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Senate

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

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

We are pleased to have you with us.

PRAYER

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

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

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

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

Reward this sacred practice by granting the Senators good health, good cheer, good fellowship, long life, and abundant wisdom. May this wise and sacred practice be an inspiration to all convocations and assemblies which are convened daily throughout our blessed country and throughout the world to do likewise, in light of today's event in

the school in Georgia, especially in the Nation's public schools, so that mortality, safety, tranquility, and happiness prevail throughout our country and throughout the world. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

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

SCHEDULE

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

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

I thank my colleagues for their attention.

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

Mr. HATCH. What is the pending business?

RESERVATION OF LEADER TIME

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

VIOLENT AND REPEAT JUVENILE ACCOUNTABILITY AND REHABILITATION ACT OF 1999

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

The legislative assistant read as follows:

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

Pending:

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

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

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

AMENDMENT NO. 366, AS MODIFIED

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

The PRESIDING OFFICER. Is there objection?

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

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

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

At the end of the act, insert the following:
SEC. . PROVISIONS RELATING TO PAWN SHOPS AND SPECIAL LICENSEES.

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

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

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



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

The PRESIDING OFFICER. The Senator from Vermont.

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

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

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

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

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

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

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

In the time available to us today, I do hope we will be able to move to final passage on this bill. The bill has been much improved since its predecessor was introduced 2 years ago as S. 10. I detailed some of those improvements yesterday, and yesterday the Senate took a giant step forward with the

adoption of the managers', the Hatch-Leahy amendment. Those modifications go a long way toward improving the bill. I predicted all week long that once we adopted Hatch-Leahy, we would have fewer than 10 amendments offered from the Democratic side.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

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

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

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

The system we created with this amendment mandates that people purchase firearms legally and, therefore, go through the background check. It is

time to tell gun owners and buyers to be responsible. It is time to show the Nation that we understand their concerns and we are acting.

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

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

I yield the floor.

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

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

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

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

hole open. We are going to close it today.

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

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

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

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

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

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

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

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

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

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

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

Mr. SCHUMER addressed the Chair.

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

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

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

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

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

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

Mr. LAUTENBERG. And the Senator yields—

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

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Chair.

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

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

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

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

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

The amendment of the Senator from New Jersey is simple. If we want to do it, let's do it. Let's not do an elaborate minuet where we take one step for-

ward, two steps back, two steps forward, three steps back. That is what we have been doing this week. Yes, we are making progress, but on such a modest amendment like closing the gun show loophole, why does it take us 7 days of debate? Why does it take three different fixes that still do not close all the loopholes?

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

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

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

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

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

I cannot do that. I really do believe in our Constitution and I do believe

that law-abiding citizens have rights. I must tell you, the other side is winking and nodding and saying: Oh, yes, they have rights, but we will close all of the doors up to that right and see if you can find the key to get through.

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

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

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

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

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

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

We have gone after gangs.

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

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

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

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

This Senate has put in gun laws. The Senator from Vermont said: OK, if you don't believe CRAIG and HATCH, let's say it one more time for the record:

People who sell guns at gun shows will do background checks on those who purchase guns.

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

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

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

The PRESIDING OFFICER. The time has expired.

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

The PRESIDING OFFICER. Who seeks time?

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

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

Mr. REED. Thank you, Mr. President.

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

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

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

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

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

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

I thank the Senator.

The PRESIDING OFFICER. Who seeks time?

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Who yields time?

The Senator from Utah.

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

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

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

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

Mr. HATCH. I am happy to do that.

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

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

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

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

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

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

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

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

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

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

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

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

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

With respect to special licensees, last Wednesday the Senate passed the Craig

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

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

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

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

The key language of the amendment states:

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

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

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

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

Let me make a point with these charts. Is this a record to be proud of in this administration? We are quoting the Executive Office of the U.S. Attorneys for these figures. Prosecutions under the Brady Act background checks: In 1996, zero. They claim that

the Brady Act stopped 200-some-odd-thousand felons from getting guns. There was not one prosecution in 1996, not one prosecution in 1997, and just one prosecution in 1998.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ers and sellers have incentives to comply with the law.

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

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

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

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

I reserve the remainder of our time.

Mr. LAUTENBERG addressed the Chair.

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

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

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

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

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

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

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

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

The Lautenberg amendment will close this deadly loophole in our gun

laws, and close it all the way, not just part of the way.

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

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

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

The Lautenberg amendment closes this loophole too.

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

The Lautenberg amendment closes this loophole, too.

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

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

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

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

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

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

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

Mr. LAUTENBERG. I thank the Senator from Massachusetts.

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

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

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

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

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

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

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

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

Look at the result. Stop looking at the process. Look at where we want to come out. Overall violence and property crimes are down by 20 percent. The murder rate is down 28 percent—the lowest level in 30 years. We have accomplished something. Do you know why? Because we are asking questions

about guns. Yes. There are things wrong in our culture. There certainly are. But I look at our culture, and I look at other nations which are well developed. We have 35,000 Americans killed each year with firearms compared to 15 in Japan—15 people—30 in Great Britain. Just take the murder side of that—homicides, almost 14,000; suicides, 18,000. That happens, I guess, in other countries. But I am sure it doesn't happen to the same extent with guns.

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

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

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

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

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

We are not talking about increasing taxes.

We are not talking about increasing the bureaucracy.

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

It is time to face up to reality. One is we are going to probably pass the

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

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

Mr. LAUTENBERG. I thank the President.

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

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

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

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

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

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

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

The distinguished Senator from Wisconsin is recognized.

CHANGE OF VOTE

Mr. KOHL. I thank the Chair.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

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

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 366.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 133 Leg.]

YEAS—79

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

NAYS—21

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

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

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 362

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

The Senator from Vermont is recognized.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LAUTENBERG. Mr. President, I ask the Parliamentarian, is there a

moment allotted for discussion of the amendment?

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

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

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

The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

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

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

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

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

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

The Senator from Utah.

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

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

I yield back the remainder of my time.

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

The legislative clerk called the roll.

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

[Rollcall Vote No. 134 Leg.]

YEAS—50

Akaka	Cleland	Feinstein
Bayh	Conrad	Fitzgerald
Biden	Daschle	Graham
Bingaman	DeWine	Harkin
Boxer	Dodd	Hollings
Breaux	Dorgan	Inouye
Bryan	Durbin	Johnson
Byrd	Edwards	Kennedy
Chafee	Feingold	Kerrey

Kerry	Lugar	Sarbanes
Kohl	Mikulski	Schumer
Landrieu	Moynihan	Torricelli
Lautenberg	Murray	Voinovich
Leahy	Reed	Warner
Levin	Reid	Wellstone
Lieberman	Robb	Wyden
Lincoln	Rockefeller	

NAYS—50

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

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

The amendment (No. 362) was agreed to.

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

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

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

(Mr. ALLARD assumed the chair.)

UNANIMOUS-CONSENT AGREEMENT

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

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

The PRESIDING OFFICER. Is there objection?

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

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