. ALDRIDGE, 0000
*JOHN E. ANDERSON, 0000
*JOHN L. ATKINS, 0000
*TIMOTHY H. ATKINSON, 0000
*TERRY W. AUSTIN, 0000
*PETER A. BAKTIS, 0000
*DAVID R. BEAUCHAMP, 0000
*TIMOTHY K. BEDSOLE, SR., 0000
*KEN BELLINGER, 0000
*THOMAS B. BOWERS, 0000
*ALEXANDER C. BROWN, 0000
*JEFFERY T. BRUNS, 0000
*PETER M. BRZEZINSKI, 0000
*JAMES E. CARAWAY, JR., 0000
*KEVIN P. CAVANAUGH, 0000
*BRUCE W. CHAPMAN, 0000

*LAVERN E. CLARK, 0000
*DAVID W. CORAM, 0000
*THOMAS W. COX, 0000
*GREGORY L. CRUELL, 0000
*GARRY R. DALE, 0000
*JOSEPH J. DEPONAI, 0000
*PATRICIA N. DICKSON, 0000
*DAVID L. DRUCKENMILLER, 0000
*JASON E. DUCKWORTH, 0000
*JAMES E. DUKE, 0000
*DAVID G. EPPERSON, 0000
*CHRISTOPHER A. FARIA, 0000
*DAVID J. GIAMMONA, 0000
*ROBERT K. GLASGOW, 0000
*MATTHEW M. GOFF, 0000
*HARVEY A. HENNINGTON, 0000
*GARY HENSLEY, 0000
*CAROL D. HIGHSMITH, 0000
*STEVEN C. HOKANA, 0000
*LARRY D. HOLLAND, 0000
*JEFFREY G. HOPPER, 0000
*JEFFREY D. HOUSTON, 0000
*RANDOLPH S. IMHOFF, 0000
*KEITH A. JACKSON, 0000
*GRANT E. JOHNSON, 0000
*CARL C. JOHNSTON, 0000
*VERN E. JORDIN II, 0000
*LEON G. KIRCHER, 0000
*MARK R. KNOX, 0000
*ALLEN L. KOVACH, 0000
*RONALD P. LEININGER, 0000
*MITCHELL I. LEWIS, 0000
*ARLEY C. LONGWORTH, JR., 0000
*JOEL A. LYTLE, 0000
*FRED D. MAC LEAN, 3511
*THOMAS E. MATTINGLY, 0000
*TERRY L. MC BRIDE, 0000
*WILLIAM C. MC COY, 0000
*THOMAS G. MC FARLAND, 0000
*HAROLD B. MESSINGER, 0000
*STEVEN F. MICHALKE, 0000
*JOHN C. MOLINA, 0000
*RICKEY L. MOORE, 0000
*PETER L. MUELLER, 0000
*JOHN F. O'GRADY, 0000
*DOUGLAS J. PETERSON, 0000
*GAIL F. PORTER, 0000
*DANIEL T. PRESSWOOD, 0000
*PHILLIP P. RICHMOND, 0000
*MARK E. ROEDER, 0000
*ROBERT E. ROETZEL, 0000
*THOMAS G. RUSSELL, 0000
*EUGENE W. SCHNEIDER, 0000
*JOHN W. SHEDD, 0000
*BRYAN T. SIMONEAUX, 0000
*LANCE A. SNEATH, 0000
*JOHN M. STEPP, 0000
*MICHAEL E. STROHM, 0000
*KEVIN P. STROOP, 0000
*ROBERT E. SWALVE, SR., 0000
*MICHAEL L. THOMAS, 0000
*DARRELL E. THOMSEN, JR., 0000
*MELECIO A. VALDEZ, 0000
*DAVID A. VANDERJAGT, 0000
*DANIEL E. WACKERHAGEN, 0000
*JIMMY D. WARD, 0000
*ROBERT C. WARDEN, 0000
*TERRY L. WHITESIDE, 0000
*MACKBERTH E. WILLIAMS, 0000
*PAUL J. YACOVONE, 0000
*MICHAEL E. YARMAN, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captian

ANN E. B. ADCOOK, 0000
GREGORY S. AKERS, 0000
WILLIAM T. ALBERTI, 0000
JOEL M. ALCOFF, 0000
GARY B. ANDERSON, 0000
THOMAS L. ANDREWS III, 0000
PATRICIA A. ASSAN, 0000
GORDON T. AUSTIN, 0000
BRUCE E. BALFOUR, 0000
ROBERT C. BARNES, 0000
JAMES M. BELL, 0000
DONALD E. BELLEBAUM, 0000
LYNN S. BEMILLER, 0000
RUTH A. BIALEK, 0000
RAY A. BIAS, 0000
WILLIAM L. BLACK III, 0000
KATHRYN E. BONNER, 0000
KERMIT R. BOOHER, 0000
ANNE E. BOWMAN, 0000
ERIC R. BREDEMEYER, 0000
LORNA M. BRUNHOFER, 0000
JOHN K. BURNS, 0000
ROBERT J. BURNS, JR. 0000
JACK M. CAPELLA, 0000
REGINALD H. CARDOZO, 0000
ERIC W. CARLSON, 0000
MICHAEL F. CARON, 0000
DOUGLAS D. CARVEL, 0000
JULIUS F. CASE, 0000
RICHARD E. CHINNOCK, 0000
KAROL T. CLEBAK, JR. 0000
JUDITH A. COHEN, 0000
STEVEN L. COHN, 0000
NICHOLAS A. COOK, 0000
MARGARET A. CUNNINGHAM, 0000
MICHAEL T. CURRAN, 0000
MICHAEL E. CURTIS, 0000
TERESA J. DAVENPORT, 0000
CYNTHIA G. DAVIS, 0000
WILLIAM P. DEVEREAUX, 0000
SUSAN E. DICKERSON, 0000
RICHARD W. DILLON, 0000
JUDY A. DIXON, 0000
MICHAEL L. DOBYNS, 0000
JOHN DOHM, 0000
BRUCE A. DOLL, 0000
MARGARET E. DOWNEY, 0000
NANCY E. DUNN, 0000
EUGENE F. EBERSOLE, 0000
MARTIN J. EDELMAN, 0000
BURT I. FAIBISOFF, 0000
PAUL FALCON, 0000
THOMAS H. FERRANT, 0000
BARBARA L. FIELDMAN, 0000
CARL W. FILER, 0000
OLLIE C. FISHER, 0000
STUART L. FRANKEL, 0000
JAMES C. FREESS, 0000
DANIEL L. FREYE, 0000
JOANNE E. FRITCH, 0000
RICHARD GARTMAYER, 0000
YENDIS L. GIBSONKING, 0000
JOHN P. GIDDINGS, 0000
KAREN A. GINTZIG, 0000
DOUGLAS C. GLESMANN, 0000
GREG J. GOEKS, 0000
RICHARD P. GRAEF, JR. 0000
MATTHEW C. GRATTON, 0000
WILLIAM T. GUICE, 0000
RALPH T. GUTIERREZ, 0000
DAVID C. HACKMANN, 0000
WILLIAM P. HARBESON II, 0000
MARY J. HENDRICKS, 0000
RICHARD B. HETRICK, 0000
LESTER L. HIMMELREICH, 0000
STEPHEN C. HOFF, 0000
DENNIS D. HORSELL, 0000
DAVID M. HUNT, 0000
JOHN K. IANNO, 0000
LOUIS W. IRMISCH III, 0000
REUBEN A. JAMHARIAN, 0000
PAUL J. JULIANO, 0000
PATRICIA A. KANE, 0000
MARK J. KANUCK, 0000
EUGENE E. KELLER, 0000
DARL D. KLINE, 0000
JOAN K. KNUTH, 0000
DENNIS P. KOCH, 0000
CHERYL L. KOSKI, 0000
LISA T. D. KULP, 0000
LEAH M. LADLEY, 0000
MICHAEL D. LANGOHR, 0000
GAYLE J.H.C. LAU, 0000
PRISCILLA J. LAUBSCHER, 0000
KENNETH L. LAWING, 0000
ROSEANN F. LAWRENCE, 0000
ARTHUR F. LOEBEN, JR., 0000
JOHN W. MADSEN, 0000
EVERETT F. MAGANN, 0000
STANLEY R. MAHAN, 0000
JUDITH S. MAMBER, 0000
LLOYD W. MARLAND III, 0000
MARYLYNN MARRESE, 0000
ROBERT C. MARTIN, 0000
VAN S. MASK, 0000
FRANK MAZZEO, JR., 0000
BRUCE H. MC CULLAR, 0000
CAROL S. MC CUNE, 0000
KATHRYN B. MC GEE, 0000
PATRICK H. MC KENNA, 0000
PATRICK M. MC QUILLAN, 0000
KATHLEEN P. MC TIGHE, 0000
DOUGLAS J. MC VICAR, 0000
BARRY R. MEISENBERG, 0000
BRUCE M. METH, 0000
JAMES L. MILLER, 0000
MARCIA A. MODICA, 0000
WILLIAM F. MOLLENHOUR, 0000
CHARLES L. MOORE, JR., 0000
TIMOTHY J. NAWROCKI, 0000
ELLEN M. NEUBAUER, 0000
ROBERT A. OLSHAKER, 0000
PETER N. OVE, 0000
ROBERT F. PARKER, 0000
JERRY D. PARR, 0000
CARL D. PATRICK, 0000
ROBERT B. PATTERSON, 0000
KAREN M. PETRELLA, 0000
RICHARD J. PHILLIPS, JR, 0000
BETTY A. POWERS, 0000
EDWARD A. PRISTERNIK, 0000
JEFFERY J. PUCHER, 0000
CATHERINE H. RATTO, 0000
MARK J. REDDAN, 0000
ROBERT D. REED, 0000
ROBERT F. REHKOPF, 0000
ELIZABETH D. ROLAND, 0000
MICHAEL S. ROYS, 0000
HOWARD L. RUSSELL, 0000
ADDISON B. SALES, 0000
MICHAEL W. SAMSON, 0000
PAUL R. SANTOYO, 0000
MICHAEL P. SCACCHI, 0000
EDWARD J. SCHMITT, JR., 0000
VICTOR F. SCHORN, 0000
SUE A. SEEMANN, 0000
MICHAEL G. SENEFF, 0000
PHILIP J. SHAVER, 0000
DANIEL F. SHREEVE, 0000
RANDALL S. SIBER, 0000
MARILYN E. SMITH, 0000
RUBEN L. SMITH, 0000
JOHN S. STEFFY, 0000
FRANK C. STEWART, 0000
BARBARA Q. STURTZ, 0000
JANE C. TANT, 0000
DEBORAH G. TAYLOR, 0000
JOHN P. TERNES, 0000
WILLARD M. THIGPEN, JR., 0000
KAREN G. TRUEBLOOD, 0000
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KEARNEY R. VEAZEY, 0000
GERALD L. VOGLER, 0000
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ANDREW D. WEINBERG, 0000
JAN M. WHITACRE, 0000
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WALTER A. WILLIAMS, JR., 0000
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DAVID S. WOOD, 0000
KIM R. WORKING, 0000
JAMES W. WRIGHT, 0000
KAREN E. YERKES, 0000
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