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 adoration to serve You with gladness. We think about what 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 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.

Bumpers. I yield myself 3 minutes.

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
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 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? I 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. It is not the under my time.

The PRESIDING OFFICER. Mr. BUMPERS, 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:

[Call Vote No. 218 Leg.]

YEAS—41

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Collins
Corzine
Craig
D'Amato
DeWine
Domenici
Enzi
Feingold

Levin
Mack
Meleney-Braun
Murray
Reed
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Walston
Wyden

NAYS—59

McCain
McCune
Meynhart
Markowski
Nickles
Reid
Roberts
Roth
Sanburn
Sessions
Shalby
Smith (NH)
Smith (OR)
Sorensen
Stevens
Thomaz
Thompson
Thurmond
Warner

The amendment (No. 3244) of the Senator from Florida was ordered. The clerk will call the roll.

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

Mr. GREGG 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, sheriff's 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 to make it available to an adjacent jurisdiction, which can make it available to a local law enforcement agency. This 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 complicate with the requests of local law enforcement. It serves, in my opinion, no legitimate 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 local 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.

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 concern 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:
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. The previous order, the Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see that the amendment is 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 the 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
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 and juveniles. The initial 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 funds from what I believe to be an excessive increase in appropriations for the incentive grants for prevention programs under Title V of the JJDPAct. This program, funded at $20 million in FY 1998, has been increased over fourfold, to $95 million in FY 1999, and is fully funded in the block grant that I am supporting today from last year. Other appropriations for juvenile law enforcement—unless there is no money dedicated solely to ending crime in America. I 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.

Second, this amendment will provide to all 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 integration of these records into the records system can accomplish. Integrating juvenile offender’s fingerprints into the records system in Virginia resulted in a significant improvement in identifying crimes. 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 the 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 address 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.

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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 $1 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. 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. Not everybody, only 5 minutes to deal with them, no wonder they are coming back time and time and again.

As Senator HATCH said, our goal must be to turn those around 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 or drug use 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 it is that they have a drug offense, we can strengthen that group, that is what we need to do.

What else? We need to assess them. We need to see what they had, each one of them. One 7, 7, and 15 prior arrests. That is critical need, is to identify those young offenders who are heading to a life of serious criminality, who have the potential to kill somebody, the very night 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 matching grant 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. Routine, they are arrested. They killed a child 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 if they had been detained in behind the school, instead of being sent to a boot camp. Perhaps we could have intervened in that style 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 purpose of improving this. It will help 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. We need 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 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 $4 million in 129 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 matching grant to have detention facilities, alternative schools and boot camps and whatever they think is necessary to strengthen their court system.

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Mr. BIDEN addressed the Chair.

The PRESIDENT pro-continued.

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. I think the Senator is "in the right on old expression where I come from— I disagree with his solution. There is a comprehensive approach. He is doing what he believes is the way we have to approach the 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 a budget conflict. 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 bill I voted on was 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 grants for school systems, to prevent 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 to within a third or a fourth that 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, and 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. If you look at what is within his rights and what he is limited to be able to do on this appropriations bill—of the nonenforcement provisions relating to prevention.

Now, I note parenthetically that the Democratic youth violence bill has $100 million for after-school prevention, $50 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 justice treatment. If 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. If you add it all up, 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 whole-sale basis for juvenile justice with a different focus. Let me specifically re-

That I can say to the colleagues in the Senate 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 there are many programs, 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 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. All we need is a chart, it would be clear. What I do is 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 when he does this so well when he debates. But guys like BUMPER, I, and HOLLINGS are not so big on charts. We haven’t learned the chart sense. But they are not targeted programs for at-risk youth, for mental health and physical health services. So now we are down to about 90—9 others
for homeless youth, 9 of the programs—this is what I am talking about here—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 70 programs.

Let’s talk about some of the other programs. They go to any 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 at-risk youth. So now we are down to about 9—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 70 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 Empowerment Program, the Safe and Drug-Free Schools Act and community programs. 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 baseball 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 district. Every one of your kids is 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, then it goes those liberal guys again talking about this coal mining 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. Kids who do bad things; it is called maturation. What is 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 this young girl will bet you, if I was on my own, with all of the values my family instilled in me, I am not 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.”

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, $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 $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 of 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? It is a good program, but it is directed at disadvantaged high school kids. Of what? This $172 million for 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 prenatal care and drug testing 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 the things we thought they did.

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 middle of the night, 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 focuses on 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 causes. Sheriffs, officers, 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. Wouldn’t 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 reform experts. I know 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 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 the same offices, 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 Law Enforcement Against Crime,” and 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 effects. In fact, almost 40% of all criminal proceedings in our courts are juveniles. We know that when we arrest these young people, we send a message that crime leaves in its wake hasn’t been crime up close. That is why now we know 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, 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 fail 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 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 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, 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—$1.8 billion dollars, and $14.4 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?

In fact 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 organization. In Seafood, 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 relation 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 entirely.

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. He 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 the 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 Murphy 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. Seafood is not 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." We did. We did. 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—

The statistics show a 151% drop in complaints in 1998 as compared to the same period February through March of the last three years.

The following are a few additional statistics—

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 . . . 1997. It is no coincidence that the drop in complaints directly corresponds to the opening of the Western Sussex Club for Boys & Girls on February 1, 1998.

I say to my colleagues, the "damn it" 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-risk public housing projects.

Guess what? Over a period of two years, all the 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:


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 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 KRUPOPSKI, 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 Boston Police Commissioner: Boston has a homegrown phenomenon—success in controlling murder rates, handguns with youth, and violent crime. Here is what he said:

Though 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. Every gang and drug dealer assiduously recruits 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—eighth 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: the 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 SURVIVORS 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 28, 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 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 self-esteem necessary to fight crime and violence.—Source: Boston Herald (November 4, 1996). Buffalo Police Commissioner Gil Kerlikowske

If Congress is serious about fighting crime, it is a parent 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 development—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 Sheriffs’ Association

It becoming ever more apparent that increasing law enforcement, increasing prosecution of juveniles, and building more jails and prisons do not produce sufficient programs, to turn kids into criminals in the first place.—Source: Sheriff Magazine, President’s Message: Addressing Youth Violence (January 1, 2000). 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 life in the world of crime and must deal firmly with those who are already in trouble.—Source: Sheriff Magazine, President’s Message: Addressing Youth Violence (January 1, 2000). Eight State Juvenile Justice Directors

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 (July 23, 1997). Los Angeles County District Attorney Gil Garcetti

We must be as wise as we can to keep our kids out of the prison system. 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, 1998). Raleigh Police Chief Mitchell Brown

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, 1998). Raleigh Police Chief Mitchell Brown

Politicians need to decide if they’d rather just start 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 invest in programs to fight crime and violence.,—Source: Fight Crime: Invest in Kids, News Release (July 24, 1997). Jean Lewis, President, National Organization of Parents of Murdered Children

We 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 a 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 will steer kids away.—Source: Fight Crime: Invest in Kids, Quality Child Care and After-School Programs (February, 1998). Kinston 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 delinquent kids participate 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 occurred, they’re leaving the door wide open for more innocent people to become crime victims. Seventy percent of victims blame the system for pre-scription 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 safer 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 Regan

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 parole support and after-care programs that have been proven to keep kids from becoming criminals in the first place. These

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 at-risk youth that are working or have worked or are working. [If] we really care about getting a handle on our present and impending youth crime and substance abuse problems, then the time has come to inductively understand meaningful connections between at-risk youth and responsible adults via existing community-based programs; focusing on the highly mobile and often banal barriers helping at-risk youth in particular places with particular people at particular times; having the money to fix a broken pipe that flooded my 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 be brief 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 legislation, increasing 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 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 we commit crimes, assuming we do everything right and the rate at which kids now commit crimes does not go up 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-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 kids 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 in the next decade, which will bring us to the next century, the 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 give those 39 million 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.

Why? 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 who find themselves and 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 the 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 the budget, and 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 to my friend.

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 inclusion of block grants. I strongly 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. He says I am not 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 the child perhaps from heading in a life of crime. Or, if he does 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 youth program is a program designed to deal with home-less 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 crimes. 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 left to the States.

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. We’ll spend the money.

My point is, spend money on after-school programs. All of the other programs the Senator listed do impact directly 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. 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 programs 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 a generalized program?

Let me refresh your mind as to 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. It is only to try 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 youth 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 armed and armed 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 not what I want to do.

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

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 13 prior arrests. If those kids 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 an kind. 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 in there every day saying, how would they 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 ones causing the most active. The murder rate plummeted. It was dramatic what they had done.

Mr. BIDEN. Will the Senator yield?

Mr. SESSIONS. Yes.

Mr. BIDEN. Mr. President, I think local communities should make those decisions. 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.
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. 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. 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 serving longer penalties, and they are serving longer penalties. 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 contribute an enormous amount of the crime in America. And the same is true withjuveniles. 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, 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 beds spaces by 1994. Do you see what happened? We poured our resources into adult crime 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 they need to effectively 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 we have had 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 that is decreasing, and 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, through the Judicial 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 to their actions. Well, there is nothing 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 the way to target at all. There are others who 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, King, 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 kids, but it is on control. They have the capability 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.

If we put the money into the block grant program, it would enhance prosecution and define opportunities to effectively order 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. Not only 50 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 their community instead of locking them up in a youth detention center. It would provide prevention programs, 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 that require them to pay their child support. They ought to support their children. They bring them into this world.
Mr. KOHL. Mr. President, I oppose this amendment. It would undermine this bill’s balanced approach between prevention and enforcement.

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 few dollars. And they come in and get involved in other serious crimes, 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 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 $35 million, $25 million is set aside for a separate anti-drinking program. So if we cut $50 million from Title V and change $20 million, it gets every year—and there will be no increase.

Second, it relies on local communities—those who know their needs best 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 kids who live 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 for working 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 Cochran’s home state of Mississippi, 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 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.

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 consolodate 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.
Senator DASCHLE and the managers,
this bill to get it completed.

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the longer we go, the longer the list of
ously, there has been an effort and suc-

on this appropriations bill. We have
really related to it, strictly legislating
yet.

Senator GREGG and Senator H OLLINGS,
to agree to that.

You get a vote, we get a vote and we
ments. Why do we want to go through
kind that needs 40 or 50 or 70 amend-

To satisfy Senators on both sides of

And Senator DASCHLE has responded. I
continue to say, "OK, how about this?"
and we should keep with that formula.

is that prevention is still the best way

Among my duties as a prosecutor was
to represent the State in the most ac-

I must say, the list is 70 amendments,
not exactly a great achievement.

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. LOTT, Senator DASCHLE and I have been working try-
ning to keep extraneous amendments off
of this bill, amendments that are not
really related to it, strictly legislating on
these appropriations bill. We have had
some success over here, and, obvi-
ously, there has been an effort and suc-
cess on the Democratic side. As usual,
the longer we go, the longer the list of
amendments. We need to get some fi-
nite 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 con-
sent that the following amendments be
the only remaining list of first-deg-

Mr. HOLLINGS. Will the distin-
guished 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 the distinguished leader, I wish
to make sure that the 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, hope-
fully, we can get it worked out.

Mr. KENNEDY. May I ask the major-
ity leader if he will tell me what the
majority leader if he 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 so-
lutions 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
won’t own one of these. I don’t have a vote
on what we have instead of going on for
days and weeks trying to reach a con-
clusion?

Having said that, Senator DASCHLE
and I have continued to talk to try to
narrow down what 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 Massachu-
setts, Senator KENNEDY, wants to be
involved in what the final unanimous-
consent request will be, and a lot of
Senators on this side, including Sen-
ator GRAMM, will have an interest in it.

I think we can come up with a rea-
sonable 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 dis-
cussion 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 man-
kind that needs 40 or 50 or 70 amend-
ments. 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 inten-
tion to afford us an adequate oppor-
tunity to debate those 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 dis-
appointed 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 Sen-
ator from Vermont.

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, obvi-
ously, 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 Sen-
ator from New Hampshire to table the
amendment.

We can all tell horror stories of juve-
nile 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
docents 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 ax-
ionic. 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 pre-
vention moneys—we would have had 35
percent going to building facilities and
information-sharing programs, 45 per-
cent into more judges and probation offi-
cers 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 pro-
grams. All the police officers I have
talked with in my State, and all the
police officers I have talked with else-
where, 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 ac-
tive 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 pro-
grams. We did the right thing in this
vote.

I yield the floor.

Mr. WELLSTONE addressed the
Chair.

The PRESIDING OFFICER. The Sen-
ator 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 reads 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:

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

(a) Of Funds Under the Violent Offender Incarceration and Truth-in-Sentencing Grants Program.—Section 20103(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 funds 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 to conduct 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—

The PRESIDING OFFICER. The amendment is 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 heartland of the United States, this was a front page article. 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:

TALLULAH, LA.—Here in the middle of the impoverished heartland of the United States, this was a front page article. The title of it is "Profits at a Juvenile Prison Come With A Chilling Cost."

(By Fox Butterfield)

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, those who are 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 article. 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.

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The Senator from Minnesota [Mr. WELLSTONE], today I am offering an amendment—

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

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

(a) of Funds Under the Violent Offender Incarceration and Truth-in-Sentencing Grants Program.—Section 20103(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 funds 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 to conduct 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—

The PRESIDING OFFICER. The amendment is printed in the Record, as follows:

[From the New York times, July 15, 1998]
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 are having to pick from two sets of contractors who perform functions once the province of government, from psychiatric care to discipline.

In Arizona, Colorado officials shut down a juvenile prison operated by the Rebound Corporation after a mentally ill 15-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 the 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 Arizona came in the contract of Associated Marine Institutes, a company based in Florida, to run one juvenile institution, following questions of financial control 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 institutions, creating for more schooling, medical care and security because the young inmates have been adjudged delinquent, rather than convicted of crimes, 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 mental health care, and mental health treatment in a state that already spends very little in those areas.

“It’s been drastically reduced,” 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, Trans-American Development Associates, said that some of the Justice Department’s demands like hiring more psychiatrists, are “unrealistic.” The state is to blame for some of the problems, he said, and that “our purpose was not designed to take that kind of inmate.”

Still, Mr. Roberts said, “There has been a drastic reduction 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. Whiteley, the State Attorney General’s office disputed psychiatric experts’ estimates of the numbers of retarded and mentally ill inmates at Tallulah.

In a recent interview, Cheney Joseph, executive director of the Louisiana Correctional Organization, estimated that 60 percent of the boys are mentally retarded or ill.

Mr. Utter said that Tallulah was the poorest area in a poor state, the province of government, from psychiatric care to discipline.

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 been criticized for poor psychiatric treatment. But at Tallulah this neglect has been compounded by daily 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 “shook” 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.”

He was originally sentenced by a judge to 90 days for shoplifting and stealing a bicycle. But every time he failed to stand for a roll call, a guard would call him in for poor behavior and then order him to the infirmary. Travis said that because of the infirmity, he was released so he could continue his 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.

The 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 inmate, Eunice M., has complained to a lawyer, or even a trial. Poorly paid public defenders seldom visit their clients after sentencing, Mr. Utter said, and so are unaware of problems at Tallulah.

Another reason is that almost all Tallulah’s inmates are from poor families and 82 percent are black. Mr. Utter noted, an inmate that attorney to assistant superintendent to the degree or another. “They are disenfranchised and no one cares about them,” Mr. Utter 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

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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 ear drums," he said. "Actually, it seemed like everybody had a perforated ear drum, or a broken nose." When boys wrote complaints, he said, guards put the forms in a box and pored over them to find out 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. Rights 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 Taliliah'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 Taliliah 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 Taliliah.

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 in overcrowded jails and end up being arrested for crimes they have never committed. Mr. Wellstone is 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.

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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 now 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 restraint 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. The 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 support the family 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. This 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 call no 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 to it that those 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 in those 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 put in isolation for long periods, even months, echoing in painful detail what has been revealed in the Justice Department reports.

The amendment (No. 3252) was agreed to.

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

There is 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 PRESIDING OFFICER. The motion to lay on the table 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.

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 surely 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, to drive down the 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—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 propriety, the pain and suffering that is caused when we don’t do these things earlier on. So spending a small amount of money for the proper mental health counseling can 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 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 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 reads 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 netted 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.

I 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 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. 1. 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, a generation that (4) in reforming Social Security in 1983, the Congress intended that near-term Social Security trust fund surpluses be used to prevent 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, without any exception, for Social Security”;

(b) SEC. 2. SENSE OF CONGRESS ON SOCIAL SECURITY.

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

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 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 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 $250.

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


(Prepared by the Congressional Budget Office)

The Congressional Budget Office (CBO) projects that the anticipated 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 collection 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.

In this point, analysts can only speculate about the sources of income that produced the added revenues in 1998 and their implication 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 growth 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.

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 surpluses, and slightly lower 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 the anticipated 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. Last inflation enacted since March has lowered projected surpluses by a few billion dollars a year—primarily reflecting higher spending for transportation programs.

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 long-term interest rates significantly affect the budget’s projected bottom line.

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 a stronger 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 and services.

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 factors 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 put 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 this growth is projected 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 the 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 in 2002 and 2003 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

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**Table 1.—Comparison of CBO Economic Projections, Calendar Years 1998–2008**

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<thead>
<tr>
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<tbody>
<tr>
<td>Nominal GDP (Billions of dollars):</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Summer 1998</td>
<td>8,080</td>
<td>8,478</td>
<td>8,849</td>
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<tr>
<td>January 1998</td>
<td>8,080</td>
<td>8,641</td>
<td>9,103</td>
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<tr>
<td>Nominal GDP (Percentage change):</td>
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<td></td>
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<tr>
<td>Summer 1998</td>
<td>5.8</td>
<td>5.0</td>
<td>4.3</td>
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<tr>
<td>January 1998</td>
<td>5.8</td>
<td>4.7</td>
<td>4.2</td>
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<tr>
<td>Real GDP (Percentage change):</td>
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<td></td>
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<tr>
<td>Summer 1998</td>
<td>3.8</td>
<td>3.3</td>
<td>2.1</td>
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<tr>
<td>January 1998</td>
<td>3.7</td>
<td>2.9</td>
<td>2.0</td>
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<tr>
<td>GDP Price Index (Percentage change):</td>
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<td></td>
<td></td>
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<tr>
<td>Summer 1998</td>
<td>2.0</td>
<td>2.1</td>
<td>2.2</td>
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<tr>
<td>January 1998</td>
<td>2.0</td>
<td>2.2</td>
<td>2.2</td>
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<tr>
<td>Consumer Price Index (Percentage change):</td>
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<td></td>
</tr>
<tr>
<td>Summer 1998</td>
<td>2.3</td>
<td>2.7</td>
<td>2.6</td>
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<tr>
<td>January 1998</td>
<td>2.3</td>
<td>2.5</td>
<td>2.5</td>
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<tr>
<td>Unemployment Rate (Percent):</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Summer 1998</td>
<td>4.9</td>
<td>4.6</td>
<td>4.7</td>
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<tr>
<td>January 1998</td>
<td>4.9</td>
<td>4.8</td>
<td>4.8</td>
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<tr>
<td>Three-Month Treasury Bill Rate (Percent):</td>
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<tr>
<td>Summer 1998</td>
<td>5.1</td>
<td>5.2</td>
<td>4.8</td>
</tr>
<tr>
<td>January 1998</td>
<td>5.1</td>
<td>5.3</td>
<td>4.7</td>
</tr>
<tr>
<td>Ten-Year Treasury Note Rate (Percent):</td>
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<tr>
<td>Summer 1998</td>
<td>6.4</td>
<td>6.1</td>
<td>5.8</td>
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<tr>
<td>January 1998</td>
<td>6.4</td>
<td>6.0</td>
<td>5.9</td>
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<tr>
<td>Tax Rates (Percentage of GDP):</td>
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<td></td>
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<tr>
<td>Corporate profits:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summer 1998</td>
<td>10.0</td>
<td>9.6</td>
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<tr>
<td>January 1998</td>
<td>9.9</td>
<td>9.7</td>
<td>9.2</td>
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<tr>
<td>Wages and salaries:</td>
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<td></td>
<td></td>
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<tr>
<td>Summer 1998</td>
<td>48.0</td>
<td>48.7</td>
<td>48.7</td>
</tr>
<tr>
<td>January 1998</td>
<td>48.0</td>
<td>48.4</td>
<td>48.6</td>
</tr>
</tbody>
</table>

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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 rates 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.
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 1980s); or the stock market could drop precipitously. Conversely, the Asian crisis could have additional effect on the United States; productivity growth may remain lower 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 $83 billion (see Table 2). Moreover, the improvement in the budget outlook for 1998—primarily associated with higher-than-anticipated revenues—should 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 $551 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.

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenues</th>
<th>Outlays</th>
<th>Surplus</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>14</td>
<td>10</td>
<td>4</td>
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<td>2006</td>
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<td>2007</td>
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</tr>
<tr>
<td>2008</td>
<td>42</td>
<td>37</td>
<td>5</td>
</tr>
</tbody>
</table>

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 were not expected 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, $38 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 trivial. Changes proposed 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 revenue. 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. 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 data, explain about $5 billion of the $35 billion increase in projected revenues since January (Higher-than-expected wages have boosted projected individual income and payroll taxes by $11 billion, while falls of unincorporated business 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 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 tax payments on 1998 liabilities. A well-founded explanation of the unexpected revenues would require detailed information from tax returns about the incomes, tax liabilities and 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 to be generated throughhook collections. 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 lower and were revised upward. Incomes for higher-income tax-payers—particularly income from partnerships—grew faster than expected. In addition, more than $3 billion of the increased corporate income taxes in 1997 was from interest income on Treasury securities. Not all of the factors affecting the unanticipated incomes in 1997 are known yet, but unanticipated 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.

However, 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 high-income tax payers could continue to rise more rapidly than average incomes, they could also grow at the same rate or more slowly, producing a constant 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 future revenues.

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 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 both of these changes, 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 changes in income over the past few years. As a result, 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 $45 billion in 2008. The result is a net quite-as-sharp decline in corporate profits as a share of GDP boost projected revenues. However, lower projected inflation pushes down interest rates, resulting in a drop in revenues that more than offsets those upward effects after 2002. Because lower inflation also pushes down spending, that reduction is likely to 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 the reduction is from 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-expected spending in March, largely because of delays in providing funding for the spending allowed by legislation. Spending for highways and certain savings and loan assets. It now appears that the proceeds from the proceeds from the sale of the United States 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 restructuring the federal government liable for losses resulting from changes in the treatment of certain savings and loan assets. It now appears that almost none of the proceeds will be collected, since the high interest rates on credit programs of the Federal Housing Administration by was 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 effects that are not likely to have an 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 in the previous year. And collecting proceeds from the sale of SEP in 1998 will clearly increase net outlays in 1999 above what they would have been if the proceeds had been collected in that year.

CBO projects that March 1998 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 spending for major highway construction projects. While reducing the existing cap on nondefense spending by an amount smaller than that allowed under the new caps. That increase in discretionary spending is partially offset by reductions in mandatory spending provided in the budget (primarily from the 1997 budget request 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 for amounts that grow to $63 billion by 2008. A slight reduction in project real-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 reduces the size of required cost-of-living adjustments for benefit programs such as Social Security, slow the growth of Medicare spending, and by lowering nominal interest rates, curbs spending for interest on the debt. Since CBO's projections assume that there will be no change in real GDP, the spending that 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 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 will grow at a faster rate than the economy and will equal 20.6 percent of GDP (see Table 3). After that, revenues are expected to decline gradually as a share of GDP through 2004. Finally, in 2005, the tax rate on capital gains of 20 percent 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, projected revenues are projected to equal a larger share of GDP than in any postwar year before 1997.
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 on real income gains. 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 $254 billion (2.9 percent of GDP in 1998 to $145 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 $1,628 billion) and as a percentage of the economy (from 11.2 percent of GDP in 2003 through 2008.

<table>
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<th>Table 3.—CBO BASELINE BUDGET PROJECTIONS, ASSUMING COMPLIANCE WITH DISCRETIONARY SPENDING CAPS</th>
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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 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

So what you see in the projection here with respect to so-called surpluses that the new budget approach has brought is, everybody is dealing out the Social Security trust funds. Last evening—I 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 "community" the "collective," the "collective," 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 Congress and go to the office reports 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 it was a balanced budget. So what we got in the 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, have wanted to bring 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 baby boomers in 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 1993, 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 SMF Trust Funds should be treated as a 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 system 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 the erstwhile 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 refer to 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 96 Senators—if any Senator who was here in October is still here, Mr. President, by a vote of 96 to 0 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 any Senator 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 96 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, subsection (b) 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 FUND

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provisions of law, all 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 formal 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 to balance 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 he can cut and $5 billion." President Johnson said, "Cut it!" and 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 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

<table>
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<tr>
<th>President/year</th>
<th>U.S. budget (outlays in billions)</th>
<th>Borrowed trust funds (billions)</th>
<th>Unified deficit (billions)</th>
<th>Actual deficit without trust funds (billions)</th>
<th>National debt (billions)</th>
<th>Annual increase in spending for interest (billions)</th>
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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 have known. We have a wonderful economy, the lowest interest rates, lowest unemployment rate, highest business investment, more home ownership in America, consumer confidence at its highest, stock market going through the roof. We acknowledge that. We took some 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 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 history. They 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 credits, he had 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 you have to 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 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 he was dealing 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 process. 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 appoint a 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 is to get the budget 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 common market. You have 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 the multinationals 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, 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 went into the Budget Committee, and we get a vote and unanimously vote for it. But now conferences are on-going with respect to the parliamentary maneuvers to make sure that you do not vote. They can have a second-degree vote. 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 here during the next century and 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 need 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 undeniable. 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 hear them say it.

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, of course, are cosponsoring—and we get a roll-call 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 FINKGOLD 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, 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 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 even see 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 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 double-talk.

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.

And don’t tell me that this is not related to the Social Security trust fund, because it is. It is against the vote of the Congress. It is against the vote of the Congress.

In another $1 billion for nothing—total waste.

Boy, I am telling you, just to get some-
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 all 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 with that, 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 saying, and I agree with him.

Senator from South Carolina.

Mr. HOLLINGS. I am delighted to yield.

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 funds, which is a violation in and of itself 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 unanimously 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 with the Detroit Tigers, Donny 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. How does he get in and out of jail? He gets an 8-year jail term, 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 re-elected. The worst campaign finance violation for 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, on tax cuts under the current fiscal policy? Is there an opportunity for 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, Mr. Dorgan, former pitcher Donny 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 privileged 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 non-Social Security uses. 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.
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 asking a spouse to 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 is not 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 within the vision of truly balancing the budget. Mr. President, just a little over a year ago, a lot of our colleagues were saying it was too much and was not good for us and was not making us face a real problem on the budget deficit. Mr. President, it has taken us several years and many tough votes to get to where we are today, to get within reach of the 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 in excess of what is needed or required.” But the 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. Every dollar in 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 begin to fix 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 trust fund, the funding of the Social Security Trust 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 bill.

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. But 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-kidnapping on the Internet, with $10 million bringing 60 FBI folks into this, and 20 special agents. I have been told 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, 200 arrests, and we are 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 is an impressive start 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 a joint statement of the Senator from Maryland, and her understanding of the threat. The threat is very significant. As she knows, because she has gone there, and I have seen what they are doing 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 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 that 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, we 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 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 a joint statement of the Senator from Maryland, and her understanding of the threat. The threat is very significant. As she knows, because she has gone there, and I have seen what they are doing to protect our children. The average child molester has more than 70 victims throughout his lifetime.

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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.
(3) save Social Security first; and
(4) return all remaining surpluses to Amer-
ican taxpayers.

Mr. GREGG. I offer this amendment on behalf of Senator LOTT, Senator DOMENICI, Senator MACK, Senator GRAHAM, and myself.

I will now propose 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 that would do that. It would save it for the next 100 years. It happens to be a bipartisan bill of Senator BREARLY 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 surplus is returned 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 PRESIDENT OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. I ask for the yeas and nays on both amendments.

The PRESIDENT 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. To 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 head on to retire. It is now turning 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 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 that the end of the Social Security system 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 looking to create such a huge demand on the system. That date is approximately the year 2015.

So what should we do? What should we address today? Whether we should 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 this by taking 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 living 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. The system has some 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 38. 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, let’s say, at any 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 wouldn’t be, but would, be included in 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 a 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 their paid-in Social Security taxes is actually a negative number, it 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, 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 your own funds. If you wanted to, you could invest 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 is to give the American taxpayer a 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 about it. 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. Where the difference is, the 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 is the Federal Government’s debts 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, or the Hollings sense of the Senate, 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, we also want to return any 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 points of order, if this 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 Senator or 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: Sorry not, we are here going to solve the problem of the question of solvency on the Social Security fund. 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 with 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 crisis 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, so 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 will roll if they know 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 death of disability, or pension, provision, 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 breadwinner.

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 thrown away part 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 we would not need any surpluses, but the surplus 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.” I think the theory 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, the situation that 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 surplus 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 money 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’s no 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 and 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. Let's continue the long-term thinking that got us to the good position we are in today.

Mr. LAUTENBERG. I yield 10 minutes to the chairman of the Budget Committee.

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 try to 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 LOTTM, and myself, with some additional co-sponsors—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 surplus. You have one side 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, and we have 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 eventually it would have a 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 long term. We have the 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 this 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 on this side of the aisle the 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 are refraining from a second part. 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 LOTTM, 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. 325, AS MODIFIED

Mr. GREGG. I ask unanimous consent that the Gregg amendment to the Senate 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 45 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 and all Americans;

(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 asset balances of the combined trust funds are depleted in 2035";

(3) intergenerational fairness, honest accounting principles, prudent budgeting, and sound economic policy require saving Social Security first, in order that the Nation may better afford the retirement of the baby boom generation, beginning in 2010; and thereby, in reforming Social Security. In 1983, the Congress intended that near-term Social Security trust fund surpluses be used to
Mr. HOLLINGS. Then I go to the real point with respect to surpluses, as if there were plenty of them around. There aren't.

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:

<table>
<thead>
<tr>
<th>Trust fund surplus</th>
<th>Interest on trust fund</th>
<th>Trust fund balance, end of fiscal year</th>
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<td>1,652</td>
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<tr>
<td>Medicare</td>
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<td>550</td>
</tr>
<tr>
<td>SMI</td>
<td>68</td>
<td>68</td>
</tr>
<tr>
<td>Military Retirement</td>
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<tr>
<td>Military Compensation</td>
<td>133</td>
<td>133</td>
</tr>
<tr>
<td>Retirement</td>
<td>34</td>
<td>34</td>
</tr>
<tr>
<td>Unemployment</td>
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<td>67</td>
</tr>
<tr>
<td>Highway</td>
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</tr>
<tr>
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<td>55</td>
</tr>
<tr>
<td>Total</td>
<td>1,057</td>
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</tr>
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</table>

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, $118 billion; and the hospital and SMI, $34 billion; military retirement, $133 billion; a deficit in civil 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 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 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 a deficit, a $1 trillion 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. 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, Broder 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 civil service retirees, in unemployment, railroad retirement, in the 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 25 years faster. 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 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 take 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 they may 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 saying 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. You 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 business. It is business for business, but it is a 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 it.

Mr. HOLLINGS. That would be lovely. Reelct me, I am for all the tax cuts. Whooppe.

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 $4 trillion. 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 said, ‘‘Yes, 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 the needs of the Social Security system. But surpluses are invested in government bonds—government bonds. What the folks here say, ‘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. Yes, it 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, and point out 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 telling them.

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 payment program, the beneficiaries. But look over the other page. 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 do 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 money than we need, or we need money, and we have any surplus at all. If that is the case, and we are paying that over to the Social Security trust fund, it goes back to the people and the trust fund, 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 production, 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 understand the Senator’s speech is that 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 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?

This is the picture in very simple terms. In the 5 years, including 1999 to 2003, we will have a surplus that included Social Security—includes Social Security. I repeat, we take in on Social Security more than we spend; thus, we
July 22, 1998

CONGRESSIONAL RECORD — SENATE

S8729

Mr. GRAMM. Madam President, I thank the chairman of the Commerce, State, Justice Committee for yielding. Every one 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 declare their will and declare the Republican majority in Congress or a Democratic majority in Congress. Many of the issues we vote on, we agree on. Often, the distinctions are not so clear. And often the issues where they are clear, they are not the most important one. 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 it 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 is that 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 are talking about 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.

Mr. GRAMM. 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.
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.

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)

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<td>Interest on Public Debt (Gross interest)*</td>
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<td>Other Interest</td>
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| Other Interest | | | | | | | | | | | | |
| 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 | 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 | 3,189 | 3,426 | 3,665 | 3,902 |
| Debt Held by the Public | 3,771 | 3,717 | 3,655 | 3,589 | 3,518 | 3,405 | 3,275 | 3,136 | 2,981 | 2,779 | 2,557 | 2,320 |
| Debt Subject to Limit | 3,728 | 3,717 | 3,655 | 3,589 | 3,518 | 3,405 | 3,275 | 3,136 | 2,981 | 2,779 | 2,557 | 2,320 |
| Debt Held by the Public | 47.3 | 44.3 | 41.7 | 39.3 | 37.1 | 34.3 | 31.6 | 29.9 | 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 (other than 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. Differences 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 financially, stock market through the ceiling, 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? 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:

‘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 Republican 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.
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 $190 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 that 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 benefitting 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 anytime, for all I know, that the budget legislation expired.

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,” or 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 budget surplus—is another source of revenue. We are generating 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. They are presented very 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, the surpluses begin in the year 2001, 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 on-budget surplus generated not by the Social Security surplus but generated after you have taken into account Social Security payments.

So obfuscating the issue 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 a surplus, which is an on-budget 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, and reduce the 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 collected on the first $60,000. 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 Democratic and Republican Party. I think he is one of the most knowledgeable people. The way it should be done is by cutting taxes, which is what we happen to mention here in our amendment, and reduce the taxes.

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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 $1.6 trillion.

The Senator may not accept those numbers, but he is not like those numbers. He may feel those numbers are inaccurately, inaccurately, inappropriately arrived at. But those are the numbers which we have been given. Which leads to the secondary point, because the numbers are not relevant 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 every 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? 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 surpluses 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, andlock instead of the red, then I would go along with all the tax cuts. I want to go along with the tax cuts now. I voted to save the tax increase on guns just yesterday. I voted to cut the other so-called penalty, the disability, the veterans 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 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, 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 $30 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 we could spend on 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 this opportunity 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. There are a few 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 only those 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 those 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 one

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 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 47, nays 53, as follows:

Add 20 more to the yeas, then proceed.

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-seconds; 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, INOUE, 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. 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 an 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 will read as follows:

THE SENATE
March 16, 1998

AMENDMENT NO. 3257

Mr. M CCAIN. Mr. President, I send an amendment numbered 3257.

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

Mr. HATCH. 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 review of the lowest cost alternative for the project.

Most importantly, the amendment requires the GSA report to be prepared without regard to a specific geographic location. I want to repeat, Mr. President, 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 to a new facility, 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 analysis reports 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 contains no enforceable ceiling on the potential costs of this huge project. Both the Citize...
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 $260,000 worth of shower curtains—$1,200 chairs, $1,000 coat racks and $562 bathroom stalls.

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 but $700 baby cribs.

Altogether, 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 reiterate, 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 $1.5 billion 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 owned the 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 coat racks, and miles of walking and jogging paths. The tax dollars should be spent on processing patent applications and not 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. 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 coat racks 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.

Mr. President, 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 new furniture, including, in my estimation, $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—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 inspect, but at the appropriate time the air traffic control system, et cetera. Most people still view that as a tax.

Mr. WARNER. 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 fees paid by the users of these 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.

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.

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 distinguishing and 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 be 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, and 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 recognized.

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 degree, 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 gambling, 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 the following amendments with rollcalls will be at 9:30 this evening.

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.

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 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 1997.

In light of the 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.

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.

Further, 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.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Presiding Officer cannot hear the Senator from Utah.
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.


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, $72,996,278 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.

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 consideration to a larger geographic area.

The conclusion of this business case analysis is that the PTO should proceed.

Mr. WARNER. Mr. President, I thank the PRESIDING OFFICER. The Senator from Arizona has mentioned.

The PRESIDING OFFICER. Mr. President, I thank the 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 there are purpose of this type of 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. 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—a number of buildings—indeed, to the taxpayers for the construction of a building which is absolutely essential.

This vital function.

The PRESIDING OFFICER. The amendment will be printed in the Record.

(The text of the Amendment (No. 329) 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 would be 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 there are purpose of this type of 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. The burden of cost, indeed, to the taxpayers for the construction of a building which is absolutely essential.

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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 terms 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:

Hon. John W. Warner,
U.S. Senate,
Washington, DC.

Dear Senator Warner: The purpose of this letter is to express my strong support for our ongoing procurement of 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 fair 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.

Re IPO’s opposition to its 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 to accept the proposal of 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 for the PTO on a competitive basis that 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 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, the PTO, the GSA, and theOMB. Allegations that the PTO is proposing extravagant above-standard fit-out costs, or that the leasing procurement has been mismanaged, are unsupported by any facts.

We have been briefed on the very high costs listed in the request for competitive furnishing. We are satisfied that these numbers 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 IPO 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 Bentsen that include most containement 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 the 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.

The Government subcommittee that approved annual appropriations requested.

Mr. President, during these hearings, the government testified and the distinguished floor manager of this bill, Senator FEDDE during the Senate debate on the supplemental appropriations bill S. 3579, P.L. 105–174, Senator FEDDE 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 lease expensive furnishings than are reflected in the DEVA Report, the cost savings would be greater.

While Senator FEDDE 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 estimate of 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.

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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. We considered the need for the facility, various alternatives, and the costs of each. We considered the need for the facility, various alternatives, and the costs of each.

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 will only move if it is economic and efficient to do so under the current competition. PTO will relocate.

Crystal City, the current site of the PTO, is one of the three sites competing in the procurement.

The PTO will save $72 million over the life of the new lease. And Mr. MCCAIN asked me to inform you he would yield back his time.

Mr. MCCAIN. 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 gentlemen and nays been ordered? Mr. CRAIG. There are no nays and no nays have not been ordered.

Mr. WARNER. I do not know of a request. I imagine the manager can proceed with the debate.

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 I 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.

Mr. GREGG. Move to proceed to the roll.

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

Mr. GREGG. I ask unanimous consent that the Senate from Illinois be allowed to lay down its first-degree amendment, that then be laid aside and the Senator from Idaho be immediately recognized to offer a first-degree amendment relative to firearms enforcement.

I ask there be 40 minutes for both the Durbin and Craig amendments combined, to be equally divided between Senator CRAIG and Senator DURBAN, with no second-degree amendments in order to either amendment, and following the completion of the roll call 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 OFFICIAL. Is there objection?

Without objection, it is so ordered.

Amendment No. 230

(Purpose: To prevent children from injuring themselves and others with firearms)

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

The PRESIDING OFFICIAL. The clerk will report.

The assistant legislative clerk read as follows:

The Senate from Illinois [Mr. DURBAN], for himself and Mr. CHAFEE, Ms. M OSELEY-BRAUN, Mr. LIEBER, and Mrs. FUSSELL propose an amendment numbered 2320.

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

The PRESIDING OFFICIAL. 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. 8. 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 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.—In this title, 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, in any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, within any premises 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 (g), be imprisoned not more than 1 year, fined not more than $10,000, or both.

(3) EXCEPTIONS.—Paragraph (2) does not apply to—

(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:

(3) The Secretary shall ensure that a copy of section 922(y) appears on the form required to be obtained by a licensed dealer from the 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.

Mr. CRAIG. [Mr. CRAIG] proposes an amendment numbered 3261.

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 Senate 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. 1. 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 en-
hanced in this section, (and referred here-
after 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.

(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 transferring 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 off-

fense or violent felony, as those terms are used in that section.

(2) The Secretary of the Treasury shall, commencing October 1, 1998, and in consulta-
tion with the Attorney General, the United States Attorney for the Eastern District of Pennsylvania, the City of Philadelphia and other local govern-

ment for the purpose of enhanced efforts in identifying and arresting individuals for the firearms offenses stated in subsection (b); and

(2) Grants made under this part shall be used—

(A) to hire additional law enforcement person-

nel 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, in-

cluding automatic data processing equip-

ment and computer software and hardware for the timely submission and analysis of

tracing data.”.

Mr. DURBIN. Mr. President, it is my understand-
ing that we have two amendments that I don’t believe are in conflict. I be-

lieve they are complementary. They both make the point, I fully sup-

port it.

The amendment which I offer is com-

plementary and very important be-
cause 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 Cali-

fornia, 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, OH. 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 ammuni-
tion 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 vari-

ations have we heard? The next day, in Dale City, CA, a high school student turns up at school with a semiauto-
matic 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 any-

one can be. Let us focus our attention on all that we can do to stop that. Make no mistake, a troubled child is a serious reality. A troubled child with a gun is a tragedy about to happen, not just to himself but to other innocent peo-

ple.

This amendment which I am offering, called the Child Access Prevention Law, sets to establish a national stand-

ard which says that every gun owner in America has a responsibility to store his guns 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 penal-

ity of up to 1 year in prison, with up to $10,000 in fines. These exceptions are important as well. If that adult has stored the gun with a trigger lock, with another safe-
ty 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 expec-
tation 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 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, those States that have already 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 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 had at the attention. 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 who was shot in the head, wrote:

To the Senator from Idaho, Senator SPECTER, you say 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 wish to thank 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 law enforcement, teachers, and others who go 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 the gun was strangled 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 who own 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 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 purchase a gun, you have a responsibility to store it safely and keep it away from children.

I reserve the remainder of my time.

Mr. CRAG. Mr. President, send a modification of my amendment to the debate.

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I send a modification of my amendment to the debate.

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 subchapter (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 of both Houses, a 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 who:

(A) illegally transferring firearms to individuals, particularly to those who have not been 21 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), and 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 to 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 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 can honor—that we will 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, to take an adult 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

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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 have been treading 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 we consider 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 Senate would think for us. We 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 safety net that relates to an act of violence. In this case, the person who has the gun might have them all of a sudden becomes the criminal. That is an interesting and strange argument that we have never had 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. There are provisions as to 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 Project which has created 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 state and local agencies in 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 tell them the kind of thing that goes on to tell them that 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 only to 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 authorities. An individual 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, educate on the proper use of firearms, 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 the 75 cities in 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 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 criminal firearm activity is 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 demographic 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.

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 accidental. That is very possible. Those exceptions are not provided for here.

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 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 adds time to the Chair.

Mr. CHAFEE. Mr. President, I ask that I might have 7 minutes to speak. The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I seek recognition 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 accidental. That is very possible. Those exceptions are not provided for here.

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 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 adds time to the Chair.

Mr. DURBIN. Mr. President, I would like to yield to my colleague from 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 this legislation, I think we have a dynamic force here.

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.

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 where pit bulls, but dangerously loaded weapons that are carelessly strewed 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 in our 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 mention 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, an 11-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 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. 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 that we talk about the age of 15 at least 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 that are torn apart. No one can calculate the direct and indirect costs flowing from any one of the 14 times every day in which a child dies

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 OFFICIAL. Who yields time?

Mr. DURBIN. Mr. President, how much time is remaining?

The PRESIDING OFFICIAL. Three minutes thirteen seconds.

The PRESIDING OFFICIAL (Mr. HUTCHISON). 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 the owner is responsible. It seems to me that it is time that we act responsibly by keeping our weapons 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, or someone else, the gun owner can be held criminally liable. That makes total common sense to me.
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, our response must take steps to prevent future tragedies.

But as we know from harsh experience, you can’t arrest your way out of these problems. Everyone must be equally confident 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 Dursbin bill, 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-Cheffer bill 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 prove the point. 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, 51 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 reduce 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 have 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 CHEFFER, offers an excellent avenue of giving 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 requires all guns be shipped to dealers new, not used, and requires gun owners who allow access to their guns be held liable when their negligence leads to injury or death.

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, 14, March 13, 1998, 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 Carmichael, 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 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 at death to 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 high school and home 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 backpack.

A 15-year-old high school student who was arrested when his parents discovered 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 an increase from the 1990s. 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 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 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 near-by 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 continued: “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-grade student ducked when an incoming 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 drill, 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, my view turns to 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.

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

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. The time that an 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 after crimes 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 get them out of your town.” 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.

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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 and for a reason. 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 what the answers are, 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 crime and you are a criminal if somebody misuse the gun? I hope not. I hope that is not the case.

I yield the remainder of my time.

Mr. CRAIG. The Senator from Idaho.

Mr. DURBIN. Mr. President, I believe I have 2 minutes remaining.

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 child 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 responsibility to protect the 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 that these laws are working, 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 encourage America’s kids in school and at home to learn to be more safe, 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.

Mr. CRAIG. The Senator from Idaho.

Mr. CRAIG. 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 fought 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 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, because it’s 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 would 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.

Mr. HOLLINGS. Mr. President, I ask unanimous consent a legislative fellow in the office of Senator WTVDEN 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 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 timely discussion of what was a 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 effect, 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 balance between local and Federal 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 strips 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 13875 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 the 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 largest groups, as they are called—big seven State and local government groups. They include the National Governors Association, the National Conference of State Legislatures, 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 White House officials admitted 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
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 Conference of Cities, the 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 Katz in the Reagan administration. He wrote Clinton saying that in revoking the previous orders, he 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.”

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 officials said in the draft “calls into question the fundamental principles of federalism.” Because “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,
President, National Conference of State Legislatures.

COMMISSIONER RANDY JOHNSON,
Hennepin County, Minnesota, President, National Association of Counties.

DERRICK CORHLADN, 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 OWEN, City Manager, Grand Prairie, Texas, President International City/COUNTY Management Association.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. On a point of order, 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 or 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 12312 and Executive Order 12875, the Senator from Tennessee says they change a basic presumption from federal-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 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. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The NEGOTIATING OFFICER. 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:

(2)(d) Except as prohibited by subsection (2)(a), 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 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. —. Subsection 2(d) of Section 2511 of the United States Code, is amended to read as follows:

"2(d)(4) Except as prohibited by subsection (2)(a), 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 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

(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; or

(B) such person is an employer, or the officer or agent of an employer, engaged in lawful monitoring of the 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 everyone, 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.

Reagan 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, I’d 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 do 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 caught. 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 tele-marketers, 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 on 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 someone intercepting 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.

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 of the day?

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 proponents of 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 to 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 rescinded 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. 284

(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 reads as follows:

The Senator from Wisconsin (Mr. FEINGOLD) proposes an amendment numbered 3384.

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:

S. 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.

(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 rate increases between 1996 and 1992 were going at a pace of 30 percent faster than the Commission predicted when it adopted the so-called “Going Forward Rules.”

(4) In 1996, many United States cities experienced increases in cable television rates that exceeded 15.5 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 agreement on 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 3.5 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 revenue for the industry will be approximately $30,000,000,000, an increase of 9.9 percent from 1996 year-end revenue.

(b) REPORT.—(1) No 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 to establish 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 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, they just keep going up.

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 maintain 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 the service. But 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, rates will go up much faster 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 the 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 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 that 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:


Hon. WILLIAM J. KENNARD, Chairman, Federal Communications Commission, Washington, DC.

DEAR CHAIRMAN KENNARD: I was very disappointed by 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 continue to rise at a rate of 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. Under current law, that rate hike 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 usually be justified by increases 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 fearing 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, it 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 possible 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.


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. 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 rate of inflation.

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, Mr. President, 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. Studies show that cable rates are reasonable under the law. Indeed, since the adoption of the Cable Television Consumer Protection and Competition Act of 1992, 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 Telecommunication Act of 1996, which modified the rate complaint procedures, the Commission has substantially increased the number of rate complaints and order total refunds of more than $13 million to 9.4 million subscribers.

While I believe that these complaints 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, 2000. We need to gain 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 reform 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 is likely to unfairly penalize television system operators who have acted responsibly. A rate freeze also could undermine the important capital investment that the cable industry has been making in 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 reported in a September 29 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 that cable operators generate from sources other than monthly subscription charges, such as advertising, commission, and program affiliate payments. The aim of this review is to help 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 instructed several large cable television companies to complete a questionnaire to supplement the information they provided to the Commission for the 1997 Cable Rate Study. We 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 that 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 bring about increased competition in the video distribution market. In addition, the Commission recently issued its cable inside quieting 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 action by this Commission. For example, some direct broadcast satellite providers contend that their service has 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 programming. As Congress considers potential reforms in these and related areas, parity among the various multichannel video programming distributors should be a goal.

I appreciate hearing from you on these important issues, and I hope you will continue to share your thoughts 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 on a rampage, up to 8% to 10% a year. It is time for the Congress to tell the FCC that this 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 proposed 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 second year in a row, the nation’s 65 million cable subscribers are getting hit with an average 8% hike in their monthly bill.

The average increase of four times the inflation rate for what has become a staple of the American media diet—channels such as CNN, MSNBC and HBO, as well as the premium channels Showtime and HBO—are 8%.

The typical family now pays more than $31 a month for standard cable fare, up from $28.83 last year. And some households pay 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—are that the lion’s share of the extra money they’re charging you for expanded basic cable pays for premium services that you don’t want.

Operators, eager to improve cash flow, are using lax federal rules to raise rates by adding channels that few customers want and paying little or no carriage fees.

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 a must-have service 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 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 1990. 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 sounded on rate regulation. Economists say current federal rules let companies charge as much as they want. Consumers Union telecommunication expert Gene Kimmelman calls the regulations “worthless.”

Most cable systems, 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 25 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.

"Looking 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 that in mind, I'll give 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 operators $400 apiece on the dial.

Others—including MSNBC, TV Food Network and BET—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 operators 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. Comcast, Cox and Cablevision Systems also have major investments in cable channels.

"It creates an odd paradigm," says Bruce Lechich, a senior vice president at Kidder Peabody, a research and consulting firm. "It's a kind of a shifting money from one pocket to the next.

Operators say they're giving the public what it wants. "We're providing our existing services such as Animal Planet, MSNBC, FX, ESPN2 and ESPN News. "Every one of those channels gets a good rating," Comcast President Brian Roberts says.

But FCC Commissioner Gloria Tristani, for one, believes 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 cost huge profits. Systems will have to sell a new tier of channels, including lots of premium services and pay-per-view, that consumers may have to buy upgraded boxes.

But to save costs 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 a research prepared by Paine Webber.

Fees add up quickly. The typical subscriber pays about 67 cents a month in 1996 to cover his or her cable bills. If a subscriber buys an upgraded box, that will rise to $1.47 in 1996, $2.59 in 2000 and $3.04 in 2001, Donaldson, Lufkin & Jenrette estimates.

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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 and Internet providers—in advanced video and communications services.

"The surprise to most has been how slow the growth of satellite services such as DirecTV and EchoStar. Their ability to offer up to 350 channels has led to a building boom in the 6.6 million satellite subscribers.

"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 Wolens says.

That's good for cable, but it isn't the way things were supposed to turn out when the government crackdown 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 FCC rules as the Harvard 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 AVOID 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 prices are rising at a dangerous rate," 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 Congress that's running out of time to enact new regulations.

FCC Chairman William E. Kennard says his agency will continue to study the problem and may give Congress in December and January, Kennard has 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, spokesman for the National Cable and Tele-\nvision 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 . . . has given a finger to stop spiraling cable rates. This is irresponsible. They're thum\n
biring their noses at the American public."

Consumers Union and the Consumer Fed-\neration of America want the Federal Communications Commission to act by Decem\nber and freeze cable bills in May.

But Kennard says that it will be a "big mistake" to try and create a whole new regulatory re\nframework to deal with how to regulate cable prices kicks in next March."

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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 1996, after some cable companies 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 Subcommittees on Telecommunications, accused the FCC of “ignoring” vigorous enforcement of its price rules. But Tauzin and other Republicans have repeatedly pressed the agency about the potential causes. Without a forthright analysis as to why rates are going up,” Mr. Tauzin said, the cable industry held “a significant, durable monopoly” over subscription TV services.

Kennard said he isn’t exactly sure why rates are rising and has directed the 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 on this 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 understand the reasons for this trend. While further action on 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. Of course, the work at the FCC is not necessarily the most prompt, or what we would wish to have, but it has to be understood in the context of times or_restore the petition for the work at the FCC is not necessarily the most prompt, or what we would wish to have, but it has to be understood in the context of times or_restore the petition for

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 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 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. 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. The clerk will 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 enforcing 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 that there 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 excess of cost. 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 compare these increases in excess of the 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 have the feeling that perhaps these 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 particular regard to the FCC has already ordered 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, 60,000 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 is going to take 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 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 might 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 policies may be a cause of this problem. We need to examine whether there are targeted adjustments that should be made to our rate rules. For example, our rules regarding the pass-through of 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 forthright FCC on this 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.

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 that the FCC outline a specific 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 cableprogramming costs, I would have to be a study on it, 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, 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 that would direct that the FCC outline a specific action plan to address the problem of cable rates.

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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. 385

(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. 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, proposed an amendment numbered 385.

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

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

Mr. WYDEN. Mr. President, I now send an amendment to the desk.

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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:

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”;

(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 “(3); and

(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”;

(E) by adding at the end the following:

“(4) have in effect a policy or practice that requires States 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 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 all Americans can have full confidence 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. That is a significant number, 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 young person will be detained for an adequate period of time to have a mental health assessment, to have law enforcement officials involved, that 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 this crime, 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 there are steps that help to face 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 is, 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 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 of violence. 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 what Amendment 385 is about. That is what 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 States have in place the 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 in the time 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 pushing that 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 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. 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 unspokenable 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. We were able to craft 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 befalling 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 is 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 place a new safety net, so that if a young person does bring a gun to school, they will be detained—so that if 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.

Senator SMITH. Mr. President, I send an amendment 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 Oregon [Mr. HATCH] has been so helpful.

Mr. President, I yield the floor.

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 provide an exception for “fantasy” sports games and contests)

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

Mr. BRYAN. Mr. President, I send an amendment 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:

“(v) participation in a game or contest, otherwise lawful under applicable Federal or State law,

(1) 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;

(2) 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

(3) in which the winner or winners may receive a prize or award; (otherwise known as a ‘fantasy sport league’ or a ‘rototier 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 in the works for years but that 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 not but that 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 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 this 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 ordinarly 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 did, they did because 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 is 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 a letter from the main legal organization 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 assure concerns that they have 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 bible is not with our bill. Their bible 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. This 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 crossed our minds 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 it. It passed 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 not be easy. In other cases, it is more complicated. We are 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 you are interested—and I am pleased 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 $50 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, as I pointed out in the 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 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 do that with a credit card, frequently. And this child, in the privacy of the home, under 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 gaming that we have to check the activity. It occurred in our own homes.

One of the reasons this kind of activity is so dangerous is because there is nobody there to check the activity. It occurred in our own homes 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. They are in college, on 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 more likely to be at 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 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 number of people who, for example, 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. And 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, and they are 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 problems 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. attorneys in Nevada have indicted some people, some of whom were in the United States. So we 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.

Mr. President, 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.

What we have done is 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 economically feasible for them 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 facilitating 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 did so by stating that 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 of advertising in this culture, 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 the amendments 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 American tribes 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 they 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 rights that are legally 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 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 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 this 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 by the operator and cannot guarantee that fair payouts will occur. Internet gambling threatens to disrupt the system. It crosses State lines 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 uniring and unflagging efforts in trying to secure the 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 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.

The amendment, 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 gambling. 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 for 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 Internet Gaming Prohibition Act of 1998]. As amateur and professional sports organizations, we believe that S. 474 would strengthen law enforcement to combat a growing national problem—illegal sports gambling conducted over the Internet.
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 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 effect, 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 the growing problem of gambling conducted over the Internet.

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:


Hon. Richard H. Bryan, Senate Office Building, Washington, DC.

Dear Senator Bryan:

As the members of the National Working Group of the National Association of Attorneys General, we write to express our support for the Internet Gambling Prohibition Act. The bill was introduced by Senator Kyl in March of 1997, the bill closely modeled the 1992 National Gambling Control Act, in its current form addresses the important policy concerns we first expressed in the summer of 1996. We urge your support for S. 474, the Internet Gambling Prohibition Act...
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 and implement. 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 revenues. There are currently hundreds of sites that are operating on the Internet. It will be 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 gambling or one has a strong religious or moral view opposed to gambling, I believe that all would acknowledge that gaming ought to be an adult recreational activity—underscore 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 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 should 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 who 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, the participant, 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 to recognize that virtually 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 pay the price of the victory? 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 practice and 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 very 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. Their 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. My amendment provided 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 I believe 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 think this bill does, 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 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 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 measured 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, the committee has held a series of hearings in the last year on the issue of Internet gambling. Subsequently, it has just offered amendment 142 of the so-called Federal Wire Act to include lotteries. Only by its act would they become illegal.

By the current law, and by the current regulatory process, they are legal. They have withstood three separate Federal court tests and have argued that they are legal, and the courts have so ruled. Yet, the Internet Gambling Prohibition Act that Senator Kyl has just offered amends section 1084 of the so-called Federal Wire Act to include lotteries.

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 Gambling Prohibition Act that Senator Kyl has just offered amends section 1084 of the so-called Federal Wire Act to include lotteries. Only by its 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 Register. Since that time it has fallen under regulation. What the Senator from Arizona is doing tonight—and I agree with him—is making illegal something which was specifically provided for 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. Now, if we do not amend section 1084 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 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 gambling; 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. The Federal courts have ruled that under current process it is legal.

With that, I yield the floor.

Mr. President, the IGRA was intended 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 some 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 4.747 has a 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. Tribes and states have freely entered negotiations to resolve these matters—indeed 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 much more information and deferred a decision regarding the "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 and a modem.

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 "Craigan 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 might not upset in the form of this legislation.

I urge my colleagues to join me in supporting the CRAigan 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 amendment is that it does not address these problems in a manner that treats Native Americans fairly.

To address this situation, I am co-sponsoring 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 wishes 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 co-sponsor 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 opposes 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:

"More 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 support 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 gambling 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 gambling, 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 complicity of gambling, 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 the law to comply with 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 endorsemen of this.

But then one of the most adverse coalitions of public 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 specifically does so because it is doing something.

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 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 a new form of addiction. It is an addiction that is growing and spreading into millions of Americans. It is a new form of addiction. It is an addiction that is growing and spreading into millions of Americans.

Mr. President, today's hearing is a good way to demonstrate our willingness to take our responsibilities to protect our young people and 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 gambling problems at almost 5 percent. We have to take it very, very seriously.

But then one of the most adverse coalitions of public and consumer advocates that have come together on this issue has been Ralph Nader's Public Citizen and the National Association of Attorneys General. 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.

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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 buy 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 is growing. 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 of excessive Internet use are, we see a proliferation of individuals entering into gambling, we know that the raw number of individuals who are affected by problem gambling 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 interstate gambling success 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 unanimous recommendation of 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 and 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 country. I am going to pass 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 that a State does not prohibit gambling in Indian reservations. California did not prohibit gambling. 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 were to claim their right under Cabazon to conduct gaming in the various States. There would be no regulation, no supervision of that 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, if you look at 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 Federal law 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 have we 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, as amended by Craig, 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 confer the enforcement of Federal laws on Indian lands to the Federal regulatory scheme that has been in place for over 100 years; namely, the IGRA. We 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.

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 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 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?

Mr. GREGG. If the Senator has submitted a correction, I will continue to be responsible for the enforcement of Federal criminal laws on Indian lands.

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?

Mr. GREGG. If the Senator has submitted a correction, I will continue to be responsible for the enforcement of Federal criminal laws on Indian lands.
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 for the record the mistake 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 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 Delaware. 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. 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 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 handling 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. And Indian nations want to do something that somehow is viewed as imposing 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 not going 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.

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 group in our 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 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 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 attorneys—I believe in the sovereignty of the Indian nations. And we are very ready, when, in fact, we find it in our interest, to amend the Bryan amendment and, 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. 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 an unanimous consent request, 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. 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 McCain 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. 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:
I think that is reasonable. Senator DASCHELLE 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 to or one or two 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. The bill is not doing well, we are not making 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 and we will go on, and have other objections. If we do not put an end to these things that are being pre-judged amendments that are being offered, 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 to or two or two other votes. I still have the luxury of going to the Executive Calendar, if all else fails, and have some votes on that.

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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 make them the criminal. For the first time, we take the victim, the person who has had his firearm stolen, and we make them the criminal. For the first time, we make them the criminal. 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 the amendment of Mr. CRAIG.

The PRESIDING OFFICER. Mr. CRAIG. 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    Allard    Ashcroft    Baucus    Bennett    Bingaman    Bond    Breaux    Brownback    Bryan    Burns    Campbell    Cleland    Coast    Cochrane    Collins    Conrad    Coverdell

Craig    D’Amato    Daschle    Domenici    Morgan    Enzi    Faircloth    Feingold    Ford    Frist    Gravel    Gramm    Grasso    Gregg    Hagel    Hatch    Helms

Rollings    Hutchinson    Inhofe    Jeffords    Johnson    Kempthorne    Kerrey    Kyl    Leahy    Lott    Lugar    McCain    McConnell    Nickles    Nickisch    Reid

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 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 tapping 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 want 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    Baucus    Biden    Bingaman    Byrd    Chafee    DeWine    Dodd    Dorgan    Durbin    Feinstein    Glenn    Grassley    Hatch    Bumpers    Byrd    Chafee    Cleland    Coats    Collins    Conrad    Coverdell    Daschle

Dodd    Durbin    Feingold    Feinstein    Ford    Graham    Gregg    Hagel    Harkin    Hollings    Holt    Hutchinson    Johnson    Kennedy    Kerrey

Kohl    Landrieu    Leach    Leahy    Levin    Lieberman    Mikulski    Moseley-Braun    Murray    Robb

Reid    Wyden
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 reconsider the vote and to lay that motion on the table.

The legislative clerk called the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that following the next vote, the Senate restate 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 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, if 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 time specified, all to be equally divided.

The list is as follows: A Nickles amendment regarding defense attorneys; 10 minutes; a Bingham amendment regarding trademark and Indian tribes, 20 minutes; a Bumpers amendment regarding immigrant investor certificates; a Wellstone amendment regarding copper, 40 minutes; a Kyl amendment regarding immigrant investor certificate program; 2 minutes; a Kerrey of Nebraska amendment regarding copper, 40 minutes; a Kerrey 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 amendment to the Kyl amendment and a vote 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 cooperation in getting reasonable time agreements here. I think maybe some cooperation in getting reasonable time agreements here. I think maybe some cooperation in getting reasonable time agreements here. I think maybe some cooperation in getting reasonable time agreements here. I think maybe some cooperation in getting reasonable time agreements here.

The result was announced—yeas 51, nays 49. [Rollcall Vote No. 226 Leg.]

YEAS—51

Yeas—51

Abraham
Faircloth
Mack
McCain
McConnell
Murkowski
Nelson
Nickles
Nye
Resendez
Roth
Rodino
Rothschild
Snowe
Wyden

NAYS—49

Nays—49

Akaka
Ford
Fuscaldo
Galan
Graham
Graham
Harkin
Hollings
Kempthorne
Kyl
Lott
Lugar
Mack
Majia
Maloney
McCollum
McConnell
Mills
Murphy
Nickles
Nye
Olver
Perdue
Peters
Place
Reid
Sessions
Stevens
Thune
Warner
Wexler

The motion to lay on the table the motion to reconsider was agreed to.

Mr. LOTT. Mr. President, I would like to propose 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, and 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 restate 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 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, if 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 time specified, all to be equally divided.

The list is as follows: A Nickles amendment regarding defense attorneys, 10 minutes; a Bingham amendment regarding trademark and Indian tribes, 20 minutes; a Bumpers amendment regarding immigrant investor certificates; a Wellstone amendment regarding copper, 40 minutes; a Kerrey of Nebraska amendment regarding copper, 40 minutes; a Kerrey 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 Grassley of Iowa, and Senator Moynihan of 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.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The request has been withdrawn.
The question is on agreeing to the amendment of the Senator from Wisconsin. There is 2 minutes of debate equally divided.

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, by supported by the Consumers Union and will be a signal to the cable industry. I believe that additional reports on the industry by the Federal Communications Commission would be an unnecessary waste 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. 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 competition of the marketplace by adopting several Cable Act reform provisions as part of the Telecommunications Act.

The aim of the Telecommunications Act as it relates 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 monopolistic 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 number of channels 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. The answer was "present"—1

Mr. MACK (when his name was called), Present.

The result was announced, yeas 63, nays 36, as follows:

YEA—63

Adams, Allard, Ashcroft, Bennett, Bingaman, Bond

NAY—36


ANSWERED "PRESENT"—1

Mack

YEAS—63

Abraham, Allard, Ashcroft, Bennett, Bingaman, Bond

NAYS—36

Ackerman, Alexander, Baldacci, Breaux, Brownback, Bryan, Burns, Campbell, Chafee, Coakley, Collins, Craig, Daschle, DeMint, Domenici, Enzi, Frist, Ford, Frist, Gramm, Gramm, Grassley, Gregg, Hagel, Hatch, Heinz, Hollings, Hutchinson, Inhofe, Chafee, Inouye, Kerry, Kerry, Korb, Snowe, Stevens, Thomas, Thomas, Thurmond, Thurmond, Tisenheld, Warner

Mr. HATCH. I would like to engage the distinguished manager of the bill, Senator Greggs, 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 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 these 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 required 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 the 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 club 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 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 micro-manage the professional census gathering process.

I am very concerned about the critical Senate role here. 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, asserting the Census professionals violate 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 on 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 the census report so 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 as a result of the 2000 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 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, his plan 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.
Mr. CRAIG. 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 debate on the amendment for the 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 Congress and the Congress, 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 to it. 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 this 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 violates 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 Internet 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 re-
visit this for a short time tomorrow,
because the Internet Gaming Prohibi-
tion Act by Senator KYL goes in and
amends section 1084 of the Federal Wire
Act to include lotteries. It is excluded there.

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 exem-
its them currently. And they are regu-
lated now.

This is not an unregulated activity that I advocate by this amendment. It
is a fully regulated activity under Fed-
eral law, under the Indian gaming laws
as controlled by the National Indian
Gaming Commission. That is the ap-
propriate 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
Indio gambling. Yes, there is 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 mo-
nopoly—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 dol-
lar 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 ref-
ereendum 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 or-
dered.

Mr. BRYAN. Mr. President, I want to
make very clear what is at issue here.
If you go 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 knowing it, without
ability to control it. So the Kylian-Bryan amendment opposes
Internet gambling in America for ev-
eryone.

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 is the problem of that?
That is 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. If they were turned 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 pro-
hibited.

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.
President, the Senate Banking Com-
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 Sen-
ator from Idaho.

Mr. CRAIG. Mr. President, a few
moments ago you talked about this de-
stroying lottery systems. The national
Indian lottery is up and operating
today, and State lotteries are not fall-
owing by a long shot. They are much
stronger than ever in their level of par-
ticipation. They are as tightly regu-
lated 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, the first in-
stance it might work; in the second, it
would not. Any winnings would be re-
pealed 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 na-
tional Indian lottery today that is
deemed legal on the Internet. The amendement 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
is not solid or does not fit because it is tightly, tightly con-
trolled.

What the Senator from Arizona talks
about, about offshore, I agree with an
unlimited approach in an unregulated
way. That is what we are talking about. 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 Sen-
ator from Vermont.

Mr. KYL. Mr. President, let me re-
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 it hit the nail right
on the head. The Presiding Officer, the
Senator from Wyoming, pointed out
that it didn’t really matter who con-
ducts 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 States 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 al-
lowed an exemption under this bill,
they would be permitted to run Inter-
net 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 en-
gaging in gaming activity allegedly under
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 those who testified before the Judici-
ary Committee said this is a pernicious ac-
tivity for young people who get into
the Internet and begin gambling. It
could become the most addictive way
for children and, later, adults to be-
come 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 ex-
ception that precludes us from pro-
cting 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 per-
iod for the transaction of routine
morning business with Senators per-
mitted to speak up to 10 minutes each.

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

MR. HELMS. Mr. President, at the
close of business yesterday, Tuesday,